

109TH CONGRESS
2D SESSION

S. 2382

To establish a national health program administered by the Office of Personnel Management to offer health benefits plans to individuals who are not Federal employees, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 7, 2006

Mr. DURBIN (for himself, Mrs. LINCOLN, Mr. REID, Mr. BAUCUS, Mr. KENNEDY, Mr. KERRY, Mr. BINGAMAN, Mrs. BOXER, Ms. CANTWELL, Mr. CARPER, Mrs. CLINTON, Mr. DODD, Mr. HARKIN, Mr. JOHNSON, Mr. KOHL, Ms. LANDRIEU, Mr. LAUTENBERG, Ms. MIKULSKI, Mr. NELSON of Florida, Mr. PRYOR, Mr. MENENDEZ, Mr. ROCKEFELLER, and Mr. LEAHY) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To establish a national health program administered by the Office of Personnel Management to offer health benefits plans to individuals who are not Federal employees, 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 “Small Employers
5 Health Benefits Program Act of 2006”.

1 **SEC. 2. DEFINITIONS.**

2 (a) IN GENERAL.—In this Act, the terms “member
3 of family”, “health benefits plan”, “carrier”, “employee
4 organizations”, and “dependent” have the meanings given
5 such terms in section 8901 of title 5, United States Code.

6 (b) OTHER TERMS.—In this Act:

7 (1) EMPLOYEE.—The term “employee” has the
8 meaning given such term under section 3(6) of the
9 Employee Retirement Income Security Act of 1974
10 (29 U.S.C. 1002(6)). Such term shall not include an
11 employee of the Federal Government.

12 (2) EMPLOYER.—The term “employer” has the
13 meaning given such term under section 3(5) of the
14 Employee Retirement Income Security Act of 1974
15 (29 U.S.C. 1002(5)), except that such term shall in-
16 clude only employers who employed an average of at
17 least 1 but not more than 100 employees on busi-
18 ness days during the year preceding the date of ap-
19 plication. Such term shall not include the Federal
20 Government.

21 (3) HEALTH STATUS-RELATED FACTOR.—The
22 term “health status-related factor” has the meaning
23 given such term in section 2791(d)(9) of the Public
24 Health Service Act (42 U.S.C. 300gg–91(d)(9)).

25 (4) OFFICE.—The term “Office” means the Of-
26 fice of Personnel Management.

1 (5) PARTICIPATING EMPLOYER.—The term
2 “participating employer” means an employer that—

3 (A) elects to provide health insurance cov-
4 erage under this Act to its employees; and

5 (B) is not offering other comprehensive
6 health insurance coverage to such employees.

7 (c) APPLICATION OF CERTAIN RULES IN DETER-
8 MINATION OF EMPLOYER SIZE.—For purposes of sub-
9 section (b)(2):

10 (1) APPLICATION OF AGGREGATION RULE FOR
11 EMPLOYERS.—All persons treated as a single em-
12 ployer under subsection (b), (c), (m), or (o) of sec-
13 tion 414 of the Internal Revenue Code of 1986 shall
14 be treated as 1 employer.

15 (2) EMPLOYERS NOT IN EXISTENCE IN PRE-
16 CEDING YEAR.—In the case of an employer which
17 was not in existence for the full year prior to the
18 date on which the employer applies to participate,
19 the determination of whether such employer meets
20 the requirements of subsection (b)(2) shall be based
21 on the average number of employees that it is rea-
22 sonably expected such employer will employ on busi-
23 ness days in the employer’s first full year.

1 (3) PREDECESSORS.—Any reference in this
2 subsection to an employer shall include a reference
3 to any predecessor of such employer.

4 (d) WAIVER AND CONTINUATION OF PARTICIPA-
5 TION.—

6 (1) WAIVER.—The Office may waive the limita-
7 tions relating to the size of an employer which may
8 participate in the health insurance program estab-
9 lished under this Act on a case by case basis if the
10 Office determines that such employer makes a com-
11 pelling case for such a waiver. In making determina-
12 tions under this paragraph, the Office may consider
13 the effects of the employment of temporary and sea-
14 sonal workers and other factors.

15 (2) CONTINUATION OF PARTICIPATION.—An
16 employer participating in the program under this
17 Act that experiences an increase in the number of
18 employees so that such employer has in excess of
19 100 employees, may not be excluded from participa-
20 tion solely as a result of such increase in employees.

21 (e) TREATMENT OF HEALTH BENEFITS PLAN AS
22 GROUP HEALTH PLAN.—A health benefits plan offered
23 under this Act shall be treated as a group health plan for
24 purposes of applying the Employee Retirement Income Se-
25 curity Act of 1974 (29 U.S.C. 1001 et seq.) except to the

1 extent that a provision of this Act expressly provides oth-
2 erwise.

3 **SEC. 3. HEALTH INSURANCE COVERAGE FOR NON-FEDERAL**
4 **EMPLOYEES.**

5 (a) ADMINISTRATION.—The Office shall administer a
6 health insurance program for non-Federal employees and
7 employers in accordance with this Act.

8 (b) REGULATIONS.—Except as provided under this
9 Act, the Office shall prescribe regulations to apply the pro-
10 visions of chapter 89 of title 5, United States Code, to
11 the greatest extent practicable to participating carriers,
12 employers, and employees covered under this Act.

13 (c) LIMITATIONS.—In no event shall the enactment
14 of this Act result in—

15 (1) any increase in the level of individual or
16 Federal Government contributions required under
17 chapter 89 of title 5, United States Code, including
18 copayments or deductibles;

19 (2) any decrease in the types of benefits offered
20 under such chapter 89; or

21 (3) any other change that would adversely af-
22 fect the coverage afforded under such chapter 89 to
23 employees and annuitants and members of family
24 under that chapter.

1 (d) ENROLLMENT.—The Office shall develop methods
2 to facilitate enrollment under this Act, including the use
3 of the Internet.

4 (e) CONTRACTS FOR ADMINISTRATION.—The Office
5 may enter into contracts for the performance of appro-
6 priate administrative functions under this Act.

7 (f) SEPARATE RISK POOL.—In the administration of
8 this Act, the Office shall ensure that covered employees
9 under this Act are in a risk pool that is separate from
10 the risk pool maintained for covered individuals under
11 chapter 89 of title 5, United States Code.

12 (g) RULE OF CONSTRUCTION.—Nothing in this Act
13 shall be construed to require a carrier that is participating
14 in the program under chapter 89 of title 5, United States
15 Code, to provide health benefits plan coverage under this
16 Act.

17 **SEC. 4. CONTRACT REQUIREMENT.**

18 (a) IN GENERAL.—The Office may enter into con-
19 tracts with qualified carriers offering health benefits plans
20 of the type described in section 8903 or 8903a of title
21 5, United States Code, without regard to section 5 of title
22 41, United States Code, or other statutes requiring com-
23 petitive bidding, to provide health insurance coverage to
24 employees of participating employers under this Act. Each
25 contract shall be for a uniform term of at least 1 year,

1 but may be made automatically renewable from term to
2 term in the absence of notice of termination by either
3 party. In entering into such contracts, the Office shall en-
4 sure that health benefits coverage is provided for individ-
5 uals only, individuals with one or more children, married
6 individuals without children, and married individuals with
7 one or more children.

8 (b) ELIGIBILITY.—A carrier shall be eligible to enter
9 into a contract under subsection (a) if such carrier—

10 (1) is licensed to offer health benefits plan cov-
11 erage in each State in which the plan is offered; and

12 (2) meets such other requirements as deter-
13 mined appropriate by the Office.

14 (c) STATEMENT OF BENEFITS.—

15 (1) IN GENERAL.—Each contract under this
16 Act shall contain a detailed statement of benefits of-
17 fered and shall include information concerning such
18 maximums, limitations, exclusions, and other defini-
19 tions of benefits as the Office considers necessary or
20 desirable.

21 (2) ENSURING A RANGE OF PLANS.—The Office
22 shall ensure that a range of health benefits plans are
23 available to participating employers under this Act,
24 at least one of which shall be a plan that provides
25 the same benefits as the government-wide plan avail-

1 able to Federal employees as described in section
2 8903(1) of title 5, United States Code.

3 (3) PARTICIPATING PLANS.—The Office shall
4 not prohibit the offering of any health benefits plan
5 to a participating employer if such plan is eligible to
6 participate in the Federal Employees Health Bene-
7 fits Program.

8 (4) NATIONWIDE PLAN.—With respect to all
9 nationwide plans other than the plan required under
10 paragraph (2), the Office shall develop a benefit
11 package that shall be offered in the case of a con-
12 tract for a health benefit plan that is to be offered
13 on a nationwide basis.

14 (d) STANDARDS.—The minimum standards pre-
15 scribed for health benefits plans under section 8902(e) of
16 title 5, United States Code, and for carriers offering plans,
17 shall apply to plans and carriers under this Act. Approval
18 of a plan may be withdrawn by the Office only after notice
19 and opportunity for hearing to the carrier concerned with-
20 out regard to subchapter II of chapter 5 and chapter 7
21 of title 5, United States Code.

22 (e) CONVERSION.—

23 (1) IN GENERAL.—A contract may not be made
24 or a plan approved under this section if the carrier
25 under such contract or plan does not offer to each

1 enrollee whose enrollment in the plan is ended, ex-
2 cept by a cancellation of enrollment, a temporary ex-
3 tension of coverage during which the individual may
4 exercise the option to convert, without evidence of
5 good health, to a nongroup contract providing health
6 benefits. An enrollee who exercises this option shall
7 pay the full periodic charges of the nongroup con-
8 tract.

9 (2) NONCANCELLABLE.—The benefits and cov-
10 erage made available under paragraph (1) may not
11 be canceled by the carrier except for fraud, over-in-
12 surance, or nonpayment of periodic charges.

13 (f) REQUIREMENT OF PAYMENT FOR OR PROVISION
14 OF HEALTH SERVICE.—Each contract entered into under
15 this Act shall require the carrier to agree to pay for or
16 provide a health service or supply in an individual case
17 if the Office finds that the employee, annuitant, family
18 member, former spouse, or person having continued cov-
19 erage under section 8905a of title 5, United States Code,
20 is entitled thereto under the terms of the contract.

21 **SEC. 5. ELIGIBILITY.**

22 An individual shall be eligible to enroll in a plan
23 under this Act if such individual—

24 (1) is an employee of an employer described in
25 section 2(b)(2), or is a self employed individual as

1 defined in section 401(c)(1)(B) of the Internal Rev-
2 enue Code of 1986; and

3 (2) is not otherwise enrolled or eligible for en-
4 rollment in a plan under chapter 89 of title 5,
5 United States Code.

6 **SEC. 6. ALTERNATIVE CONDITIONS TO FEDERAL EM-**
7 **PLOYEE PLANS.**

8 (a) TREATMENT OF EMPLOYEE.—For purposes of
9 enrollment in a health benefits plan under this Act, an
10 individual who had coverage under a health insurance plan
11 and is not a qualified beneficiary as defined under section
12 4980B(g)(1) of the Internal Revenue Code of 1986 shall
13 be treated in a similar manner as an individual who begins
14 employment as an employee under chapter 89 of title 5,
15 United States Code.

16 (b) PREEXISTING CONDITION EXCLUSIONS.—

17 (1) IN GENERAL.—Each contract under this
18 Act may include a preexisting condition exclusion as
19 defined under section 9801(b)(1) of the Internal
20 Revenue Code of 1986.

21 (2) EXCLUSION PERIOD.—A preexisting condi-
22 tion exclusion under this subsection shall provide for
23 coverage of a preexisting condition to begin not later
24 than 6 months after the date on which the coverage
25 of the individual under a health benefits plan com-

1 mences, reduced by the aggregate 1 day for each day
2 that the individual was covered under a health insur-
3 ance plan immediately preceding the date the indi-
4 vidual submitted an application for coverage under
5 this Act. This provision shall be applied notwith-
6 standing the applicable provision for the reduction of
7 the exclusion period provided for in section
8 701(a)(3) of the Employee Retirement Income Secu-
9 rity Act of 1974 (29 U.S.C. 1181(a)(3)).

10 (c) RATES AND PREMIUMS.—

11 (1) IN GENERAL.—Rates charged and pre-
12 miums paid for a health benefits plan under this
13 Act—

14 (A) shall be determined in accordance with
15 this subsection;

16 (B) may be annually adjusted subject to
17 paragraph (3);

18 (C) shall be negotiated in the same manner
19 as rates and premiums are negotiated under
20 such chapter 89; and

21 (D) shall be adjusted to cover the adminis-
22 trative costs of the Office under this Act.

23 (2) DETERMINATIONS.—In determining rates
24 and premiums under this Act, the following provi-
25 sions shall apply:

1 (A) IN GENERAL.—A carrier that enters
2 into a contract under this Act shall determine
3 that amount of premiums to assess for coverage
4 under a health benefits plan based on an com-
5 munity rate that may be annually adjusted—

6 (i) for the geographic area involved if
7 the adjustment is based on geographical
8 divisions that are not smaller than a met-
9 ropolitan statistical area and the carrier
10 provides evidence of geographic variation
11 in cost of services;

12 (ii) based on whether such coverage is
13 for an individual, two adults, one adult and
14 one or more children, or a family; and

15 (iii) based on the age of covered indi-
16 viduals (subject to subparagraph (C)).

17 (B) LIMITATION.—Premium rates charged
18 for coverage under this Act shall not vary based
19 on health-status related factors, gender, class of
20 business, or claims experience

21 (C) AGE ADJUSTMENTS.—

22 (i) IN GENERAL.—With respect to
23 subparagraph (A)(iii), in making adjust-
24 ments based on age, the Office shall estab-
25 lish no more than 5 age brackets to be

1 used by the carrier in establishing rates.
2 The rates for any age bracket may not
3 vary by more than 50 percent above or
4 below the community rate on the basis of
5 attained age. Age-related premiums may
6 not vary within age brackets.

7 (ii) AGE 65 AND OLDER.—With re-
8 spect to subparagraph (A)(iii), a carrier
9 may develop separate rates for covered in-
10 dividuals who are 65 years of age or older
11 for whom medicare is the primary payor
12 for health benefits coverage which is not
13 covered under medicare.

14 (3) READJUSTMENTS.—Any readjustment in
15 rates charged or premiums paid for a health benefits
16 plan under this Act shall be made in advance of the
17 contract term in which they will apply and on a
18 basis which, in the judgment of the Office, is con-
19 sistent with the practice of the Office for the Fed-
20 eral Employees Health Benefits Program.

21 (d) TERMINATION AND REENROLLMENT.—If an indi-
22 vidual who is enrolled in a health benefits plan under this
23 Act terminates the enrollment, the individual shall not be
24 eligible for reenrollment until the first open enrollment pe-

1 rioid following the expiration of 6 months after the date
2 of such termination.

3 (e) CONTINUED APPLICABILITY OF STATE LAW.—

4 (1) HEALTH INSURANCE OR PLANS.—

5 (A) LOCAL PLANS.—With respect to a con-
6 tract entered into under this Act under which
7 a carrier will offer health benefits plan coverage
8 in a limited geographic area, State mandated
9 benefit laws in effect in the State in which the
10 plan is offered shall continue to apply to such
11 health benefits plan.

12 (B) RATING RULES.—The rating require-
13 ments under subparagraphs (A) and (B) of sub-
14 section (c)(2) shall supercede State rating rules
15 for qualified plans under this Act, except with
16 respect to States that provide a rating variance
17 with respect to age that is less than the Federal
18 limit or that provide for some form of commu-
19 nity rating.

20 (2) LIMITATION.—Nothing in this subsection
21 shall be construed to preempt—

22 (A) any State or local law or regulation ex-
23 cept those laws and regulations described in
24 subparagraph (B) of paragraph (1);

1 (B) any State grievance, claims, and ap-
 2 peals procedure law, except to the extent that
 3 such law is preempted under section 514 of the
 4 Employee Retirement Income Security Act of
 5 1974; and

6 (C) State network adequacy laws.

7 (f) RULE OF CONSTRUCTION.—Nothing in this Act
 8 shall be construed to limit the application of the service-
 9 charge system used by the Office for determining profits
 10 for participating carriers under chapter 89 of title 5,
 11 United States Code.

12 **SEC. 7. ENCOURAGING PARTICIPATION BY CARRIERS**
 13 **THROUGH ADJUSTMENTS FOR RISK.**

14 (a) APPLICATION OF RISK CORRIDORS.—

15 (1) IN GENERAL.—This section shall only apply
 16 to carriers with respect to health benefits plans of-
 17 fered under this Act during any of calendar years
 18 2007 through 2009.

19 (2) NOTIFICATION OF COSTS UNDER THE
 20 PLAN.—In the case of a carrier that offers a health
 21 benefits plan under this Act in any of calendar years
 22 2007 through 2009, the carrier shall notify the Of-
 23 fice, before such date in the succeeding year as the
 24 Office specifies, of the total amount of costs incurred
 25 in providing benefits under the health benefits plan

1 for the year involved and the portion of such costs
2 that is attributable to administrative expenses.

3 (3) ALLOWABLE COSTS DEFINED.—For pur-
4 poses of this section, the term “allowable costs”
5 means, with respect to a health benefits plan offered
6 by a carrier under this Act, for a year, the total
7 amount of costs described in paragraph (2) for the
8 plan and year, reduced by the portion of such costs
9 attributable to administrative expenses incurred in
10 providing the benefits described in such paragraph.

11 (b) ADJUSTMENT OF PAYMENT.—

12 (1) NO ADJUSTMENT IF ALLOWABLE COSTS
13 WITHIN 3 PERCENT OF TARGET AMOUNT.—If the al-
14 lowable costs for the carrier with respect to the
15 health benefits plan involved for a calendar year are
16 at least 97 percent, but do not exceed 103 percent,
17 of the target amount for the plan and year involved,
18 there shall be no payment adjustment under this
19 section for the plan and year.

20 (2) INCREASE IN PAYMENT IF ALLOWABLE
21 COSTS ABOVE 103 PERCENT OF TARGET AMOUNT.—

22 (A) COSTS BETWEEN 103 AND 108 PER-
23 CENT OF TARGET AMOUNT.—If the allowable
24 costs for the carrier with respect to the health
25 benefits plan involved for the year are greater

1 than 103 percent, but not greater than 108
2 percent, of the target amount for the plan and
3 year, the Office shall reimburse the carrier for
4 such excess costs through payment to the car-
5 rier of an amount equal to 75 percent of the
6 difference between such allowable costs and 103
7 percent of such target amount.

8 (B) COSTS ABOVE 108 PERCENT OF TAR-
9 GET AMOUNT.—If the allowable costs for the
10 carrier with respect to the health benefits plan
11 involved for the year are greater than 108 per-
12 cent of the target amount for the plan and
13 year, the Office shall reimburse the carrier for
14 such excess costs through payment to the car-
15 rier in an amount equal to the sum of—

16 (i) 3.75 percent of such target
17 amount; and

18 (ii) 90 percent of the difference be-
19 tween such allowable costs and 108 percent
20 of such target amount.

21 (3) REDUCTION IN PAYMENT IF ALLOWABLE
22 COSTS BELOW 97 PERCENT OF TARGET AMOUNT.—

23 (A) COSTS BETWEEN 92 AND 97 PERCENT
24 OF TARGET AMOUNT.—If the allowable costs for
25 the carrier with respect to the health benefits

1 plan involved for the year are less than 97 per-
 2 cent, but greater than or equal to 92 percent,
 3 of the target amount for the plan and year, the
 4 carrier shall be required to pay into the contin-
 5 gency reserve fund maintained under section
 6 8909(b)(2) of title 5, United States Code, an
 7 amount equal to 75 percent of the difference
 8 between 97 percent of the target amount and
 9 such allowable costs.

10 (B) COSTS BELOW 92 PERCENT OF TARGET
 11 AMOUNT.—If the allowable costs for the carrier
 12 with respect to the health benefits plan involved
 13 for the year are less than 92 percent of the tar-
 14 get amount for the plan and year, the carrier
 15 shall be required to pay into the stabilization
 16 fund under section 8909(b)(2) of title 5, United
 17 States Code, an amount equal to the sum of—

18 (i) 3.75 percent of such target
 19 amount; and

20 (ii) 90 percent of the difference be-
 21 tween 92 percent of such target amount
 22 and such allowable costs.

23 (4) TARGET AMOUNT DESCRIBED.—

24 (A) IN GENERAL.—For purposes of this
 25 subsection, the term “target amount” means,

1 with respect to a health benefits plan offered by
2 a carrier under this Act in any of calendar
3 years 2007 through 2011, an amount equal
4 to—

5 (i) the total of the monthly premiums
6 estimated by the carrier and approved by
7 the Office to be paid for enrollees in the
8 plan under this Act for the calendar year
9 involved; reduced by

10 (ii) the amount of administrative ex-
11 penses that the carrier estimates, and the
12 Office approves, will be incurred by the
13 carrier with respect to the plan for such
14 calendar year.

15 (B) SUBMISSION OF TARGET AMOUNT.—

16 Not later than December 31, 2006, and each
17 December 31 thereafter through calendar year
18 2010, a carrier shall submit to the Office a de-
19 scription of the target amount for such carrier
20 with respect to health benefits plans provided
21 by the carrier under this Act.

22 (c) DISCLOSURE OF INFORMATION.—

23 (1) IN GENERAL.—Each contract under this
24 Act shall provide—

1 (A) that a carrier offering a health benefits
2 plan under this Act shall provide the Office
3 with such information as the Office determines
4 is necessary to carry out this subsection includ-
5 ing the notification of costs under subsection
6 (a)(2) and the target amount under subsection
7 (b)(4)(B); and

8 (B) that the Office has the right to inspect
9 and audit any books and records of the organi-
10 zation that pertain to the information regarding
11 costs provided to the Office under such sub-
12 sections.

13 (2) RESTRICTION ON USE OF INFORMATION.—
14 Information disclosed or obtained pursuant to the
15 provisions of this subsection may be used by officers,
16 employees, and contractors of the Office only for the
17 purposes of, and to the extent necessary in, carrying
18 out this section.

19 **SEC. 8. ENCOURAGING PARTICIPATION BY CARRIERS**
20 **THROUGH REINSURANCE.**

21 (a) ESTABLISHMENT.—The Office shall establish a
22 reinsurance fund to provide payments to carriers that ex-
23 perience one or more catastrophic claims during a year
24 for health benefits provided to individuals enrolled in a
25 health benefits plan under this Act.

1 (b) ELIGIBILITY FOR PAYMENTS.—To be eligible for
2 a payment from the reinsurance fund for a plan year, a
3 carrier under this Act shall submit to the Office an appli-
4 cation that contains—

5 (1) a certification by the carrier that the carrier
6 paid for at least one episode of care during the year
7 for covered health benefits for an individual in an
8 amount that is in excess of \$50,000; and

9 (2) such other information determined appro-
10 priate by the Office.

11 (c) PAYMENT.—

12 (1) IN GENERAL.—The amount of a payment
13 from the reinsurance fund to a carrier under this
14 section for a catastrophic episode of care shall be de-
15 termined by the Office but shall not exceed an
16 amount equal to 80 percent of the applicable cata-
17 strophic claim amount.

18 (2) APPLICABLE CATASTROPHIC CLAIM
19 AMOUNT.—For purposes of paragraph (1), the appli-
20 cable catastrophic episode of care amount shall be
21 equal to the difference between—

22 (A) the amount of the catastrophic claim;

23 and

24 (B) \$50,000.

1 (3) LIMITATION.—In determining the amount
2 of a payment under paragraph (1), if the amount of
3 the catastrophic claim exceeds the amount that
4 would be paid for the healthcare items or services in-
5 volved under title XVIII of the Social Security Act
6 (42 U.S.C. 1395 et seq.), the Office shall use the
7 amount that would be paid under such title XVIII
8 for purposes of paragraph (2)(A).

9 (d) DEFINITION.—In this section, the term “cata-
10 strophic claim” means a claim submitted to a carrier, by
11 or on behalf of an enrollee in a health benefits plan under
12 this Act, that is in excess of \$50,000.

13 (e) TERMINATION OF FUND.—The reinsurance fund
14 established under subsection (a) shall terminate on the
15 date that is 2 years after the date on which the first con-
16 tract period becomes effective under this Act.

17 **SEC. 9. CONTINGENCY RESERVE FUND.**

18 Beginning on October 1, 2010, the Office may use
19 amounts appropriated under section 14(a) that remain un-
20 obligated to establish a contingency reserve fund to pro-
21 vide assistance to carriers offering health benefits plans
22 under this Act that experience unanticipated financial
23 hardships (as determined by the Office).

1 **SEC. 10. EMPLOYER PARTICIPATION.**

2 (a) REGULATIONS.—The Office shall prescribe regu-
3 lations providing for employer participation under this
4 Act, including the offering of health benefits plans under
5 this Act to employees.

6 (b) ENROLLMENT AND OFFERING OF OTHER COV-
7 ERAGE.—

8 (1) ENROLLMENT.—A participating employer
9 shall ensure that each eligible employee has an op-
10 portunity to enroll in a plan under this Act.

11 (2) PROHIBITION ON OFFERING OTHER COM-
12 PREHENSIVE HEALTH BENEFIT COVERAGE.—A par-
13 ticipating employer may not offer a health insurance
14 plan providing comprehensive health benefit coverage
15 to employees other than a health benefits plan
16 that—

17 (A) meets the requirements described in
18 section 4(a); and

19 (B) is offered only through the enrollment
20 process established by the Office under section
21 3.

22 (3) OFFER OF SUPPLEMENTAL COVERAGE OP-
23 TIONS.—

24 (A) IN GENERAL.—A participating em-
25 ployer may offer supplementary coverage op-
26 tions to employees.

1 (B) DEFINITION.—In subparagraph (A),
2 the term “supplementary coverage” means ben-
3 efits described as “excepted benefits” under
4 section 2791(c) of the Public Health Service
5 Act (42 U.S.C. 300gg–91(c)).

6 (c) RULE OF CONSTRUCTION.—Except as provided in
7 section 15, nothing in this Act shall be construed to re-
8 quire that an employer make premium contributions on
9 behalf of employees.

10 **SEC. 11. ADMINISTRATION THROUGH REGIONAL ADMINIS-**
11 **TRATIVE ENTITIES.**

12 (a) IN GENERAL.—In order to provide for the admin-
13 istration of the benefits under this Act with maximum effi-
14 ciency and convenience for participating employers and
15 health care providers and other individuals and entities
16 providing services to such employers, the Office is author-
17 ized to enter into contracts with eligible entities to per-
18 form, on a regional basis, one or more of the following:

19 (1) Collect and maintain all information relat-
20 ing to individuals, families, and employers partici-
21 pating in the program under this Act in the region
22 served.

23 (2) Receive, disburse, and account for payments
24 of premiums to participating employers by individ-

1 uals in the region served, and for payments by par-
2 ticipating employers to carriers.

3 (3) Serve as a channel of communication be-
4 tween carriers, participating employers, and individ-
5 uals relating to the administration of this Act.

6 (4) Otherwise carry out such activities for the
7 administration of this Act, in such manner, as may
8 be provided for in the contract entered into under
9 this section.

10 (5) The processing of grievances and appeals.

11 (b) APPLICATION.—To be eligible to receive a con-
12 tract under subsection (a), an entity shall prepare and
13 submit to the Office an application at such time, in such
14 manner, and containing such information as the Office
15 may require.

16 (c) PROCESS.—

17 (1) COMPETITIVE BIDDING.—All contracts
18 under this section shall be awarded through a com-
19 petitive bidding process on a bi-annual basis.

20 (2) REQUIREMENT.—No contract shall be en-
21 tered into with any entity under this section unless
22 the Office finds that such entity will perform its ob-
23 ligations under the contract efficiently and effec-
24 tively and will meet such requirements as to finan-

1 cial responsibility, legal authority, and other matters
2 as the Office finds pertinent.

3 (3) PUBLICATION OF STANDARDS AND CRI-
4 TERIA.—The Office shall publish in the Federal
5 Register standards and criteria for the efficient and
6 effective performance of contract obligations under
7 this section, and opportunity shall be provided for
8 public comment prior to implementation. In estab-
9 lishing such standards and criteria, the Office shall
10 provide for a system to measure an entity’s perform-
11 ance of responsibilities.

12 (4) TERM.—Each contract under this section
13 shall be for a term of at least 1 year, and may be
14 made automatically renewable from term to term in
15 the absence of notice by either party of intention to
16 terminate at the end of the current term, except that
17 the Office may terminate any such contract at any
18 time (after such reasonable notice and opportunity
19 for hearing to the entity involved as the Office may
20 provide in regulations) if the Office finds that the
21 entity has failed substantially to carry out the con-
22 tract or is carrying out the contract in a manner in-
23 consistent with the efficient and effective adminis-
24 tration of the program established by this Act.

1 (d) TERMS OF CONTRACT.—A contract entered into
2 under this section shall include—

3 (1) a description of the duties of the con-
4 tracting entity;

5 (2) an assurance that the entity will furnish to
6 the Office such timely information and reports as
7 the Office determines appropriate;

8 (3) an assurance that the entity will maintain
9 such records and afford such access thereto as the
10 Office finds necessary to assure the correctness and
11 verification of the information and reports under
12 paragraph (2) and otherwise to carry out the pur-
13 poses of this Act;

14 (4) an assurance that the entity shall comply
15 with such confidentiality and privacy protection
16 guidelines and procedures as the Office may require;
17 and

18 (5) such other terms and conditions not incon-
19 sistent with this section as the Office may find nec-
20 essary or appropriate.

21 **SEC. 12. COORDINATION WITH SOCIAL SECURITY BENE-**
22 **FITS.**

23 Benefits under this Act shall, with respect to an indi-
24 vidual who is entitled to benefits under part A of title
25 XVIII of the Social Security Act, be offered (for use in

1 coordination with those medicare benefits) to the same ex-
2 tent and in the same manner as if coverage were under
3 chapter 89 of title 5, United States Code.

4 **SEC. 13. PUBLIC EDUCATION CAMPAIGN.**

5 (a) IN GENERAL.—In carrying out this Act, the Of-
6 fice shall develop and implement an educational campaign
7 to provide information to employers and the general public
8 concerning the health insurance program developed under
9 this Act.

10 (b) ANNUAL PROGRESS REPORTS.—Not later than 1
11 year and 2 years after the implementation of the campaign
12 under subsection (a), the Office shall submit to the appro-
13 priate committees of Congress a report that describes the
14 activities of the Office under subsection (a), including a
15 determination by the office of the percentage of employers
16 with knowledge of the health benefits programs provided
17 for under this Act.

18 (c) PUBLIC EDUCATION CAMPAIGN.—There is au-
19 thorized to be appropriated to carry out this section, such
20 sums as may be necessary for each of fiscal years 2007
21 and 2008.

22 **SEC. 14. APPROPRIATIONS.**

23 There are authorized to be appropriated to the Office,
24 such sums as may be necessary in each fiscal year for the

1 development and administration of the program under this
2 Act.

3 **SEC. 15. REFUNDABLE CREDIT FOR SMALL BUSINESS EM-**
4 **PLOYEE HEALTH INSURANCE EXPENSES.**

5 (a) IN GENERAL.—Subpart C of part IV of sub-
6 chapter A of chapter 1 of the Internal Revenue Code of
7 1986 (relating to refundable credits) is amended by redес-
8 ignating section 36 as section 37 and inserting after sec-
9 tion 35 the following new section:

10 **“SEC. 36. SMALL BUSINESS EMPLOYEE HEALTH INSURANCE**
11 **EXPENSES.**

12 “(a) DETERMINATION OF AMOUNT.—In the case of
13 a qualified small employer, there shall be allowed as a
14 credit against the tax imposed by this subtitle for the tax-
15 able year an amount equal to the sum of—

16 “(1) the expense amount described in sub-
17 section (b), and

18 “(2) the expense amount described in sub-
19 section (c), paid by the taxpayer during the taxable
20 year.

21 “(b) SUBSECTION (b) EXPENSE AMOUNT.—For pur-
22 poses of this section—

23 “(1) IN GENERAL.—The expense amount de-
24 scribed in this subsection is the applicable percent-

1 age of the amount of qualified employee health in-
2 surance expenses of each qualified employee.

3 “(2) APPLICABLE PERCENTAGE.—For purposes
4 of paragraph (1)—

5 “(A) IN GENERAL.—The applicable per-
6 centage is equal to—

7 “(i) 25 percent in the case of self-only
8 coverage,

9 “(ii) 35 percent in the case of family
10 coverage (as defined in section 220(c)(5)),
11 and

12 “(iii) 30 percent in the case of cov-
13 erage for two adults or one adult and one
14 or more children.

15 “(B) BONUS FOR PAYMENT OF GREATER
16 PERCENTAGE OF PREMIUMS.—The applicable
17 percentage otherwise specified in subparagraph
18 (A) shall be increased by 5 percentage points
19 for each additional 10 percent of the qualified
20 employee health insurance expenses of each
21 qualified employee exceeding 60 percent which
22 are paid by the qualified small employer.

23 “(c) SUBSECTION (c) EXPENSE AMOUNT.—For pur-
24 poses of this section—

1 “(1) IN GENERAL.—The expense amount de-
2 scribed in this subsection is, with respect to the first
3 credit year of a qualified small employer which is an
4 eligible employer, 10 percent of the qualified em-
5 ployee health insurance expenses of each qualified
6 employee.

7 “(2) FIRST CREDIT YEAR.—For purposes of
8 paragraph (1), the term ‘first credit year’ means the
9 taxable year which includes the date that the health
10 insurance coverage to which the qualified employee
11 health insurance expenses relate becomes effective.

12 “(d) LIMITATION BASED ON WAGES.— With respect
13 to a qualified employee whose wages at an annual rate
14 during the taxable year exceed \$25,000, the percentage
15 which would (but for this section) be taken into account
16 as the percentage for purposes of subsection (b)(2) or
17 (c)(1) for the taxable year shall be reduced by an amount
18 equal to the product of such percentage and the percent-
19 age that such qualified employee’s wages in excess of
20 \$25,000 bears to \$5,000.

21 “(e) DEFINITIONS.—For purposes of this section—

22 “(1) QUALIFIED SMALL EMPLOYER.—The term
23 ‘qualified small employer’ means any employer (as
24 defined in section 2(b)(2) of the Small Employers
25 Health Benefits Program Act of 2006) which—

1 “(A) is a participating employer (as de-
2 fined in section 2(b)(5) of such Act),

3 “(B) pays or incurs at least 60 percent of
4 the qualified employee health insurance ex-
5 penses of each qualified employee for self-only
6 coverage, and

7 “(C) pays or incurs at least 50 percent of
8 the qualified employee health insurance ex-
9 penses of each qualified employee for all other
10 categories of coverage.

11 “(2) QUALIFIED EMPLOYEE HEALTH INSUR-
12 ANCE EXPENSES.—

13 “(A) IN GENERAL.—The term ‘qualified
14 employee health insurance expenses’ means any
15 amount paid by an employer for health insur-
16 ance coverage under such Act to the extent
17 such amount is attributable to coverage pro-
18 vided to any employee while such employee is a
19 qualified employee.

20 “(B) EXCEPTION FOR AMOUNTS PAID
21 UNDER SALARY REDUCTION ARRANGEMENTS.—

22 No amount paid or incurred for health insur-
23 ance coverage pursuant to a salary reduction
24 arrangement shall be taken into account under
25 subparagraph (A).

1 “(3) QUALIFIED EMPLOYEE.—

2 “(A) DEFINITION.—

3 “(i) IN GENERAL.—The term ‘quali-
4 fied employee’ means, with respect to any
5 period, an employee (as defined in section
6 2(b)(1) of such Act) of an employer if the
7 total amount of wages paid or incurred by
8 such employer to such employee at an an-
9 nual rate during the taxable year exceeds
10 \$5,000 but does not exceed \$30,000.

11 “(ii) ANNUAL ADJUSTMENT.—For
12 each taxable year after 2007, the dollar
13 amounts specified for the preceding taxable
14 year (after the application of this subpara-
15 graph) shall be increased by the same per-
16 centage as the average percentage increase
17 in premiums under the Federal Employees
18 Health Benefits Program under chapter 89
19 of title 5, United States Code for the cal-
20 endar year in which such taxable year be-
21 gins over the preceding calendar year.

22 “(B) WAGES.—The term ‘wages’ has the
23 meaning given such term by section 3121(a)
24 (determined without regard to any dollar limita-
25 tion contained in such section).

1 “(f) CERTAIN RULES MADE APPLICABLE.—For pur-
 2 poses of this section, rules similar to the rules of section
 3 52 shall apply.

4 “(g) CREDITS FOR NONPROFIT ORGANIZATIONS.—
 5 Any credit which would be allowable under subsection (a)
 6 with respect to a qualified small business if such qualified
 7 small business were not exempt from tax under this chap-
 8 ter shall be treated as a credit allowable under this sub-
 9 part to such qualified small business.”.

10 (b) CONFORMING AMENDMENTS.—

11 (1) Paragraph (2) of section 1324(b) of title
 12 31, United States Code, is amended by inserting be-
 13 fore the period “, or from section 36 of such Code”.

14 (2) The table of sections for subpart C of part
 15 IV of subchapter A of chapter 1 of the Internal Rev-
 16 enue Code of 1986 is amended by striking the last
 17 item and inserting the following new items:

“Sec. 36. Small business employee health insurance expenses.

“Sec. 37. Overpayments of tax.”.

18 (c) EFFECTIVE DATE.—The amendments made by
 19 this section shall apply to amounts paid or incurred in tax-
 20 able years beginning after December 31, 2006.

21 **SEC. 16. EFFECTIVE DATE.**

22 Except as provided in section 10(e), this Act shall
 23 take effect on the date of enactment of this Act and shall

- 1 apply to contracts that take effect with respect to calendar
- 2 year 2007 and each calendar year thereafter.

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