

116TH CONGRESS  
1ST SESSION

# S. 2552

To amend title XVIII of the Social Security Act to provide an option for first responders age 50 to 64 who are separated from service due to retirement or disability to buy into Medicare.

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## IN THE SENATE OF THE UNITED STATES

SEPTEMBER 26, 2019

Mr. BROWN introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To amend title XVIII of the Social Security Act to provide an option for first responders age 50 to 64 who are separated from service due to retirement or disability to buy into Medicare.

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 “Expanding Health  
5 Care Options for Early Retirees Act”.

1 **SEC. 2. MEDICARE BUY-IN OPTION FOR FIRST RESPOND-**  
2 **ERS 50 TO 64 YEARS OF AGE WHO ARE SEPA-**  
3 **RATED FROM SERVICE DUE TO RETIREMENT**  
4 **OR DISABILITY.**

5 (a) IN GENERAL.—Title XVIII of the Social Security  
6 Act (42 U.S.C. 1395c et seq.) is amended by adding at  
7 the end the following new section:

8 “MEDICARE BUY-IN OPTION FOR FIRST RESPONDERS 50  
9 TO 64 YEARS OF AGE WHO ARE SEPARATED FROM  
10 SERVICE DUE TO RETIREMENT OR DISABILITY

11 “SEC. 1899C. (a) OPTION.—

12 “(1) IN GENERAL.—Every individual who meets  
13 the requirements described in paragraph (3) shall be  
14 eligible to enroll under this section.

15 “(2) PART A, B, AND D BENEFITS.—An indi-  
16 vidual enrolled under this section is entitled to the  
17 same benefits (and shall receive the same protec-  
18 tions) under this title as an individual who is enti-  
19 tled to benefits under part A and enrolled under  
20 parts B and D, including the ability to enroll in a  
21 Medicare Advantage plan that provides qualified pre-  
22 scription drug coverage (an MA–PD plan).

23 “(3) REQUIREMENTS FOR ELIGIBILITY.—The  
24 requirements described in this paragraph are the fol-  
25 lowing:

1           “(A) The individual is a resident of the  
2 United States.

3           “(B) The individual is—

4               “(i) a citizen or national of the United  
5 States; or

6               “(ii) an alien lawfully admitted for  
7 permanent residence.

8           “(C) The individual is not otherwise enti-  
9 tled to benefits under part A or eligible to en-  
10 roll under part A or part B.

11           “(D) The individual has attained 50 years  
12 of age but has not attained 65 years of age.

13           “(E) The individual is a qualified first re-  
14 sponder (as defined in paragraph (4)(B)).

15           “(4) DEFINITIONS.—In this section:

16               “(A) FIRST RESPONDER.—The term ‘first  
17 responder’ means—

18               “(i) a qualified law enforcement offi-  
19 cer (as defined in section 926B(c) of title  
20 18, United States Code);

21               “(ii) an employee described in clause  
22 (i) of section 72(t)(10)(B) of the Internal  
23 Revenue Code of 1986 who provides fire-  
24 fighting services or emergency medical  
25 services; or

1                   “(iii) a Federal firefighter described  
2                   in section 8331(21) or 8401(14) of title 5,  
3                   United States Code.

4                   “(B) QUALIFIED FIRST RESPONDER.—The  
5                   term ‘qualified first responder’ means a first re-  
6                   sponder who is separated from service due to  
7                   retirement or disability.

8                   “(b) ENROLLMENT AND COVERAGE PERIODS.—

9                   “(1) IN GENERAL.—The Secretary shall estab-  
10                  lish enrollment and coverage periods for individuals  
11                  who enroll under this section.

12                  “(2) COORDINATION.—Such periods shall be es-  
13                  tablished in coordination with the enrollment and  
14                  coverage periods for plans offered under an Ex-  
15                  change established under title I of the Patient Pro-  
16                  tection and Affordable Care Act and plans under  
17                  parts C and D. If the Secretary determines appro-  
18                  priate, the Secretary may expand such enrollment  
19                  periods beyond the enrollment periods under such an  
20                  Exchange or under parts C and D.

21                  “(3) BEGINNING OF COVERAGE AND SPECIAL  
22                  ENROLLMENT PERIODS.—The Secretary shall estab-  
23                  lish such periods so that coverage under this section  
24                  shall first begin on January 1 of the first year be-  
25                  ginning at least one year after the date of the enact-

1       ment of this section and shall include special enroll-  
2       ment periods, in accordance with section 155.420 of  
3       title 45 of the Code of Federal Regulations, that are  
4       applicable to qualified health plans offered through  
5       an Exchange.

6       “(c) PREMIUM.—

7               “(1) AMOUNT OF MONTHLY PREMIUMS.—The  
8       Secretary shall (beginning for the first year that be-  
9       gins more than 1 year after the date of enactment  
10      of this section) determine a monthly premium for all  
11      individuals enrolled under this section. Such monthly  
12      premium shall be equal to  $\frac{1}{12}$  of the annual pre-  
13      mium computed under paragraph (2)(B), which  
14      shall apply with respect to coverage provided under  
15      this section for any month in the succeeding year.

16              “(2) ANNUAL PREMIUM.—

17                      “(A) COMBINED PER CAPITA AVERAGE FOR  
18      ALL MEDICARE BENEFITS.—The Secretary shall  
19      estimate the average, annual per capita amount  
20      for benefits and administrative expenses that  
21      will be payable under parts A, B, and D (in-  
22      cluding, as applicable, under part C) in the year  
23      for all individuals enrolled under this section.

24                      “(B) ANNUAL PREMIUM.—The annual pre-  
25      mium under this subsection for months in a

1           year is equal to the average, annual per capita  
2           amount estimated under subparagraph (A) for  
3           the year.

4           “(3) INCREASED PREMIUM FOR CERTAIN PART  
5           C AND D PLANS.—Nothing in this section shall pre-  
6           clude an individual from choosing a Medicare Advan-  
7           tage plan or a prescription drug plan which requires  
8           the individual to pay an additional amount (because  
9           of supplemental benefits or because it is a more ex-  
10          pensive plan). In such case the individual would be  
11          responsible for the increased monthly premium.

12          “(d) PAYMENT OF PREMIUMS.—

13                 “(1) IN GENERAL.—Premiums for enrollment  
14                 under this section shall be paid to the Secretary at  
15                 such times, and in such manner, as the Secretary  
16                 determines appropriate.

17                 “(2) DEPOSIT.—Amounts collected by the Sec-  
18                 retary under this section shall be deposited in the  
19                 Federal Hospital Insurance Trust Fund and the  
20                 Federal Supplementary Medical Insurance Trust  
21                 Fund (including the Medicare Prescription Drug Ac-  
22                 count within such Trust Fund) in such proportion  
23                 as the Secretary determines appropriate.

24          “(e) NOT ELIGIBLE FOR MEDICARE COST-SHARING  
25          ASSISTANCE.—An individual enrolled under this section

1 shall not be treated as enrolled under any part of this title  
2 for purposes of obtaining medical assistance for Medicare  
3 cost-sharing or otherwise under title XIX.

4 “(f) TREATMENT IN RELATION TO THE AFFORDABLE  
5 CARE ACT.—

6 “(1) SATISFACTION OF INDIVIDUAL MAN-  
7 DATE.—For purposes of applying section 5000A of  
8 the Internal Revenue Code of 1986, the coverage  
9 provided under this section constitutes minimum es-  
10 sential coverage under subsection (f)(1)(A)(i) of  
11 such section 5000A.

12 “(2) ELIGIBILITY FOR PREMIUM ASSISTANCE.—  
13 Coverage provided under this section—

14 “(A) shall be treated as coverage under a  
15 qualified health plan in the individual market  
16 enrolled in through the Exchange where the in-  
17 dividual resides for all purposes of section 36B  
18 of the Internal Revenue Code of 1986 other  
19 than subsection (c)(2)(B) thereof; and

20 “(B) shall not be treated as eligibility for  
21 other minimum essential coverage for purposes  
22 of subsection (c)(2)(B) of such section 36B.

23 The Secretary shall determine the applicable second  
24 lowest cost silver plan which shall apply to coverage

1 under this section for purposes of section 36B of  
2 such Code.

3 “(3) ELIGIBILITY FOR COST-SHARING SUB-  
4 SIDIES.—For purposes of applying section 1402 of  
5 the Patient Protection and Affordable Care Act (42  
6 U.S.C. 18071)—

7 “(A) coverage provided under this section  
8 shall be treated as coverage under a qualified  
9 health plan in the silver level of coverage in the  
10 individual market offered through an Exchange;  
11 and

12 “(B) the Secretary shall be treated as the  
13 issuer of such plan.

14 “(4) MEDICAID MANAGED CARE.—States are  
15 prohibited from buying their Medicaid beneficiaries  
16 ages 50 to 64 into Medicare under this section, and  
17 individuals otherwise eligible for enrollment under a  
18 State plan under title XIX are prohibited from cov-  
19 erage under this title pursuant to enrollment under  
20 this section. The preceding sentence shall not apply  
21 to Medicaid beneficiaries whose Medicaid coverage or  
22 eligibility does not meet the definition of minimum  
23 essential coverage under a government-sponsored  
24 program under section 1.5000A–2 of title 26, Code  
25 of Federal Regulations (or any successor regulation).



1           “(5) COORDINATION WITH MARKET REFORMS,  
2           ETC.—Notwithstanding Treasury Notice 2015–17,  
3           no provision of law shall prevent an employer from  
4           maintaining an arrangement under which the em-  
5           ployer pays or reimburses any portion of the pre-  
6           miums for coverage under this section for retired  
7           employees of the employer, or prevent such payment  
8           or reimbursement from being excluded from the  
9           gross income of the individual enrolled in such cov-  
10          erage for purposes of the Internal Revenue Code of  
11          1986.

12          “(g) GUARANTEED ISSUE OF MEDIGAP POLICIES  
13          UPON FIRST ENROLLMENT AND EACH SUBSEQUENT EN-  
14          ROLLMENT.—In the case of an individual who enrolls  
15          under this section (including an individual who was pre-  
16          viously enrolled under this section), paragraphs (2)(A),  
17          (2)(D), (3)(B)(ii), and (3)(B)(vi) of section 1882(s)—

18                 “(1) shall be applied by substituting ‘50’ for  
19                 ‘65’;

20                 “(2) if the individual was enrolled under this  
21                 section and subsequently disenrolls, shall apply each  
22                 time the individual subsequently reenrolls under this  
23                 section as if the individual had attained 50 years of  
24                 age on the date of such reenrollment (and as if the

1 individual had never previously enrolled in a Medi-  
2 care supplemental policy); and

3 “(3) shall be applied as if this section had not  
4 been enacted (and as if the individual had never pre-  
5 viously enrolled in a Medicare supplemental policy)  
6 when the individual attains 65 years of age.

7 “(h) OVERSIGHT.—There is established an advisory  
8 committee to be known as the ‘Medicare Buy In Oversight  
9 Board’ to monitor and oversee the implementation of this  
10 section, including the experience of the individuals enroll-  
11 ing under this section. The Medicare Buy In Oversight  
12 Board shall have members that include representatives of  
13 insurers, actuaries, consumer advocacy organizations, and  
14 individuals representing the first responder community,  
15 and shall make periodic recommendations for the con-  
16 tinual improvement of the implementation of this section  
17 as well as the relationship of enrollment under this section  
18 to other health care programs.

19 “(i) OUTREACH AND ENROLLMENT.—

20 “(1) IN GENERAL.—During the period that be-  
21 gins on January 1, 2020, and ends on December 31,  
22 2022, the Secretary shall award grants to eligible  
23 entities for the following purposes:

24 “(A) OUTREACH AND ENROLLMENT.—To  
25 carry out outreach, public education activities,

1 and enrollment activities to raise awareness of  
2 the availability of, and encourage, enrollment  
3 under this section.

4 “(B) ASSISTING INDIVIDUALS’ TRANSITION  
5 UNDER THIS SECTION.—To provide assistance  
6 to individuals to enroll under this section.

7 “(C) RAISING AWARENESS OF PREMIUM  
8 ASSISTANCE AND COST-SHARING REDUC-  
9 TIONS.—To distribute fair and impartial infor-  
10 mation concerning enrollment under this section  
11 and the availability of premium assistance tax  
12 credits under section 36B of the Internal Rev-  
13 enue Code of 1986 and cost-sharing reductions  
14 under section 1402 of the Patient Protection  
15 and Affordable Care Act, and to assist eligible  
16 individuals in applying for such tax credits and  
17 cost-sharing reductions.

18 “(2) ELIGIBLE ENTITIES.—

19 “(A) IN GENERAL.—In this subsection, the  
20 term ‘eligible entity’ means—

21 “(i) a State;

22 “(ii) a nonprofit community-based or-  
23 ganization; or

24 “(iii) a nonprofit first responder orga-  
25 nization.

1           “(B) ENROLLMENT AGENTS.—Such term  
2 includes a licensed independent insurance agent  
3 or broker that has an arrangement with a  
4 State, nonprofit community-based organization,  
5 or nonprofit first responder organization to en-  
6 roll eligible individuals under this section.

7           “(C) EXCLUSIONS.—Such term does not  
8 include an entity that—

9                   “(i) is a health insurance issuer; or

10                   “(ii) receives any consideration, either  
11 directly or indirectly, from any health in-  
12 surance issuer in connection with the en-  
13 rollment of any individuals under this sec-  
14 tion.

15           “(3) PRIORITY.—In awarding grants under this  
16 subsection, the Secretary shall give priority to  
17 awarding grants to States or eligible entities in  
18 States that have geographic rating areas at risk of  
19 having no qualified health plans in the individual  
20 market.

21           “(4) FUNDING.—For purposes of carrying out  
22 this subsection, there is appropriated to the Sec-  
23 retary, out of any moneys in the Treasury not other-  
24 wise appropriated, such sums as are necessary for

1 calendar year 2020 and for each subsequent cal-  
2 endar year.

3 “(j) NO EFFECT ON BENEFITS FOR INDIVIDUALS  
4 OTHERWISE ELIGIBLE OR ON TRUST FUNDS.—The Sec-  
5 retary shall implement the provisions of this section in  
6 such a manner to ensure that such provisions—

7 “(1) have no effect on the benefits under this  
8 title for individuals who are entitled to, or enrolled  
9 for, such benefits other than through this section;  
10 and

11 “(2) have no negative impact on the Federal  
12 Hospital Insurance Trust Fund or the Federal Sup-  
13 plementary Medical Insurance Trust Fund (includ-  
14 ing the Medicare Prescription Drug Account within  
15 such Trust Fund).

16 “(k) CONSULTATION.—In promulgating regulations  
17 to implement this section, the Secretary shall consult with  
18 interested parties, including groups representing bene-  
19 ficiaries, health care providers, employers, insurance com-  
20 panies, and organizations representing first responders.”.

○