

115TH CONGRESS  
1ST SESSION

# H. R. 635

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

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## 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. SARBANES, Ms. MCCOLLUM, Mr. LEWIS of Georgia, and Ms. MOORE) introduced the following bill; which was referred to the Committee on Energy and Commerce

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## 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 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Consumer Health Op-  
5 tions and Insurance Competition Enhancement Act” or  
6 the “CHOICE Act”.

1 **SEC. 2. PUBLIC HEALTH INSURANCE OPTION.**

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

5 **“SEC. 2795. PUBLIC HEALTH INSURANCE OPTION.**

6 “(a) ESTABLISHMENT.—

7 “(1) IN GENERAL.—For plan years beginning  
8 in 2019, the Secretary shall establish, and provide  
9 for the offering through the Exchanges, of a quali-  
10 fied health plan (in this Act referred to as the ‘pub-  
11 lic health insurance option’) that provides value,  
12 choice, competition, and stability of affordable, high-  
13 quality coverage throughout the United States in ac-  
14 cordance with this section.

15 “(2) PRIMARY RESPONSIBILITY.—In designing  
16 the public health insurance option, the primary re-  
17 sponsibility of the Secretary shall be to create an af-  
18 fordable health plan without compromising quality  
19 or access to care.

20 “(b) ADMINISTRATING THE PUBLIC HEALTH INSUR-  
21 ANCE OPTION.—

22 “(1) OFFERED THROUGH EXCHANGES.—

23 “(A) EXCLUSIVE TO EXCHANGES.—The  
24 public health insurance option shall be made  
25 available through the Exchanges.

1           “(B) ENSURING A LEVEL PLAYING  
2 FIELD.—Consistent with this section, the public  
3 health insurance option shall comply with re-  
4 quirements under title I of the Patient Protec-  
5 tion and Affordable Care Act, and the amend-  
6 ments made by that title, that are applicable to  
7 health plans offered through the Exchanges, in-  
8 cluding requirements related to benefits, benefit  
9 levels, provider networks, notices, consumer  
10 protections, and cost-sharing.

11           “(C) PROVISION OF BENEFIT LEVELS.—  
12 The public health insurance option shall offer  
13 bronze, silver, and gold plans.

14           “(2) ADMINISTRATIVE CONTRACTING.—

15           “(A) AUTHORITIES.—The Secretary may  
16 enter into contracts for the purpose of per-  
17 forming administrative functions (including  
18 functions described in subsection (a)(4) of sec-  
19 tion 1874A of the Social Security Act) with re-  
20 spect to the public health insurance option in  
21 the same manner as the Secretary may enter  
22 into contracts under subsection (a)(1) of such  
23 section. The Secretary shall have the same au-  
24 thority with respect to the public health insur-  
25 ance option as the Secretary has under such

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

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

9 “(3) OMBUDSMAN.—

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

13 “(B) DUTIES.—Such ombudsman shall—

14 “(i) have duties with respect to the  
15 public health insurance option similar to  
16 the duties of the Medicare Beneficiary Om-  
17 budsman under section 1808(c)(2) of the  
18 Social Security Act; and

19 “(ii) work with States to ensure that  
20 information and notice is provided that the  
21 public health insurance option is one of the  
22 health plans available through an Ex-  
23 change.

24 “(4) STATE ADVISORY COUNCIL.—

1           “(A) ESTABLISHMENT.—A State may es-  
2           tablish a public or nonprofit entity to serve as  
3           the State Advisory Council to provide rec-  
4           ommendations to the Secretary on the oper-  
5           ations and policies of the public health insur-  
6           ance option offered through the Exchange oper-  
7           ating in the State.

8           “(B) RECOMMENDATIONS.—A State Advi-  
9           sory Council established under subparagraph  
10          (A) shall provide recommendations on at least  
11          the following:

12                 “(i) Policies and procedures to inte-  
13                 grate quality improvement and cost con-  
14                 tainment mechanisms into the health care  
15                 delivery system.

16                 “(ii) Mechanisms to facilitate public  
17                 awareness of the availability of the public  
18                 health insurance option.

19                 “(iii) Alternative payment models and  
20                 value-based insurance design under the  
21                 public health insurance option that encour-  
22                 age quality improvement and cost control.

23          “(C) MEMBERS.—The members of any  
24          State Advisory Council shall be representatives

1 of the public and include health care consumers  
2 and health care providers.

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

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

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

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

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

19 “(1) PREMIUMS.—

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

23 “(i) in a manner that complies with  
24 the requirement for premium rates under

1           subparagraph (C) and considers the data  
2           collected under subsection (b)(4); and

3           “*(ii)* at a level sufficient to fully fi-  
4           nance—

5                   “(I) the costs of health benefits  
6                   provided by the public health insur-  
7                   ance option; and

8                   “(II) administrative costs related  
9                   to operating the public health insur-  
10                  ance option.

11           “(B) CONTINGENCY MARGIN.—In estab-  
12           lishing premium rates under subparagraph (A),  
13           the Secretary shall include an appropriate  
14           amount for a contingency margin.

15           “(C) VARIATIONS IN PREMIUM RATES.—  
16           The premium rate charged for the public health  
17           insurance option may not vary except as pro-  
18           vided under section 2701.

19           “(2) HEALTH CARE PROVIDER PAYMENT RATES  
20           FOR ITEMS AND SERVICES.—

21                   “(A) IN GENERAL.—

22                           “(i) RATES NEGOTIATED BY THE SEC-  
23                           RETARY.—Not later than January 1, 2018,  
24                           and except as provided in clause (ii), the  
25                           Secretary shall, through a negotiated

1 agreement with health care providers, es-  
2 tablish rates for reimbursing health care  
3 providers for providing the benefits covered  
4 by the public health insurance option.

5 “(ii) MEDICARE REIMBURSEMENT  
6 RATES.—If the Secretary and health care  
7 providers are unable to reach a negotiated  
8 agreement on a reimbursement rate, the  
9 Secretary shall reimburse providers at  
10 rates determined for equivalent items and  
11 services under the original medicare fee-  
12 for-service program under parts A and B  
13 of title XVIII of the Social Security Act.

14 “(iii) FOR NEW SERVICES.—The Sec-  
15 retary shall modify reimbursement rates  
16 described in clause (ii) in order to accom-  
17 modate payments for services, such as  
18 well-child visits, that are not otherwise cov-  
19 ered under the original medicare fee-for-  
20 service program.

21 “(B) PRESCRIPTION DRUGS.—Any pay-  
22 ment rate under this subsection for a prescrip-  
23 tion drug shall be at a rate negotiated by the  
24 Secretary. If the Secretary is unable to reach a  
25 negotiated agreement on such a reimbursement



1 rate, the Secretary shall use rates determined  
2 for equivalent drugs paid for under the original  
3 medicare fee-for-service program. The Secretary  
4 shall modify such rates in order to accommo-  
5 date payments for drugs that are not otherwise  
6 covered under the original medicare fee-for-  
7 service program.

8 “(3) ACCOUNT.—

9 “(A) ESTABLISHMENT.—There is estab-  
10 lished in the Treasury of the United States an  
11 account for the receipts and disbursements at-  
12 tributable to the operation of the public health  
13 insurance option, including the start-up funding  
14 under subparagraph (C) and appropriations au-  
15 thorized under subparagraph (D).

16 “(B) PROHIBITION OF STATE IMPOSITION  
17 OF TAXES.—Section 1854(g) of the Social Se-  
18 curity Act shall apply to receipts and disburse-  
19 ments described in subparagraph (A) in the  
20 same manner as such section applies to pay-  
21 ments or premiums described in such section.

22 “(C) START-UP FUNDING.—

23 “(i) AUTHORIZATION OF FUNDING.—  
24 There are authorized to be appropriated  
25 such sums as may be necessary to estab-

1           lish the public health insurance option and  
2           cover 90 days of claims reserves based on  
3           projected enrollment.

4           “(ii) AMORTIZATION OF START-UP  
5           FUNDING.—The Secretary shall provide for  
6           the repayment of the startup funding pro-  
7           vided under clause (i) to the Treasury in  
8           an amortized manner over the 10-year pe-  
9           riod beginning on January 1, 2019.

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

14          “(d) HEALTH CARE PROVIDER PARTICIPATION.—

15          “(1) PROVIDER PARTICIPATION.—

16          “(A) IN GENERAL.—The Secretary shall  
17          establish conditions of participation for health  
18          care providers under the public health insurance  
19          option.

20          “(B) LICENSURE OR CERTIFICATION.—  
21          The Secretary shall not allow a health care pro-  
22          vider to participate in the public health insur-  
23          ance option unless such provider is appro-  
24          priately licensed or certified under State law.

1           “(2) ESTABLISHMENT OF A PROVIDER NET-  
2 WORK.—

3           “(A) MEDICARE AND MEDICAID PARTICI-  
4 PATING PROVIDERS.—A health care provider  
5 that is a participating provider of services or  
6 supplier under the Medicare program under  
7 title XVIII of the Social Security Act or under  
8 a State Medicaid plan under title XIX of such  
9 Act is a participating provider in the public  
10 health insurance option unless the health care  
11 provider opts out of participating in the public  
12 health insurance option through a process es-  
13 tablished by the Secretary.

14           “(B) ADDITIONAL PROVIDERS.—The Sec-  
15 retary shall establish a process to allow health  
16 care providers not described in subparagraph  
17 (A) to become participating providers in the  
18 public health insurance option.”.

19 (b) CONFORMING AMENDMENTS.—

20           (1) TREATMENT AS A QUALIFIED HEALTH  
21 PLAN.—Section 1301(a)(2) of the Patient Protection  
22 and Affordable Care Act (42 U.S.C. 18021(a)(2)) is  
23 amended—

1 (A) in the paragraph heading, by inserting  
2 “, THE PUBLIC HEALTH INSURANCE OPTION,”  
3 before “AND”; and

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

8 (2) LEVEL PLAYING FIELD.—Section 1324(a)  
9 of the Patient Protection and Affordable Care Act  
10 (42 U.S.C. 18044(a)) is amended by inserting “the  
11 public health insurance option under section 2795 of  
12 the Public Health Service Act,” before “or a multi-  
13 State qualified health plan”.

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