

115TH CONGRESS
1ST SESSION

S. 2001

To establish a State public option through Medicaid to provide Americans with the choice of a high-quality, low-cost health insurance plan.

IN THE SENATE OF THE UNITED STATES

OCTOBER 24, 2017

Mr. SCHATZ (for himself, Mr. BOOKER, Ms. HARRIS, Mr. HEINRICH, Mr. SANDERS, Ms. CORTEZ MASTO, Mr. WHITEHOUSE, Mrs. GILLIBRAND, Ms. KLOBUCHAR, Mr. FRANKEN, Mr. MARKEY, Ms. WARREN, Mr. LEAHY, Mr. MERKLEY, Mr. REED, Ms. BALDWIN, Ms. HIRONO, Mr. MURPHY, and Mr. UDALL) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To establish a State public option through Medicaid to provide Americans with the choice of a high-quality, low-cost health insurance plan.

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 “State Public Option
5 Act”.

6 **SEC. 2. MEDICAID BUY-IN OPTION.**

7 (a) IN GENERAL.—Section 1902 of the Social Secu-
8 rity Act (42 U.S.C. 1396a) is amended—

1 (1) in subsection (a)(10)—

2 (A) in subparagraph (A)(ii)—

3 (i) in subclause (XXI), by striking “;
4 or” and inserting a semicolon;

5 (ii) in subclause (XXII), by adding
6 “or” at the end; and

7 (iii) by adding at the end the fol-
8 lowing new subclause:

9 “(XXIII) beginning January 1,
10 2018, who are residents of the State
11 and are not concurrently enrolled in
12 another health insurance coverage
13 plan, subject, in the case of individ-
14 uals described in subsection (nn) and
15 notwithstanding section 1916 (except
16 for subsection (k) of such section), to
17 payment of premiums or other cost-
18 sharing charges;” and

19 (B) in the matter following subparagraph
20 (G), in clause (XV), by inserting “or subsection
21 (nn)” after “described in subparagraph
22 (A)(i)(VIII)”; and

23 (2) by adding at the end the following new sub-
24 section:

1 “(nn) PREVIOUSLY UNDESCRIBED INDIVIDUALS.—
2 Individuals described in this subsection are individuals
3 who are—

4 “(1) described in subclause (XXIII) of sub-
5 section (a)(10)(A)(ii); and

6 “(2) are not described in any other subclause of
7 such subsection or any other provision in this Act
8 which provides for eligibility for medical assist-
9 ance.”.

10 (b) PROVISION OF AT LEAST MINIMUM COVERAGE.—

11 (1) IN GENERAL.—Section 1902(k)(1) of the
12 Social Security Act (42 U.S.C. 1396a(k)(1)) is
13 amended by inserting “or an individual described in
14 subsection (nn)” after “an individual described in
15 subclause (VIII) of subsection (a)(10)(A)(i)” each
16 place it appears.

17 (2) CONFORMING AMENDMENT.—Section
18 1903(i)(26) of the Social Security Act (42 U.S.C.
19 1396b(i)(26)) is amended by striking “individuals
20 described in subclause (VIII) of subsection
21 (a)(10)(A)(i)” and inserting “individuals described
22 in subsection (a)(10)(A)(i)(VIII) or (nn) of section
23 1902”.

24 (c) FEDERAL FINANCIAL PARTICIPATION IN BUY-IN
25 PROGRAM.—

1 (1) ENHANCED MATCH FOR ADMINISTRATIVE
2 EXPENSES.—Section 1903(a) of the Social Security
3 Act (42 U.S.C. 1396b(a)) is amended—

4 (A) by redesignating paragraph (7) as
5 paragraph (8); and

6 (B) by inserting after paragraph (6) the
7 following new paragraph:

8 “(7) an amount equal to 90 percent of the
9 sums expended during the quarter which are attrib-
10 utable to reasonable administrative expenses related
11 to the administration of a Medicaid buy-in program
12 for individuals described in section
13 1902(a)(10)(A)(ii)(XXIII); plus”.

14 (2) TREATMENT OF PREMIUM AND COST-SHAR-
15 ING REVENUES FROM MEDICAID BUY-IN PROGRAM.—

16 (A) IN GENERAL.—For purposes of section
17 1903(a)(1) of the Social Security Act (42
18 U.S.C. 1396b(a)(1)), for any fiscal quarter dur-
19 ing which a State collects premiums, cost-shar-
20 ing, or similar charges under subsection (k) of
21 section 1916 of such Act (42 U.S.C. 1396o) (as
22 added by this Act), including any advance pay-
23 ments of premium tax credits under section
24 1412 of the Patient Protection and Affordable
25 Care Act or payments for cost-sharing reduc-

1 tions under section 1402 of such Act that are
2 received by the State, the total amount ex-
3 pended during such quarter as medical assist-
4 ance for individuals who buy into Medicaid cov-
5 erage under subclause (XXIII) of section
6 1902(a)(10)(A)(ii) of the Social Security Act
7 (as added by this Act) shall be reduced by the
8 amount of such premiums or charges.

9 (B) TREATMENT OF EXCESS PREMIUMS.—

10 Each State that collects premiums or similar
11 charges under subsection (k) of section 1916 of
12 the Social Security Act (42 U.S.C. 1396o) (as
13 added by this Act) in a fiscal year shall pay to
14 the Secretary of Health and Human Services,
15 at such time and in such form and manner as
16 the Secretary shall specify, an amount equal to
17 50 percent of the amount, if any, by which—

18 (i) the total amount of such premiums
19 and charges collected by the State for such
20 year; exceeds

21 (ii) the total amount expended by the
22 State during such year as medical assist-
23 ance for individuals who buy into Medicaid
24 coverage under subclause (XXIII) of sec-

1 tion 1902(a)(10)(A)(ii) of such Act (as
2 added by this Act).

3 (d) COST-SHARING REQUIREMENT.—Section 1916 of
4 the Social Security Act (42 U.S.C. 1396o) is amended by
5 adding at the end the following new subsection:

6 “(k) PREMIUMS AND COST-SHARING FOR INDIVID-
7 UALS PARTICIPATING IN MEDICAID BUY-IN PROGRAM.—

8 “(1) IN GENERAL.—Subject to paragraph (2),
9 with respect to individuals who are eligible for med-
10 ical assistance under subsection
11 (a)(10)(A)(ii)(XXIII) of section 1902 and are de-
12 scribed in subsection (nn) of such section, a State
13 may—

14 “(A) impose premiums, deductibles, cost-
15 sharing, or other similar charges that are actu-
16 arially fair; and

17 “(B) vary the premium rate imposed on an
18 individual based only on the factors described in
19 section 2701(a)(1)(A) of the Public Health
20 Service Act and subject to the same limitations
21 on the weight which may be given to such fac-
22 tors under such section.

23 “(2) LIMITATIONS.—

24 “(A) PREMIUMS.—The total amount of
25 premiums imposed for a year under this sub-

1 section with respect to all individuals described
2 in paragraph (1) in a family shall not exceed an
3 amount equal to 9.5 percent of the family's
4 household income (as defined in section
5 36B(d)(2) of the Internal Revenue Code of
6 1986) for the year involved.

7 “(B) OTHER COST-SHARING.—

8 “(i) IN GENERAL.—The cost-sharing
9 limitations described in section 1302(c) of
10 the Patient Protection and Affordable Care
11 Act shall apply to cost-sharing (as defined
12 in such section) for medical assistance pro-
13 vided under section
14 1902(a)(10)(A)(ii)(XXIII) in the same
15 manner as such limitations apply to cost-
16 sharing under qualified health plans under
17 title I of such Act.

18 “(ii) AVAILABILITY OF COST-SHARING
19 REDUCTIONS.—Individuals provided med-
20 ical assistance under section
21 1902(a)(10)(A)(ii)(XXIII) and subject to
22 cost-sharing under this subsection are eli-
23 gible for cost-sharing reductions under sec-
24 tion 1402 of the Patient Protection and
25 Affordable Care Act (subject to the income

1 eligibility threshold in subsection (b)(2) of
 2 such section), and in applying such sec-
 3 tion—

4 “(I) enrollment in a State plan
 5 under section
 6 1902(a)(10)(A)(ii)(XXIII) shall be
 7 treated as coverage under a qualified
 8 health plan in the silver level of cov-
 9 erage in the individual market offered
 10 through an Exchange established for
 11 or by the State under title I of the
 12 Patient Protection and Affordable
 13 Care Act; and

14 “(II) the State agency admin-
 15 istering such plan shall be treated as
 16 the issuer of such plan.

17 “(3) PREMIUMS AND COST-SHARING FOR CER-
 18 TAIN OTHER INDIVIDUALS.—If an individual is eligi-
 19 ble for medical assistance under subsection
 20 (a)(10)(A)(ii)(XXIII) of section 1902 and is not de-
 21 scribed in subsection (nn) of such section, a State—

22 “(A) shall not impose premiums and cost-
 23 sharing on the individual under this subsection;
 24 and

1 “(B) may impose premiums and cost-shar-
2 ing on the individual to the extent allowed by
3 another provision of this Act (other than sec-
4 tion 1902(a)(10)(A)(ii)(XXIII)) which provides
5 for eligibility for medical assistance, but only if
6 the individual is described in such other provi-
7 sion.

8 “(4) APPLICATION OF PREMIUM ASSISTANCE
9 TAX CREDITS.—An individual who is required to pay
10 premiums under this subsection for a year for med-
11 ical assistance shall be eligible for a premium assist-
12 ance credit under section 36B of the Internal Rev-
13 enue Code to the same extent that such individual
14 would be eligible for a premium assistance credit
15 under such section if such individual had paid the
16 same amount in premiums for coverage under a
17 qualified health plan for such year.”.

18 (e) MANAGED CARE.—Section 1932(a)(1)(A)(i) of
19 the Social Security Act (42 U.S.C. 1396u-2(a)(1)(A)(i))
20 is amended by inserting “, including an individual who is
21 eligible for such assistance after buying into such coverage
22 under section 1902(a)(10)(A)(ii)(XXIII),” after “the
23 State plan under this title”.

24 (f) OFFERING BUY-IN PROGRAM ON STATE EX-
25 CHANGE; ENROLLMENT PERIODS.—

1 (1) IN GENERAL.—A State that has elected to
2 allow individuals to buy into Medicaid coverage
3 under section 1902(a)(10)(A)(ii)(XXIII) of the So-
4 cial Security Act (42 U.S.C.
5 1396a(a)(10)(A)(ii)(XXIII)) shall allow individuals
6 to enroll in such coverage through the Federal, Fed-
7 erally-facilitated, or State Exchange established pur-
8 suant to title I of the Patient Protection and Afford-
9 able Care Act.

10 (2) ENROLLMENT PERIODS.—A State may limit
11 the enrollment of individuals into Medicaid coverage
12 under section 1902(a)(10)(A)(ii)(XXIII) of the So-
13 cial Security Act (42 U.S.C.
14 1396a(a)(10)(A)(ii)(XXIII)) to the enrollment peri-
15 ods provided for under section 1311(c)(6) of the Pa-
16 tient Protection and Affordable Care Act (42 U.S.C.
17 18031(c)(6)).

18 (g) APPLICATION OF ADVANCED PREMIUM TAX
19 CREDITS TO MEDICAID BUY-IN PLANS.—

20 (1) IN GENERAL.—Section 36B of the Internal
21 Revenue Code of 1986 is amended—

22 (A) in subsection (b)(3)(B), by adding at
23 the end the following new sentence:

24 “If an applicable taxpayer resides in a rating
25 area in which no silver plan is offered on the

1 individual market but the taxpayer buys into
2 Medicaid coverage under section
3 1902(a)(10)(A)(ii)(XXIII) of the Social Secu-
4 rity Act, such Medicaid coverage shall be
5 deemed to be the applicable second lowest cost
6 silver plan with respect to such taxpayer.”; and

7 (B) by adding at the end the following new
8 subsection:

9 “(h) APPLICATION TO INDIVIDUALS PURCHASING
10 MEDICAID COVERAGE.—In the case of any individual who
11 buys into Medicaid coverage under section
12 1902(a)(10)(A)(ii)(XXIII) of the Social Security Act, this
13 section shall be applied with the following modifications:

14 “(1) The amount determined under subsection
15 (b)(2)(A) shall be increased by the amount of the
16 monthly premiums paid for such coverage.

17 “(2) Subsection (c)(2)(A)(i) shall be applied by
18 treating coverage under the Medicaid program under
19 title XIX of the Social Security Act in the same
20 manner as a qualified health plan that was enrolled
21 in through an Exchange.

22 “(3) In applying subsection (c)(2)(B)—

23 “(A) an individual shall not be considered
24 to be eligible for minimum essential coverage
25 described in section 5000A(f)(1)(A)(ii) by rea-

1 son of eligibility for medical assistance under a
2 State Medicaid program under section
3 1902(a)(10)(A)(ii)(XXIII); and

4 “(B) an individual who is not covered by
5 minimum essential coverage described in section
6 5000A(f)(1)(B) shall not be considered to be el-
7 igible for such coverage.”.

8 (2) ADVANCED PAYMENT OF CREDIT.—

9 (A) IN GENERAL.—The Secretary of
10 Health and Human Services, in consultation
11 with the Secretary of the Treasury, shall estab-
12 lish a program under which—

13 (i) upon request of a State agency ad-
14 ministering a State Medicaid program
15 under title XIX of the Social Security Act,
16 advance determinations are made in a
17 manner similar to advanced determination
18 under section 1411 of the Patient Protec-
19 tion and Affordable Care Act with respect
20 to the income eligibility of individuals en-
21 rolling in such program for the premium
22 tax credit allowable under section 36B of
23 the Internal Revenue Code of 1986 and
24 the cost-sharing reductions under section

1 1402 of the Patient Protection and Afford-
2 able Care Act;

3 (ii) the Secretary notifies—

4 (I) the State agency admin-
5 istering the program and the Sec-
6 retary of the Treasury of the advance
7 determinations; and

8 (II) the Secretary of the Treas-
9 ury of the name and employer identi-
10 fication number of each employer with
11 respect to whom 1 or more employee
12 of the employer were determined to be
13 eligible for the premium tax credit
14 under section 36B of the Internal
15 Revenue Code of 1986 and the cost-
16 sharing reductions under section 1402
17 of the Patient Protection and Afford-
18 able Care Act because—

19 (aa) the employer did not
20 provide minimum essential cov-
21 erage; or

22 (bb) the employer provided
23 such minimum essential coverage
24 but it was determined under sec-
25 tion 36B(e)(2)(C) of such Code

1 to either be unaffordable to the
2 employee or not provide the re-
3 quired minimum actuarial value;
4 and

5 (iii) the Secretary of the Treasury
6 makes advance payments of such credit or
7 reductions to the State agency admin-
8 istering the program in order to reduce the
9 premiums payable by individuals eligible
10 for such credit.

11 (B) DETERMINATIONS AND PAYMENTS.—
12 Rules similar to subsections (b) and (c) of sec-
13 tion 1412 of the Patient Protection and Afford-
14 able Care Act shall apply for purposes of this
15 subsection.

16 (C) COORDINATION WITH CREDIT.—

17 (i) IN GENERAL.—Section 36B of the
18 Internal Revenue Code of 1986 is amended
19 by inserting “and under section 2(g)(2) of
20 the State Public Option Act” after “sec-
21 tion 1412 of the Patient Protection and
22 Affordable Care Act” each place it appears
23 in subsections (f)(1), (f)(2), and (g)(1).

24 (ii) INFORMATION REPORTING.—Sec-
25 tion 36B(f)(3) of such Code is amended by

1 adding at the end the following flush sen-
2 tence: “In the case of any coverage under
3 the medicaid program under title XIX of
4 the Social Security Act for which a credit
5 under this section is allowable by reason of
6 subsection (h), the State agency admin-
7 istering the Medicaid program shall be
8 treated as an Exchange for purposes of
9 this paragraph and subparagraph (A) shall
10 not apply.”.

11 (3) CONFORMING AMENDMENT RELATING TO
12 EMPLOYER RESPONSIBILITY.—Paragraph (6) of sec-
13 tion 4980H(c) of the Internal Revenue Code of 1986
14 is amended by inserting “, except that for purposes
15 of subsections (a)(2) and (b)(2), the term ‘qualified
16 health plan’ shall include any plan described in sec-
17 tion 36B(h)” after “such Act”.

18 (h) CONFORMING AMENDMENTS.—

19 (1) Section 1902(a)(10) of the Social Security
20 Act (42 U.S.C. 1396a(a)(10)), as amended by sub-
21 section (a), is further amended, in the matter fol-
22 lowing subparagraph (G)—

23 (A) by striking “and (XVII)” and inserting
24 “, (XVII)”; and

1 (B) by inserting “, and (XVIII) the med-
2 ical assistance made available to an individual
3 described in subparagraph (A)(ii)(XXIII) shall
4 be limited to medical assistance described in
5 subsection (k)(1)” before the semicolon.

6 (2) Section 1903(f)(4) of the Social Security
7 Act (42 U.S.C. 1396b(f)(4)) is amended by inserting
8 “1902(a)(10)(A)(ii)(XXIII),” after
9 “1902(a)(10)(A)(ii)(XXII),”.

10 (3) Section 1905(a) of the Social Security Act
11 (42 U.S.C. 1396d(a)) is amended in the matter pre-
12 ceding paragraph (1)—

13 (A) by striking “or” at the end of clause
14 (xvi);

15 (B) by inserting “or” at the end of clause
16 (xvii); and

17 (C) by inserting after clause (xvii) the fol-
18 lowing new clause:

19 “(xviii) individuals described in section
20 1902(a)(10)(A)(ii)(XXIII),”.

21 (4) Section 1916A(a)(1) of the Social Security
22 Act (42 U.S.C. 1396o–1(a)(1)) is amended by strik-
23 ing “or (j)” and inserting “(j), or (k)”.

24 (5) Section 1937(a)(1)(B) of the Social Secu-
25 rity Act (42 U.S.C. 1396u–7(a)(1)(B)) is amended

1 by inserting “, subclause (XXIII) of section
2 1902(a)(10)(A)(ii),” after “1902(a)(10)(A)(i)”.

3 **SEC. 3. DEVELOPMENT OF STATE-LEVEL METRICS ON MED-**
4 **ICAID BENEFICIARY ACCESS AND SATISFAC-**
5 **TION.**

6 (a) IN GENERAL.—

7 (1) DEVELOPMENT OF METRICS.—Not later
8 than 1 year after the date of enactment of this Act,
9 the Director of the Agency for Healthcare Research
10 and Quality, in consultation with the Deputy Admin-
11 istrator for the Center for Medicaid and CHIP Serv-
12 ices and State Medicaid Directors, shall develop
13 standardized, State-level metrics of access to, and
14 satisfaction with, providers, including primary care
15 and specialist providers, with respect to individuals
16 who are enrolled in State Medicaid plans under title
17 XIX of the Social Security Act.

18 (2) PROCESS.—The Director of the Agency for
19 Healthcare Research and Quality shall develop the
20 metrics described in paragraph (1) through a public
21 process, which shall provide opportunities for stake-
22 holders to participate.

23 (b) UPDATING METRICS.—The Director of the Agen-
24 cy for Healthcare Research and Quality, in consultation
25 with the Deputy Administrator for the Center for Med-

1 icaid and CHIP Services and State Medicaid Directors,
 2 shall update the metrics developed under subsection (a)
 3 not less than once every 3 years.

4 (c) STATE IMPLEMENTATION FUNDING.—The Direc-
 5 tor of the Agency for Healthcare Research and Quality
 6 may award funds, from the amount appropriated under
 7 subsection (d), to States for the purpose of implementing
 8 the metrics developed under this section.

9 (d) APPROPRIATION.—There is appropriated to the
 10 Director of the Agency for Healthcare Research and Qual-
 11 ity out of any funds in the Treasury not otherwise appro-
 12 priated, \$200,000,000 for fiscal year 2019, to remain
 13 available until expended, for the purpose of carrying out
 14 this section.

15 **SEC. 4. RENEWAL OF APPLICATION OF MEDICARE PAY-**
 16 **MENT RATE FLOOR TO PRIMARY CARE SERV-**
 17 **ICES FURNISHED UNDER MEDICAID AND IN-**
 18 **CLUSION OF ADDITIONAL PROVIDERS.**

19 (a) RENEWAL OF PAYMENT FLOOR; ADDITIONAL
 20 PROVIDERS.—

21 (1) IN GENERAL.—Section 1902(a)(13) of the
 22 Social Security Act (42 U.S.C. 1396a(a)(13)) is
 23 amended by striking subparagraph (C) and inserting
 24 the following:

1 “(C) payment for primary care services (as
2 defined in subsection (jj)) at a rate that is not
3 less than 100 percent of the payment rate that
4 applies to such services and physician under
5 part B of title XVIII (or, if greater, the pay-
6 ment rate that would be applicable under such
7 part if the conversion factor under section
8 1848(d) for the year involved were the conver-
9 sion factor under such section for 2009), and
10 that is not less than the rate that would other-
11 wise apply to such services under this title if
12 the rate were determined without regard to this
13 subparagraph, and that are—

14 “(i) furnished in 2013 and 2014, by a
15 physician with a primary specialty designa-
16 tion of family medicine, general internal
17 medicine, or pediatric medicine; or

18 “(ii) furnished in the period that be-
19 gins on the first day of the first month
20 that begins after the date of enactment of
21 the State Public Option Act—

22 “(I) by a physician with a pri-
23 mary specialty designation of family
24 medicine, general internal medicine,
25 or pediatric medicine, but only if the

1 physician self-attests that the physi-
2 cian is Board certified in family medi-
3 cine, general internal medicine, or pe-
4 diatric medicine;

5 “(II) by a physician with a pri-
6 mary specialty designation of obstet-
7 rics and gynecology, but only if the
8 physician self-attests that the physi-
9 cian is Board certified in obstetrics
10 and gynecology;

11 “(III) by an advanced practice
12 clinician, as defined by the Secretary,
13 that works under the supervision of—

14 “(aa) a physician that satis-
15 fies the criteria specified in sub-
16 clause (I) or (II); or

17 “(bb) a nurse practitioner or
18 a physician assistant (as such
19 terms are defined in section
20 1861(aa)(5)(A)) who is working
21 in accordance with State law, or
22 a certified nurse-midwife (as de-
23 fined in section 1861(gg)) who is
24 working in accordance with State
25 law;

1 “(IV) by a rural health clinic,
2 Federally-qualified health center, or
3 other health clinic that receives reim-
4 bursement on a fee schedule applica-
5 ble to a physician, a nurse practi-
6 tioner or a physician assistant (as
7 such terms are defined in section
8 1861(aa)(5)(A)) who is working in ac-
9 cordance with State law, or a certified
10 nurse-midwife (as defined in section
11 1861(gg)) who is working in accord-
12 ance with State law, for services fur-
13 nished by a physician, nurse practi-
14 tioner, physician assistant, or certified
15 nurse-midwife, or services furnished
16 by an advanced practice clinician su-
17 pervised by a physician described in
18 subclause (I)(aa) or (II)(aa), another
19 advanced practice clinician, or a cer-
20 tified nurse-midwife; or

21 “(V) by a nurse practitioner or a
22 physician assistant (as such terms are
23 defined in section 1861(aa)(5)(A))
24 who is working in accordance with
25 State law, or a certified nurse-midwife

1 (as defined in section 1861(gg)) who
2 is working in accordance with State
3 law, in accordance with procedures
4 that ensure that the portion of the
5 payment for such services that the
6 nurse practitioner, physician assist-
7 ant, or certified nurse-midwife is paid
8 is not less than the amount that the
9 nurse practitioner, physician assist-
10 ant, or certified nurse-midwife would
11 be paid if the services were provided
12 under part B of title XVIII;”.

13 (2) CONFORMING AMENDMENTS.—Section
14 1905(dd) of the Social Security Act (42 U.S.C.
15 1396d(dd)) is amended—

16 (A) by striking “Notwithstanding” and in-
17 serting the following:

18 “(1) IN GENERAL.—Notwithstanding”;

19 (B) by inserting “or furnished during an
20 additional period specified in paragraph (2),”
21 after “2015,”; and

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

23 “(2) ADDITIONAL PERIODS.—For purposes of
24 paragraph (1), the following are additional periods:

1 “(A) The period that begins on the first
2 day of the first month that begins after the
3 date of enactment of the State Public Option
4 Act.”.

5 (b) IMPROVED TARGETING OF PRIMARY CARE.—Sec-
6 tion 1902(jj) of the Social Security Act (42 U.S.C.
7 1396a(jj)) is amended—

8 (1) by redesignating paragraphs (1) and (2) as
9 subparagraphs (A) and (B), respectively and realign-
10 ing the left margins accordingly;

11 (2) by striking “For purposes of” and inserting
12 the following:

13 “(1) IN GENERAL.—For purposes of”; and

14 (3) by adding at the end the following:

15 “(2) EXCLUSIONS.—Such term does not include
16 any services described in subparagraph (A) or (B) of
17 paragraph (1) if such services are provided in an
18 emergency department of a hospital.”.

19 (c) ENSURING PAYMENT BY MANAGED CARE ENTI-
20 TIES.—

21 (1) IN GENERAL.—Section 1903(m)(2)(A) of
22 the Social Security Act (42 U.S.C. 1396b(m)(2)(A))
23 is amended—

24 (A) in clause (xii), by striking “and” after
25 the semicolon;

1 (B) by realigning the left margin of clause
2 (xiii) so as to align with the left margin of
3 clause (xii) and by striking the period at the
4 end of clause (xiii) and inserting “; and”; and

5 (C) by inserting after clause (xiii) the fol-
6 lowing:

7 “(xiv) such contract provides that (I) payments
8 to providers specified in section 1902(a)(13)(C) for
9 primary care services defined in section 1902(jj)
10 that are furnished during a year or period specified
11 in section 1902(a)(13)(C) and section 1905(dd) are
12 at least equal to the amounts set forth and required
13 by the Secretary by regulation, (II) the entity shall,
14 upon request, provide documentation to the State,
15 sufficient to enable the State and the Secretary to
16 ensure compliance with subclause (I), and (III) the
17 Secretary shall approve payments described in sub-
18 clause (I) that are furnished through an agreed
19 upon capitation, partial capitation, or other value-
20 based payment arrangement if the capitation, partial
21 capitation, or other value-based payment arrange-
22 ment is based on a reasonable methodology and the
23 entity provides documentation to the State sufficient
24 to enable the State and the Secretary to ensure com-
25 pliance with subclause (I).”.

1 (2) CONFORMING AMENDMENT.—Section
2 1932(f) of the Social Security Act (42 U.S.C.
3 1396u–2(f)) is amended by inserting “and clause
4 (xiv) of section 1903(m)(2)(A)” before the period.

5 **SEC. 5. MEDICAID ACCESS GRANTS.**

6 (a) IN GENERAL.—Beginning in fiscal year 2019, the
7 Secretary of Health and Human Services (referred to in
8 this section as the “Secretary”) shall award grants to
9 States that submit an application meeting the require-
10 ments of subsection (b) for the purpose of improving ac-
11 cess to services for individuals enrolled in State Medicaid
12 plans under title XIX of the Social Security Act.

13 (b) APPLICATION REQUIREMENTS.—To be eligible
14 for a grant under this section, a State shall submit to the
15 Secretary, at such time and in such manner as the Sec-
16 retary shall require, an application that contains the fol-
17 lowing:

18 (1) A description of gaps in access to providers
19 for individuals enrolled in the State Medicaid plan
20 that the State has identified, and how the State pro-
21 poses to fix such gaps.

22 (2) A discussion of any changes the State pro-
23 poses to make to the reimbursement of providers
24 under the State Medicaid plan, including changes to
25 the fee-for-service rates for providers of services

1 under such plans or moving to population-based or
2 episode-based payment models.

3 (3) A justification establishing that the changes
4 proposed by the State will increase access to pro-
5 viders for individuals enrolled in the State Medicaid
6 plan, and a plan for measuring changes to such ac-
7 cess over the grant period.

8 (c) USE OF FUNDS.—

9 (1) IN GENERAL.—If the Secretary determines
10 that a State is using grant funds awarded under this
11 section in a manner that is inconsistent with the
12 purpose described in subsection (a) or paragraph
13 (2), the Secretary may withhold or reduce future
14 grant payments or recover previous grant payments
15 to the State under this section as the Secretary
16 deems appropriate.

17 (2) USE OF FUNDS TO IMPLEMENT MEDICAID
18 BUY-IN PROGRAM.—A State may use up to 10 per-
19 cent of the amount of a grant awarded to the State
20 under this section for the purpose of implementing
21 a Medicaid buy-in program under subclause (XXIII)
22 of section 1902(a)(10)(A)(ii) of the Social Security
23 Act (42 U.S.C. 1396a(a)(10)(A)(ii)).

24 (3) USE OF FUNDS TO INCREASE MEDICAID
25 PROVIDER PAYMENT RATES.—Notwithstanding any

1 other provision of law, a State may use grant funds
2 awarded under this section for the purpose of fi-
3 nancing the portion of the non-Federal share of ex-
4 penditures under the State Medicaid plan under title
5 XIX of the Social Security Act (42 U.S.C. 1396 et
6 seq.) that is attributable to an increase in the pay-
7 ment rate for providers under such plan.

8 (d) SELECTION OF STATES AND MAXIMUM GRANT
9 AMOUNT.—In awarding grants to States under this sec-
10 tion, the Secretary shall—

11 (1) ensure that geographically diverse areas, in-
12 cluding rural and underserved areas, are included;
13 and

14 (2) award grants both to States that have elect-
15 ed to expand Medicaid eligibility under section
16 1902(a)(10)(A)(i)(VIII) of the Social Security Act
17 (42 U.S.C. 1396a(a)(10)(A)(i)(VIII)) and to States
18 that have not so elected.

19 (e) APPROPRIATION.—There is appropriated to the
20 Secretary, out of any funds in the Treasury not otherwise
21 appropriated, \$100,000,000,000 for fiscal year 2018, to
22 remain available until September 30, 2021, for the pur-
23 pose of making grants under this section.

1 **SEC. 6. INCREASED FMAP FOR MEDICAL ASSISTANCE TO**
2 **NEWLY ELIGIBLE INDIVIDUALS.**

3 (a) IN GENERAL.—Section 1905(y)(1) of the Social
4 Security Act (42 U.S.C. 1396d(y)(1)) is amended—

5 (1) in subparagraph (A), by striking “2014,
6 2015, and 2016” and inserting “each of the first 3
7 consecutive 12-month periods in which the State
8 provides medical assistance to newly eligible individ-
9 uals”;

10 (2) in subparagraph (B), by striking “2017”
11 and inserting “the fourth consecutive 12-month pe-
12 riod in which the State provides medical assistance
13 to newly eligible individuals”;

14 (3) in subparagraph (C), by striking “2018”
15 and inserting “the fifth consecutive 12-month period
16 in which the State provides medical assistance to
17 newly eligible individuals”;

18 (4) in subparagraph (D), by striking “2019”
19 and inserting “the sixth consecutive 12-month period
20 in which the State provides medical assistance to
21 newly eligible individuals”; and

22 (5) in subparagraph (E), by striking “2020 and
23 each year thereafter” and inserting “the seventh
24 consecutive 12-month period in which the State pro-
25 vides medical assistance to newly eligible individuals
26 and each such period thereafter”.

1 (b) EFFECTIVE DATE.—The amendments made by
2 subsection (a) shall take effect as if included in the enact-
3 ment of Public Law 111–148.

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