I

116TH CONGRESS
1ST SESSION

H. R. 2463

To provide for the establishment of Medicare part E public health plans, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 1, 2019

Mr. RICHMOND (for himself, Mr. HUFFMAN, and Ms. NORTON) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committees on Ways and Means, and Education and Labor, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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A BILL

To provide for the establishment of Medicare part E public health plans, 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 ''Choose Medicare Act''.

5 **SEC. 2. PUBLIC HEALTH PLAN.**

6 The Social Security Act is amended by adding at the
7 end the following:

1 “TITLE XXII—MEDICARE PART E PUBLIC HEALTH PLANS
2 “SEC. 2201. PUBLIC HEALTH PLANS.—
3 “(a) ESTABLISHMENT.—The Secretary shall estab-
4 lish public health plans (to be known as ‘Medicare part
5 E plans’) that are available in the individual market, small
6 group market, and large group market.
7 “(b) BENEFITS.—
8 “(1) IN GENERAL.—Each Medicare part E
9 plan, regardless of whether the plan is offered in the
10 individual market, small group market, or large
11 group market, shall be a qualified health plan within
12 the meaning of section 1301(a) of the Patient Pro-
13 tection and Affordable Care Act (42 U.S.C.
14 18021(a)) that—
15 “(A) meets all requirements applicable to
16 qualified health plans under subtitle D of title
17 I of the Patient Protection and Affordable Care
18 Act (42 U.S.C. 18021 et seq.) (other than the
19 requirement under section 1301(a)(1)(C)(ii) of
20 such Act) and title XXVII of the Public Health
21 Service Act (42 U.S.C. 300gg et seq.);
22 “(B) provides coverage of—
23 “(i) the essential health benefits de-
24 scribed in section 1302(b) of the Patient

1 Protection and Affordable Care Act (42
2 U.S.C. 18022(b)); and
3 ''(ii) all items and services for which
4 benefits are available under title XVIII;
5 ''(C) provides gold-level coverage described
6 in section 1302(d)(1)(C) of the Patient Protec-
7 tion and Affordable Care Act (42 U.S.C.
8 18022(d)(1)(C)); and
9 ''(D) provides coverage of abortions and all
10 other reproductive services.
11 ''(2) PREEMPTION.—Notwithstanding section
12 1303(a)(1) of the Patient Protection and Affordable
13 Care Act (42 U.S.C. 18023(a)(1))—
14 ''(A) a State may not prohibit a Medicare
15 part E plan from offering the coverage de-
16 scribed in paragraph (1)(D); and
17 ''(B) no State law that would prohibit such
18 a plan from offering such coverage shall apply
19 to such plan.
20 ''(c) ELIGIBILITY; ENROLLMENT.—
21 ''(1) AVAILABILITY ON THE EXCHANGES.—The
22 Medicare part E plans offered in the individual and
23 small group markets shall be offered through the
24 Federal and State Exchanges, including the Small

1 Business Health Options Program Exchanges (com-
2 monly referred to as the 'SHOP Exchanges').
3 "(2) ELIGIBILITY.—
4 "(A) IN GENERAL.—Any individual who is
5 a resident of the United States, as determined
6 by the Secretary under subparagraph (C), and
7 who is not an individual described in subpara-
8 graph (B), is eligible to enroll in a Medicare
9 part E plan.
10 "(B) EXCLUSIONS.—An individual de-
11 scribed in this subparagraph is any individual
12 who is—
13 "(i) entitled to, or enrolled for, bene-
14 fits under title XVIII;
15 "(ii) eligible for medical assistance
16 under a State plan under title XIX; or
17 "(iii) enrolled for child health assist-
18 ance or pregnancy-related assistance under
19 a State plan under title XXI.
20 "(C) REGULATIONS.—The Secretary shall
21 promulgate a rule for determining residency for
22 purposes of subparagraph (A).
23 "(3) EMPLOYER-SPONSORED PLANS.—
24 "(A) EMPLOYER ENROLLMENT.—Effective
25 with respect to the first plan year that begins

1 year after the date of enactment of the Choose Medicare Act and each plan year thereafter, the Secretary shall provide options for Medicare part E plans in the small group market and large group market that are voluntary, and available to all employers.

"(B) GROUP HEALTH PLANS.—The Secretary, acting through the Administrator for the Centers for Medicare & Medicaid Services, at the request of a plan sponsor, shall serve as a third party administrator of a group health plan that is a Medicare part E plan offered by such sponsor.

"(C) PORTABILITY FOR EMPLOYER-SPONSORED PLANS.—The Secretary shall develop a process for allowing individuals enrolled in a Medicare part E plan offered in the small group market or large group market to maintain health insurance coverage through a Medicare part E plan if the individual subsequently loses eligibility for enrollment in such a plan based on termination of the employment relationship. The ability to maintain such coverage shall exist regardless of whether the individual has the option to enroll in other health insurance

coverage, including coverage offered in the individual market or through a subsequent employer.

"(d) PREMIUMS.—The Secretary shall establish premium rates for the Medicare part E plans that—

"(1) are adjusted based on—

"(A) whether the plan is offered in the individual market, small group market, or large group market; and

"(B) the applicable rating area;

"(2) are at a level sufficient to fully finance—

"(A) the costs of health benefits provided by such plans; and

"(B) administrative costs related to operating the plans; and

"(3) comply with the requirements under section 2701 of the Public Health Service Act, including for such plans that are offered in the large group market.

"(e) PROVIDERS AND REIMBURSEMENT RATES.—

"(1) IN GENERAL.—The Secretary shall establish a rate schedule for reimbursing types of health care providers furnishing items and services under the Medicare part E plans at rates that are con-

1 sistent with the negotiations described in paragraph
2 (2) and are necessary to maintain network adequacy.
3 "(2) MANNER OF NEGOTIATION.—The Sec-
4 retary shall negotiate the rates described in para-
5 graph (1) in a manner that results in payment rates
6 that are not lower, in the aggregate, than rates
7 under title XVIII, and not higher, in the aggregate,
8 than the average rates paid by other health insur-
9 ance issuers offering health insurance coverage
10 through an Exchange.
11 "(3) PARTICIPATING PROVIDERS.—
12 "(A) IN GENERAL.—A health care provider
13 that is a participating provider of services or
14 supplier under the Medicare program under
15 title XVIII on the date of enactment of Choose
16 Medicare Act shall be a participating provider
17 for Medicare part E plans.
18 "(B) ADDITIONAL PROVIDERS.—The Sec-
19 retary shall establish a process to allow health
20 care providers not described in subparagraph
21 (A) to become participating providers for Medi-
22 care part E plans.
23 "(4) LIMITATIONS ON BALANCE BILLING.—The
24 limitations on balance billing pursuant to the provi-
25 sions of section 1866(a)(1)(A) of the Social Security

1 Act (42 U.S.C. 1395cc(a)(1)(A)) shall apply to par-
2 ticipating providers for Medicare part E plans in the
3 same manner as such provisions apply to partici-
4 pating providers under the Medicare program.
5 ''(f) ENCOURAGING USE OF ALTERNATIVE PAYMENT
6 MODELS.—The Secretary shall, as applicable, utilize alter-
7 native payment models, including those described in sec-
8 tion 1833(z)(3)(C), as added by section 101(e)(2) of the
9 Medicare Access and CHIP Reauthorization Act of 2015
10 (Public Law 114–10), in making payments for items and
11 services (including prescription drugs) furnished under
12 Medicare part E plans. The payment rates under such al-
13 ternative payment models shall comply with the require-
14 ment for negotiated rates under subsection (e)(2).
15 ''(g) PRESCRIPTION DRUGS.—The Secretary shall
16 apply the provisions of section 1860D–11(i) to prescrip-
17 tion drugs under Medicare part E plans in the same man-
18 ner as such provisions apply with respect to applicable cov-
19 ered part D drugs under such section.
20 ''(h) APPROPRIATIONS.—
21 ''(1) START UP FUNDING.—For purposes of es-
22 tablishing the Medicare part E plans, there is appro-
23 priated to the Secretary, out of any funds in the
24 Treasury not otherwise obligated, $2,000,000,000,
25 for fiscal year 2020.

"(2) INITIAL RESERVES.—There is appropriated to the Secretary, out of any funds in the Treasury not otherwise obligated, such sums as may be necessary, based on projected enrollment in the Medicare part E plans in the first plan year in which such plans are offered, to provide reserves for the purpose of paying claims filed during the initial 90-day period of such plan year.

"(3) CLARIFICATION.—Any provision of law restricting the use of Federal funds with respect to any reproductive health service shall not apply to funds appropriated under paragraph (1) or (2).

"(i) HEALTH INSURANCE ISSUER.—With respect to any Medicare part E plan, the Secretary shall be considered a health insurance issuer, within the meaning of section 2791(b) of the Public Health Service Act.".

SEC. 3. NOTICE AND NAVIGATOR REFERRAL FOR EMPLOYEES UNDER THE FAIR LABOR STANDARDS ACT OF 1938.

(a) IN GENERAL.—Section 18B of the Fair Labor Standards Act of 1938 (29 U.S.C. 218b) is amended—

(1) in the heading, by striking "**TO**" and inserting "**AND NAVIGATOR REFERRAL FOR**";

(2) by redesignating subsection (b) as subsection (c);

1 (3) by inserting after subsection (a) the fol-
2 lowing:
3 ''(b) NAVIGATOR REFERRAL.—
4 ''(1) IN GENERAL.—An employer described in
5 paragraph (3) shall refer each full-time employee (as
6 defined in section 4980H of the Internal Revenue
7 Code of 1986) to—
8 ''(A) an entity that serves as a navigator
9 under section 1311(i) of the Patient Protection
10 and Affordable Care Act (42 U.S.C. 18031(i))
11 for the Exchange operating in the State of the
12 employer; or
13 ''(B) if the Exchange operating in the
14 State of the employer does not have an entity
15 serving as such a navigator, another entity that
16 shall carry out equivalent activities as such a
17 navigator.
18 ''(2) REFERRAL.—The referral described in
19 paragraph (1) shall occur—
20 ''(A) at the time the employer hires the
21 employee; or
22 ''(B) on the effective date described in sub-
23 section (c)(2) with respect to an employee who
24 is currently employed by the employer on such
25 date.

1 "(3) EMPLOYER.—An employer described in
2 this paragraph is any employer that—
3 "(A) does not provide an eligible employer-
4 sponsored plan as defined in section
5 5000A(f)(2) of the Internal Revenue Code of
6 1986; or
7 "(B) provides such an eligible employer-
8 sponsored plan, but the plan is determined
9 under section 36B(c)(2)(C) of such Code—
10 "(i) to be unaffordable to the em-
11 ployee; or
12 "(ii) to not provide the required min-
13 imum actuarial value."; and
14 (4) in subsection (c), as so redesignated—
15 (A) in the heading, by striking "EFFEC-
16 TIVE DATE" and inserting "EFFECTIVE
17 DATES";
18 (B) by striking "Subsection (a)" and in-
19 serting the following:
20 "(1) NOTICE.—Subsection (a);"; and
21 (C) by adding at the end the following:
22 "(2) NAVIGATOR REFERRAL.—Subsection (b)
23 shall take effect with respect to employers in a State
24 beginning on the date that is 2 years after the date
25 of enactment of the Choose Medicare Act.".

1 (b) STUDY.—Not later than January 1, 2024, the
2 Comptroller General of the United States shall conduct
3 a study on the impact of the requirements under section
4 18B of the Fair Labor Standards Act of 1938 (29 U.S.C.
5 218b), including the amendments made by subsection (a),
6 on the rate of individuals without minimum essential cov-
7 erage as defined in section 5000A of the Internal Revenue
8 Code of 1986 in the United States and in each State.
9 (c) FUNDING FOR NAVIGATOR PROGRAM.—Section
10 1311(i)(6) of the Patient Protection and Affordable Care
11 Act (42 U.S.C. 18031(i)(6)) is amended—
12 (1) by striking ''Grants'' and inserting the fol-
13 lowing:
14 ''(A) IN GENERAL.—Grants''; and
15 (2) by adding at the end the following:
16 ''(B) AUTHORIZATION OF APPROPRIA-
17 TIONS.—There is authorized to be appropriated
18 such sums as may be necessary to address ca-
19 pacity limitations of entities serving as naviga-
20 tors through a grant under this subsection.''.

1 **SEC. 4. PROTECTING AGAINST HIGH OUT-OF-POCKET EX-**
2 **PENDITURES FOR MEDICARE FEE-FOR-SERV-**
3 **ICE BENEFITS.**

4 Title XVIII of the Social Security Act (42 U.S.C.
5 1395 et seq.) is amended by adding at the end the fol-
6 lowing new section:

7 "PROTECTION AGAINST HIGH OUT-OF-POCKET
8 EXPENDITURES

9 "SEC. 1899C. (a) IN GENERAL.—Notwithstanding
10 any other provision of this title, in the case of an indi-
11 vidual entitled to, or enrolled for, benefits under part A
12 or enrolled in part B, if the amount of the out-of-pocket
13 cost-sharing of such individual for a year (beginning with
14 2021) equals or exceeds the annual out-of-pocket limit
15 under subsection (b) for that year, the individual shall not
16 be responsible for additional out-of-pocket cost-sharing in-
17 curred during that year.

18 "(b) ANNUAL OUT-OF-POCKET LIMIT.—

19 "(1) IN GENERAL.—The amount of the annual
20 out-of-pocket limit under this subsection shall be—

21 "(A) for 2021, $6,700; or

22 "(B) for a subsequent year, the amount
23 specified in this subsection for the preceding
24 year increased or decreased by the percentage
25 change in the medical care component of the
26 Consumer Price Index for All Urban Con-

1 sumers for the 12-month period ending with
2 June of such preceding year.
3 "(2) ROUNDING.—If any amount determined
4 under paragraph (1)(B) is not a multiple of $5, such
5 amount shall be rounded to the nearest multiple of
6 $5.
7 "(c) OUT-OF-POCKET COST-SHARING DEFINED.—
8 "(1) IN GENERAL.—Subject to paragraphs (2)
9 and (3), in this section, the term 'out-of-pocket cost-
10 sharing' means, with respect to an individual, the
11 amount of the expenses incurred by the individual
12 that are attributable to—
13 "(A) deductibles, coinsurance, and copay-
14 ments applicable under part A or B; or
15 "(B) for items and services that would
16 have otherwise been covered under part A or B
17 but for the exhaustion of those benefits.
18 "(2) CERTAIN COSTS NOT INCLUDED.—
19 "(A) NON-COVERED ITEMS AND SERV-
20 ICES.—Expenses incurred for items and serv-
21 ices which are not covered under part A or B
22 shall not be considered incurred expenses for
23 purposes of determining out-of-pocket cost-
24 sharing under paragraph (1).

1 "(B) ITEMS AND SERVICES NOT FUR-
2 NISHED ON AN ASSIGNMENT-RELATED BASIS.—
3 If an item or service is furnished to an indi-
4 vidual under this title and is not furnished on
5 an assignment-related basis, any additional ex-
6 penses the individual incurs above the amount
7 the individual would have incurred if the item
8 or service was furnished on an assignment-re-
9 lated basis shall not be considered incurred ex-
10 penses for purposes of determining out-of-pock-
11 et cost-sharing under paragraph (1).
12 "(3) SOURCE OF PAYMENT.—For purposes of
13 paragraph (1), the Secretary shall consider expenses
14 to be incurred by the individual without regard to
15 whether the individual or another person, including
16 a State program, an employer, a medicare supple-
17 mental policy, or other third-party coverage, has
18 paid for such expenses.
19 "(d) ANNOUNCEMENT OF THE ANNUAL OUT-OF-
20 POCKET LIMIT.—The Secretary shall (beginning in 2020)
21 announce (in a manner intended to provide notice to all
22 interested parties) the annual out-of-pocket limit under
23 this section that will be applicable for the succeeding
24 year.".

1 **SEC. 5. NEGOTIATING FAIR PRICES FOR MEDICARE PRE-**
2 **SCRIPTION DRUGS.**
3 (a) IN GENERAL.—Section 1860D–11 of the Social
4 Security Act (42 U.S.C. 1395w–111) is amended by strik-
5 ing subsection (i) (relating to noninterference) and by in-
6 serting the following:
7 "(i) NEGOTIATING FAIR PRICES WITH DRUG MANU-
8 FACTURERS.—
9 "(1) IN GENERAL.—Notwithstanding any other
10 provision of law, in furtherance of the goals of pro-
11 viding quality care and containing costs under this
12 part, the Secretary shall, with respect to applicable
13 covered part D drugs, and may, with respect to
14 other covered part D drugs, negotiate, using the ne-
15 gotiation technique or techniques that the Secretary
16 determines will maximize savings and value to the
17 government for prescription drug plans and MA–PD
18 plans and for plan enrollees (in a manner that may
19 be similar to Federal entities and that may include,
20 but is not limited to, formularies, reference pricing,
21 discounts, rebates, other price concessions, and cov-
22 erage determinations), with drug manufacturers the
23 prices that may be charged to PDP sponsors and
24 MA organizations for such drugs for part D eligible
25 individuals who are enrolled in a prescription drug
26 plan or in an MA–PD plan. In conducting such ne-

1 gotiations, the Secretary shall consider the drug's
2 current price, initial launch price, prevalence of dis-
3 ease and usage, and approved indications, the num-
4 ber of similarly effective alternative treatments for
5 each approved use of the drug, the budgetary impact
6 of providing coverage under this part for such drug
7 for all individuals who would likely benefit from the
8 drug, evidence on the drug's effectiveness and safety
9 compared to similar drugs, and the quality and
10 quantity of clinical data and rigor of the applicable
11 process of approval of a drug under section 505 of
12 the Federal Food, Drug, and Cosmetic Act or a bio-
13 logical product under section 351 of the Public
14 Health Service Act.

15 "(2) USE OF LOWER OF VA OR BIG FOUR PRICE
16 IF NEGOTIATIONS FAIL.—If, after attempting to ne-
17 gotiate for a price with respect to a covered part D
18 drug under paragraph (1) for a period of 1 year, the
19 Secretary is not successful in obtaining an appro-
20 priate price for the drug (as determined by the Sec-
21 retary), the Secretary shall establish the price that
22 may be charged to PDP sponsors and MA organiza-
23 tions for such drug for part D eligible individuals
24 who are enrolled in a prescription drug plan or in

1 an MA–PD plan at an amount equal to the lesser
2 of—
3 ‘‘(A) the price paid by the Secretary of
4 Veterans Affairs to procure the drug under the
5 laws administered by the Secretary of Veterans
6 Affairs; or
7 ‘‘(B) the price paid to procure the drug
8 under section 8126 of title 38, United States
9 Code.
10 ‘‘(3) APPLICABLE COVERED PART D DRUG DE-
11 FINED.—For purposes of this subsection, the term
12 ‘applicable covered part D drug’ means a covered
13 part D drug that the Secretary determines to be ap-
14 propriate for negotiation under paragraph (1) based
15 on one or more of the following factors as applied
16 to such drug:
17 ‘‘(A) Spending on a per beneficiary basis.
18 ‘‘(B) The proportion of total spending
19 under this title.
20 ‘‘(C) Unit price increases over the pre-
21 ceding 5 years.
22 ‘‘(D) Initial launch price.
23 ‘‘(E) Availability of less expensive, simi-
24 larly effective alternative treatments.

1 "(F) Status of the drug as a follow-on to
2 previously approved drugs.
3 "(G) Any other criteria determined by the
4 Secretary.
5 "(4) PDP SPONSORS AND MA ORGANIZATION
6 MAY NEGOTIATE LOWER PRICES.—Nothing in this
7 subsection shall be construed as preventing the spon-
8 sor of a prescription drug plan, or an organization
9 offering an MA–PD plan, from obtaining a discount
10 or reduction of the price for a covered part D drug
11 below the price negotiated under paragraph (1) or
12 the price established under paragraph (2).
13 "(5) NO EFFECT ON EXISTING APPEALS PROC-
14 ESS.—Nothing in this subsection shall be construed
15 to affect the appeals procedures under subsections
16 (g) and (h) of section 1860D–4.".
17 (b) EFFECTIVE DATE.—The amendments made by
18 this section shall take effect on the date of the enactment
19 of this Act and shall first apply to negotiations and prices
20 for plan years beginning on January 1, 2020.

21 **SEC. 6. ENHANCEMENT OF PREMIUM ASSISTANCE CREDIT.**

22 (a) USE OF GOLD LEVEL PLAN FOR BENCHMARK.—
23 (1) IN GENERAL.—Clause (i) of section
24 36B(b)(2)(B) of the Internal Revenue Code of 1986
25 is amended by striking "applicable second lowest

1 cost silver plan'' and inserting ''applicable second
2 lowest cost gold plan''.

3 (2) CONFORMING AMENDMENT RELATED TO
4 AFFORDABILITY.—Section 36B(c)(4)(C)(i)(I) of
5 such Code is amended by striking ''second lowest
6 cost silver plan'' and inserting ''second lowest cost
7 gold plan''.

8 (3) OTHER CONFORMING AMENDMENTS.—Sub-
9 paragraphs (B) and (C) of section 36B(b)(3) of such
10 Code are each amended by striking ''silver plan''
11 each place it appears in the text and the heading
12 and inserting ''gold plan''.

13 (b) EXPANSION OF ELIGIBILITY FOR REFUNDABLE
14 CREDITS FOR COVERAGE UNDER QUALIFIED HEALTH
15 PLANS.—

16 (1) IN GENERAL.—Section 36B(c)(1)(A) of the
17 Internal Revenue Code of 1986 is amended by strik-
18 ing ''400 percent'' and inserting ''600 percent''.

19 (2) CONFORMING AMENDMENT.—The last line
20 of the table contained in section 36B(b)(3)(A)(i) of
21 such Code is amended by striking ''400%'' and in-
22 serting ''600%''.

23 (3) CONFORMING AMENDMENTS RELATING TO
24 RECAPTURE OF EXCESS ADVANCED PAYMENTS.—

1 Clause (i) of section 36B(f)(2)(B) of such Code is
2 amended—
3 (A) by striking ''400 percent'' and insert-
4 ing ''600 percent''; and
5 (B) by striking ''400%'' in the table there-
6 in and inserting ''600%''.
7 (c) ELIMINATION OF FAILSAFE.—Section
8 36B(b)(3)(A)(ii) of the Internal Revenue Code of 1986 is
9 amended by striking subclause (III).
10 (d) EFFECTIVE DATE.—The amendments made by
11 this section shall apply to taxable years beginning after
12 December 31, 2018.
13 **SEC. 7. ENHANCEMENTS FOR REDUCED COST SHARING.**
14 (a) DEFINITION OF ELIGIBLE INDIVIDUAL.—Section
15 1402(b)(1) of the Patient Protection and Affordable Care
16 Act (42 U.S.C. 1807(b)(1)) is amended by striking ''silver
17 level'' and inserting ''gold level''.
18 (b) MODIFICATION OF AMOUNT.—
19 (1) IN GENERAL.—Section 1402(c)(2) of the
20 Patient Protection and Affordable Care Act is
21 amended to read as follows:
22 ''(2) ADDITIONAL REDUCTION.—The Secretary
23 shall establish procedures under which the issuer of
24 a qualified health plan to which this section applies

1 shall further reduce cost-sharing under the plan in
2 a manner sufficient to—
3 "(A) in the case of an eligible insured
4 whose household income is not less than 100
5 percent but not more than 133 percent of the
6 poverty line for a family of the size involved, in-
7 crease the plan's share of the total allowed
8 costs of benefits provided under the plan to 94
9 percent of such costs;
10 "(B) in the case of an eligible insured
11 whose household income is more than 133 per-
12 cent but not more than 150 percent of the pov-
13 erty line for a family of the size involved, in-
14 crease the plan's share of the total allowed
15 costs of benefits provided under the plan to 92
16 percent of such costs;
17 "(C) in the case of an eligible insured
18 whose household income is more than 150 per-
19 cent but not more than 200 percent of the pov-
20 erty line for a family of the size involved, in-
21 crease the plan's share of the total allowed
22 costs of benefits provided under the plan to 90
23 percent of such costs;
24 "(D) in the case of an eligible insured
25 whose household income is more than 200 per-

1 cent but not more than 300 percent of the pov-
2 erty line for a family of the size involved, in-
3 crease the plan's share of the total allowed
4 costs of benefits provided under the plan to 85
5 percent of such costs; and
6 "(E) in the case of an eligible insured
7 whose household income is more than 300 per-
8 cent but not more than 400 percent of the pov-
9 erty line for a family of the size involved, in-
10 crease the plan's share of the total allowed
11 costs of benefits provided under the plan to 80
12 percent of such costs.".
13 (2) CONFORMING AMENDMENT.—Clause (i) of
14 section 1402(c)(1)(B) of such Act is amended to
15 read as follows:
16 "(i) IN GENERAL.—The Secretary
17 shall ensure the reduction under this para-
18 graph shall not result in an increase in the
19 plan's share of the total allowed costs of
20 benefits provided under the plan above—
21 "(I) 94 percent in the case of an
22 eligible insured described in para-
23 graph (2)(A);

1 "(II) 92 percent in the case of an
2 eligible insured described in para-
3 graph (2)(B);
4 "(III) 90 percent in the case of
5 an eligible insured described in para-
6 graph (2)(C);
7 "(IV) 85 percent in the case of
8 an eligible insured described in para-
9 graph (2)(D); and
10 "(V) 80 percent in the case of an
11 eligible insured described in para-
12 graph (2)(E).".
13 (c) EFFECTIVE DATE.—The amendments made by
14 this section shall apply to plan years beginning after De-
15 cember 31, 2019.
16 **SEC. 8. REINSURANCE AND AFFORDABILITY FUND.**
17 Part 5 of subtitle D of title I of the Patient Protec-
18 tion and Affordable Care Act is amended by inserting
19 after section 1341 (42 U.S.C. 18061) the following:
20 **"SEC. 1341A. REINSURANCE AND AFFORDABILITY FUND**
21 **FOR THE INDIVIDUAL MARKET IN EACH**
22 **STATE.**
23 "(a) IN GENERAL.—The Secretary, in consultation
24 with the National Association of Insurance Commis-
25 sioners, shall establish a program to enable each State,

1 for any plan year beginning in the 3-year period beginning
2 January 1, 2020, to—
3 "(1) provide reinsurance payments to health in-
4 surance issuers with respect to individuals enrolled
5 under individual health insurance coverage offered
6 by such issuers; or
7 "(2) provide assistance (other than through
8 payments described in paragraph (1)) to reduce out-
9 of-pocket costs, such as copayments, coinsurance,
10 premiums, and deductibles, of individuals enrolled
11 under qualified health plans offered in the individual
12 market through an Exchange.
13 "(b) APPROPRIATIONS.—There is appropriated, out
14 of any money in the Treasury not otherwise appropriated,
15 $30,000,000,000 for the period of fiscal years 2020
16 through 2022 for purposes of establishing and admin-
17 istering the program established under this section. Such
18 amount shall remain available until expended.".

19 **SEC. 9. EXPANDING RATING RULES TO LARGE GROUP MAR-**
20 **KET.**

21 (a) IN GENERAL.—Section 2701(a) of the Public
22 Health Service Act (42 U.S.C. 300gg(a)) is amended—
23 (1) in paragraph (1), by striking "small"; and
24 (2) by striking paragraph (5).

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to plans offered in the first plan year beginning after the date of enactment of this Act and any plan year thereafter.

SEC. 10. PROTECTION OF CONSUMERS FROM EXCESSIVE, UNJUSTIFIED, OR UNFAIRLY DISCRIMINATORY RATES.

(a) PROTECTION FROM EXCESSIVE, UNJUSTIFIED, OR UNFAIRLY DISCRIMINATORY RATES.—The first section 2794 of the Public Health Service Act (42 U.S.C. 300gg–94), as added by section 1003 of the Patient Protection and Affordable Care Act (Public Law 111–148), is amended by adding at the end the following new subsection:

"(e) PROTECTION FROM EXCESSIVE, UNJUSTIFIED, OR UNFAIRLY DISCRIMINATORY RATES.—

"(1) AUTHORITY OF STATES.—Nothing in this section shall be construed to prohibit a State from imposing requirements (including requirements relating to rate review standards and procedures and information reporting) on health insurance issuers with respect to rates that are in addition to the requirements of this section and are more protective of consumers than such requirements.

1 "(2) CONSULTATION IN RATE REVIEW PROC-
2 ESS.—In carrying out this section, the Secretary
3 shall consult with the National Association of Insur-
4 ance Commissioners and consumer groups.
5 "(3) DETERMINATION OF WHO CONDUCTS RE-
6 VIEWS FOR EACH STATE.—The Secretary shall de-
7 termine, after the date of enactment of this sub-
8 section and periodically thereafter, the following:
9 "(A) In which markets in each State the
10 State insurance commissioner or relevant State
11 regulator shall undertake the corrective actions
12 under paragraph (4), as a condition of the
13 State receiving the grant in subsection (c),
14 based on the Secretary's determination that the
15 State insurance commissioner or relevant State
16 regulator is adequately undertaking and uti-
17 lizing such actions in that market.
18 "(B) In which markets in each State the
19 Secretary shall undertake the corrective actions
20 under paragraph (4), in cooperation with the
21 relevant State insurance commissioner or State
22 regulator, based on the Secretary's determina-
23 tion that the State is not adequately under-
24 taking and utilizing such actions in that mar-
25 ket.

1 "(4) CORRECTIVE ACTION FOR EXCESSIVE, UN-
2 JUSTIFIED, OR UNFAIRLY DISCRIMINATORY
3 RATES.—In accordance with the process established
4 under this section, the Secretary or the relevant
5 State insurance commissioner or State regulator
6 shall take corrective actions to ensure that any ex-
7 cessive, unjustified, or unfairly discriminatory rates
8 are corrected prior to implementation, or as soon as
9 possible thereafter, through mechanisms such as—
10 "(A) denying rates;
11 "(B) modifying rates; or
12 "(C) requiring rebates to consumers.
13 "(5) NONCOMPLIANCE.—Failure to comply with
14 any corrective action taken by the Secretary under
15 this subsection may result in the application of civil
16 monetary penalties and, if the Secretary determines
17 appropriate, make the plan involved ineligible for
18 classification as a qualified health plan.".
19 (b) CLARIFICATION OF REGULATORY AUTHORITY.—
20 Such section is further amended—
21 (1) in subsection (a)—
22 (A) in the subsection heading, by striking
23 "PREMIUM" and inserting "RATE";
24 (B) in paragraph (1), by striking "unrea-
25 sonable increases in premiums" and inserting

1 "potentially excessive, unjustified, or unfairly
2 discriminatory rates, including premiums,"; and
3 (C) in paragraph (2)—
4 (i) by striking "an unreasonable pre-
5 mium increase" and inserting "a poten-
6 tially excessive, unjustified, or unfairly dis-
7 criminatory rate";
8 (ii) by striking "the increase" and in-
9 serting "the rate"; and
10 (iii) by striking "such increases" and
11 inserting "such rates";
12 (2) in subsection (b)—
13 (A) in the subsection heading, by striking
14 "PREMIUM" and inserting "RATE";
15 (B) by striking "premium increases" each
16 place it appears and inserting "rates";
17 (C) in paragraph (1), in the paragraph
18 heading, by striking "PREMIUM INCREASE" and
19 inserting "RATE"; and
20 (D) in paragraph (2)—
21 (i) in the paragraph heading, by strik-
22 ing "PREMIUM INCREASES" and inserting
23 "RATES"; and
24 (ii) in subparagraph (B), by striking
25 "premium" and inserting "rate"; and

1 (3) in subsection (c)(1)—
2 (A) in the heading, by striking "PRE-
3 MIUM" and inserting "RATE";
4 (B) by inserting "that satisfy the condition
5 under subsection (e)(3)(A)" after "award
6 grants to States"; and
7 (C) in subparagraph (A), by striking "pre-
8 mium increases" and inserting "rates".
9 (c) CONFORMING AMENDMENTS.—
10 (1) PUBLIC HEALTH SERVICE ACT.—Title
11 XXVII of the Public Health Service Act (42 U.S.C.
12 300gg et seq.) is amended—
13 (A) in section 2723 (42 U.S.C. 300gg–
14 22)—
15 (i) in subsection (a)—
16 (I) in paragraph (1), by inserting
17 "and section 2794 (relating to the
18 reasonableness of rates with respect to
19 health insurance coverage)" after
20 "this part"; and
21 (II) in paragraph (2), by insert-
22 ing "or such section 2794" after "this
23 part"; and
24 (ii) in subsection (b)—

1 (I) in paragraph (1), by inserting
2 "and section 2794 (relating to the
3 reasonableness of rates with respect to
4 health insurance coverage)" after
5 "this part"; and
6 (II) in paragraph (2)—
7 (aa) in subparagraph (A),
8 by inserting "or such section
9 2794 that is" after "this part";
10 and
11 (bb) in subparagraph (C)(ii),
12 by inserting "or such section
13 2794" after "this part"; and
14 (B) in section 2761 (42 U.S.C. 300gg–
15 61)—
16 (i) in subsection (a)—
17 (I) in paragraph (1), by inserting
18 "and section 2794 (relating to the
19 reasonableness of rates with respect to
20 health insurance coverage)" after
21 "this part"; and
22 (II) in paragraph (2)—
23 (aa) by inserting "or such
24 section 2794" after "set forth in
25 this part"; and

1 (bb) by inserting "and such
2 section 2794" after "the require-
3 ments of this part"; and
4 (ii) in subsection (b), by inserting
5 "and such section 2794" after "this part".
6 (2) PATIENT PROTECTION AND AFFORDABLE
7 CARE ACT.—Section 1311(e)(2) of the Patient Pro-
8 tection and Affordable Care Act (42 U.S.C.
9 18031(e)(2)) is amended by striking "unjustified
10 premium increases" and inserting "unjustified
11 rates".
12 (d) APPLICABILITY TO GRANDFATHERED PLANS.—
13 Section 1251(a)(4)(A) of the Patient Protection and Af-
14 fordable Care Act (42 U.S.C. 18011(a)(4)(A)) is amended
15 by adding at the end the following:
16 "(v) Section 2794 (relating to reason-
17 ableness of rates with respect to health in-
18 surance coverage).".
19 (e) EFFECTIVE DATE.—The amendments made by
20 this section shall take effect on the date of enactment of
21 this Act and shall be implemented with respect to health
22 plans beginning not later than January 1, 2020.
23 **SEC. 11. SENSE OF CONGRESS.**
24 It is the sense of the Congress that—

1 (1) the Federal Government, acting in its capacity as an insurer, employer, or health care provider, should serve as a model for the Nation to ensure coverage of all reproductive services; and

5 (2) all restrictions on coverage of reproductive services in the private insurance market should end.

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