H. R. 635

To amend the Public Health Service Act to establish a public health insurance option, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 24, 2017

Ms. SCHAKOWSKY (for herself, Mr. DEUTCH, Ms. NORTON, Ms. MATSUI, Mr. ENGEL, Ms. PINGREE, Mr. POLIS, Mr. ELLISON, Mr. TAKANO, Mr. SCOTT of Virginia, Mr. POCAN, Mr. SARBADES, Ms. MCCOLLUM, Mr. LEWIS of Georgia, and Ms. MOORE) introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To amend the Public Health Service Act to establish a public health insurance option, and for other purposes.

1 Be it enacted by the Senate and House of Representa-
2 tives of the United States of America in Congress assembled,
3
4 SECTION 1. SHORT TITLE.
5 This Act may be cited as the “Consumer Health Op-
6 tions and Insurance Competition Enhancement Act” or
7 the “CHOICE Act”.

SEC. 2. PUBLIC HEALTH INSURANCE OPTION.

(a) IN GENERAL.—Part C of title XXVII of the Public Health Service Act (42 U.S.C. 300gg–91) is amended by adding at the end the following:

“SEC. 2795. PUBLIC HEALTH INSURANCE OPTION.

“(a) Establishment.—

“(1) IN GENERAL.—For plan years beginning in 2019, the Secretary shall establish, and provide for the offering through the Exchanges, of a qualified health plan (in this Act referred to as the ‘public health insurance option’) that provides value, choice, competition, and stability of affordable, high-quality coverage throughout the United States in accordance with this section.

“(2) PRIMARY RESPONSIBILITY.—In designing the public health insurance option, the primary responsibility of the Secretary shall be to create an affordable health plan without compromising quality or access to care.

“(b) ADMINISTERING THE PUBLIC HEALTH INSURANCE OPTION.—

“(1) OFFERED THROUGH EXCHANGES.—

“(A) EXCLUSIVE TO EXCHANGES.—The public health insurance option shall be made available through the Exchanges.
“(B) Ensuring a level playing field.—Consistent with this section, the public health insurance option shall comply with requirements under title I of the Patient Protection and Affordable Care Act, and the amendments made by that title, that are applicable to health plans offered through the Exchanges, including requirements related to benefits, benefit levels, provider networks, notices, consumer protections, and cost-sharing.

“(C) Provision of benefit levels.—The public health insurance option shall offer bronze, silver, and gold plans.

“(2) Administrative contracting.—

“(A) Authorities.—The Secretary may enter into contracts for the purpose of performing administrative functions (including functions described in subsection (a)(4) of section 1874A of the Social Security Act) with respect to the public health insurance option in the same manner as the Secretary may enter into contracts under subsection (a)(1) of such section. The Secretary shall have the same authority with respect to the public health insurance option as the Secretary has under such
subsection (a)(1) and subsection (b) of section 1874A of the Social Security Act with respect to title XVIII of such Act.

“(B) Transfer of insurance risk.— Any contract under this paragraph shall not involve the transfer of insurance risk from the Secretary to the entity entering into such contract with the Secretary.

“(3) Ombudsman.—

“(A) Establishment.—The Secretary shall establish an office of the ombudsman for the public health insurance option.

“(B) Duties.—Such ombudsman shall—

“(i) have duties with respect to the public health insurance option similar to the duties of the Medicare Beneficiary Ombudsman under section 1808(c)(2) of the Social Security Act; and

“(ii) work with States to ensure that information and notice is provided that the public health insurance option is one of the health plans available through an Exchange.

“(4) State advisory council.—
“(A) ESTABLISHMENT.—A State may estab-

lish a public or nonprofit entity to serve as

the State Advisory Council to provide rec-
nommendations to the Secretary on the oper-

ations and policies of the public health insur-

ance option offered through the Exchange oper-

ating in the State.

“(B) RECOMMENDATIONS.—A State Advi-

sory Council established under subparagraph

(A) shall provide recommendations on at least

the following:

“(i) Policies and procedures to inte-

grate quality improvement and cost con-
tainment mechanisms into the health care
delivery system.

“(ii) Mechanisms to facilitate public

awareness of the availability of the public

health insurance option.

“(iii) Alternative payment models and

value-based insurance design under the

public health insurance option that encour-
age quality improvement and cost control.

“(C) MEMBERS.—The members of any

State Advisory Council shall be representatives
of the public and include health care consumers
and health care providers.

“(D) APPLICABILITY OF RECOMMENDATIONS.—The Secretary may apply the rec-
ommendations of a State Advisory Council to
the public health insurance option in that State,
in any other State, or in all States.

“(5) DATA COLLECTION.—The Secretary shall
collect such data as may be required—

“(A) to establish rates for premiums and
health care provider reimbursement under sub-
section (c); and

“(B) for other purposes under this section,
including to improve quality, and reduce racial,
ethnic, and other disparities, in health and
health care.

“(c) FINANCING THE PUBLIC HEALTH INSURANCE
OPTION.—

“(1) PREMIUMS.—

“(A) ESTABLISHMENT.—The Secretary
shall establish geographically adjusted premium
rates for the public health insurance option—

“(i) in a manner that complies with
the requirement for premium rates under
subparagraph (C) and considers the data
collected under subsection (b)(4); and
“(ii) at a level sufficient to fully fi-
nance—
“(I) the costs of health benefits
provided by the public health insur-
ance option; and
“(II) administrative costs related
to operating the public health insur-
ance option.
“(B) CONTINGENCY MARGIN.—In estab-
lishing premium rates under subparagraph (A),
the Secretary shall include an appropriate
amount for a contingency margin.
“(C) VARIATIONS IN PREMIUM RATES.—
The premium rate charged for the public health
insurance option may not vary except as pro-
vided under section 2701.
“(2) HEALTH CARE PROVIDER PAYMENT RATES
FOR ITEMS AND SERVICES.—
“(A) IN GENERAL.—
“(i) RATES NEGOTIATED BY THE SEC-
RETARY.—Not later than January 1, 2018,
and except as provided in clause (ii), the
Secretary shall, through a negotiated
agreement with health care providers, est-

establish rates for reimbursing health care
providers for providing the benefits covered
by the public health insurance option.

“(ii) Medicare reimbursement
rates.—If the Secretary and health care
providers are unable to reach a negotiated
agreement on a reimbursement rate, the
Secretary shall reimburse providers at
rates determined for equivalent items and
services under the original medicare fee-
for-service program under parts A and B
of title XVIII of the Social Security Act.

“(iii) For new services.—The Sec-
retary shall modify reimbursement rates
described in clause (ii) in order to accom-
modate payments for services, such as
well-child visits, that are not otherwise cov-
ered under the original medicare fee-for-

service program.

“(B) Prescription drugs.—Any pay-
ment rate under this subsection for a prescrip-
tion drug shall be at a rate negotiated by the
Secretary. If the Secretary is unable to reach a
negotiated agreement on such a reimbursement
rate, the Secretary shall use rates determined for equivalent drugs paid for under the original medicare fee-for-service program. The Secretary shall modify such rates in order to accommodate payments for drugs that are not otherwise covered under the original medicare fee-for-service program.

“(3) ACCOUNT.—

“(A) ESTABLISHMENT.—There is established in the Treasury of the United States an account for the receipts and disbursements attributable to the operation of the public health insurance option, including the start-up funding under subparagraph (C) and appropriations authorized under subparagraph (D).

“(B) PROHIBITION OF STATE IMPOSITION OF TAXES.—Section 1854(g) of the Social Security Act shall apply to receipts and disbursements described in subparagraph (A) in the same manner as such section applies to payments or premiums described in such section.

“(C) START-UP FUNDING.—

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

“(ii) Amortization of Start-up Funding.—The Secretary shall provide for the repayment of the startup funding provided under clause (i) to the Treasury in an amortized manner over the 10-year period beginning on January 1, 2019.

“(D) Additional Authorization of Appropriations.—To carry out paragraph (2) of subsection (b), there are authorized to be appropriated such sums as may be necessary.

“(d) Health Care Provider Participation.—

“(1) Provider Participation.—

“(A) In General.—The Secretary shall establish conditions of participation for health care providers under the public health insurance option.

“(B) Licensure or Certification.—The Secretary shall not allow a health care provider to participate in the public health insurance option unless such provider is appropriately licensed or certified under State law.
“(2) Establishing of a provider network.—

“(A) Medicare and Medicaid participating providers.—A health care provider that is a participating provider of services or supplier under the Medicare program under title XVIII of the Social Security Act or under a State Medicaid plan under title XIX of such Act is a participating provider in the public health insurance option unless the health care provider opts out of participating in the public health insurance option through a process established by the Secretary.

“(B) Additional providers.—The Secretary shall establish a process to allow health care providers not described in subparagraph (A) to become participating providers in the public health insurance option.”.

(b) Conforming Amendments.—

(1) Treatment as a qualified health plan.—Section 1301(a)(2) of the Patient Protection and Affordable Care Act (42 U.S.C. 18021(a)(2)) is amended—
(A) in the paragraph heading, by inserting “, THE PUBLIC HEALTH INSURANCE OPTION,” before “AND”; and

(B) by inserting “the public health insurance option under section 2795 of the Public Health Service Act,” before “and a multi-State plan”.

(2) LEVEL PLAYING FIELD.—Section 1324(a) of the Patient Protection and Affordable Care Act (42 U.S.C. 18044(a)) is amended by inserting “the public health insurance option under section 2795 of the Public Health Service Act,” before “or a multi-State qualified health plan”.