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.

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

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.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Expanding Health Care Options for Early Retirees Act”.

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SEC. 2. MEDICARE BUY-IN OPTION FOR FIRST RESPONDERS 50 TO 64 YEARS OF AGE WHO ARE SEPARATED FROM SERVICE DUE TO RETIREMENT OR DISABILITY.

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

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

SEC. 1899C. (a) OPTION.—

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

"(2) PART A, B, AND D BENEFITS.—An individual enrolled under this section is entitled to the same benefits (and shall receive the same protections) under this title as an individual who is entitled to benefits under part A and enrolled under parts B and D, including the ability to enroll in a Medicare Advantage plan that provides qualified prescription drug coverage (an MA–PD plan).

"(3) REQUIREMENTS FOR ELIGIBILITY.—The requirements described in this paragraph are the following:
“(A) The individual is a resident of the United States.

“(B) The individual is—

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

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

“(C) The individual is not otherwise entitled to benefits under part A or eligible to enroll under part A or part B.

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

“(E) The individual is a qualified first responder (as defined in paragraph (4)(B)).

“(4) DEFINITIONS.—In this section:

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

“(i) a qualified law enforcement officer (as defined in section 926B(c) of title 18, United States Code);

“(ii) an employee described in clause (i) of section 72(t)(10)(B) of the Internal Revenue Code of 1986 who provides firefighting services or emergency medical services; or
“(iii) a Federal firefighter described in section 8331(21) or 8401(14) of title 5, United States Code.

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

“(b) ENROLLMENT AND COVERAGE PERIODS.—

“(1) IN GENERAL.—The Secretary shall establish enrollment and coverage periods for individuals who enroll under this section.

“(2) COORDINATION.—Such periods shall be established in coordination with the enrollment and coverage periods for plans offered under an Exchange established under title I of the Patient Protection and Affordable Care Act and plans under parts C and D. If the Secretary determines appropriate, the Secretary may expand such enrollment periods beyond the enrollment periods under such an Exchange or under parts C and D.

“(3) BEGINNING OF COVERAGE AND SPECIAL ENROLLMENT PERIODS.—The Secretary shall establish such periods so that coverage under this section shall first begin on January 1 of the first year beginning at least one year after the date of the enact-
ment of this section and shall include special enrollment periods, in accordance with section 155.420 of title 45 of the Code of Federal Regulations, that are applicable to qualified health plans offered through an Exchange.

“(c) Premium.—

“(1) Amount of Monthly Premiums.—The Secretary shall (beginning for the first year that begins more than 1 year after the date of enactment of this section) determine a monthly premium for all individuals enrolled under this section. Such monthly premium shall be equal to \( \frac{1}{12} \) of the annual premium computed under paragraph (2)(B), which shall apply with respect to coverage provided under this section for any month in the succeeding year.

“(2) Annual Premium.—

“(A) Combined Per Capita Average for All Medicare Benefits.—The Secretary shall estimate the average, annual per capita amount for benefits and administrative expenses that will be payable under parts A, B, and D (including, as applicable, under part C) in the year for all individuals enrolled under this section.

“(B) Annual Premium.—The annual premium under this subsection for months in a
year is equal to the average, annual per capita amount estimated under subparagraph (A) for the year.

“(3) Increased premium for certain Part C and D plans.—Nothing in this section shall preclude an individual from choosing a Medicare Advantage plan or a prescription drug plan which requires the individual to pay an additional amount (because of supplemental benefits or because it is a more expensive plan). In such case the individual would be responsible for the increased monthly premium.

“(d) Payment of premiums.—

“(1) In general.—Premiums for enrollment under this section shall be paid to the Secretary at such times, and in such manner, as the Secretary determines appropriate.

“(2) Deposit.—Amounts collected by the Secretary under this section shall be deposited in the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund (including the Medicare Prescription Drug Account within such Trust Fund) in such proportion as the Secretary determines appropriate.

“(e) Not eligible for Medicare cost-sharing assistance.—An individual enrolled under this section
shall not be treated as enrolled under any part of this title for purposes of obtaining medical assistance for Medicare cost-sharing or otherwise under title XIX.

“(f) Treatment in Relation to the Affordable Care Act.—

“(1) Satisfaction of Individual Mandate.—For purposes of applying section 5000A of the Internal Revenue Code of 1986, the coverage provided under this section constitutes minimum essential coverage under subsection (f)(1)(A)(i) of such section 5000A.

“(2) Eligibility for Premium Assistance.— Coverage provided under this section—

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

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

The Secretary shall determine the applicable second lowest cost silver plan which shall apply to coverage
under this section for purposes of section 36B of such Code.

“(3) Eligibility for cost-sharing subsidies.—For purposes of applying section 1402 of the Patient Protection and Affordable Care Act (42 U.S.C. 18071)—

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

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

“(4) Medicaid managed care.—States are prohibited from buying their Medicaid beneficiaries ages 50 to 64 into Medicare under this section, and individuals otherwise eligible for enrollment under a State plan under title XIX are prohibited from coverage under this title pursuant to enrollment under this section. The preceding sentence shall not apply to Medicaid beneficiaries whose Medicaid coverage or eligibility does not meet the definition of minimum essential coverage under a government-sponsored program under section 1.5000A–2 of title 26, Code of Federal Regulations (or any successor regulation).
“(5) Coordination with market reforms, etc.—Notwithstanding Treasury Notice 2015–17, no provision of law shall prevent an employer from maintaining an arrangement under which the employer pays or reimburses any portion of the premiums for coverage under this section for retired employees of the employer, or prevent such payment or reimbursement from being excluded from the gross income of the individual enrolled in such coverage for purposes of the Internal Revenue Code of 1986.

“(g) Guaranteed issue of Medigap policies upon first enrollment and each subsequent enrollment.—In the case of an individual who enrolls under this section (including an individual who was previously enrolled under this section), paragraphs (2)(A), (2)(D), (3)(B)(ii), and (3)(B)(vi) of section 1882(s)—

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

“(2) if the individual was enrolled under this section and subsequently disenrolls, shall apply each time the individual subsequently reenrolls under this section as if the individual had attained 50 years of age on the date of such reenrollment (and as if the
individual had never previously enrolled in a Medicare supplemental policy); and

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

“(h) OVERSIGHT.—There is established an advisory committee to be known as the ‘Medicare Buy In Oversight Board’ to monitor and oversee the implementation of this section, including the experience of the individuals enrolling under this section. The Medicare Buy In Oversight Board shall have members that include representatives of insurers, actuaries, consumer advocacy organizations, and individuals representing the first responder community, and shall make periodic recommendations for the continual improvement of the implementation of this section as well as the relationship of enrollment under this section to other health care programs.

“(i) OUTREACH AND ENROLLMENT.—

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

“(A) OUTREACH AND ENROLLMENT.—To carry out outreach, public education activities,
and enrollment activities to raise awareness of
the availability of, and encourage, enrollment
under this section.

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

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

“(2) ELIGIBLE ENTITIES.—
“(A) IN GENERAL.—In this subsection, the
term ‘eligible entity’ means—

“(i) a State;

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

“(iii) a nonprofit first responder orga-
nization.
“(B) ENROLLMENT AGENTS.—Such term includes a licensed independent insurance agent or broker that has an arrangement with a State, nonprofit community-based organization, or nonprofit first responder organization to enroll eligible individuals under this section.

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

“(i) is a health insurance issuer; or

“(ii) receives any consideration, either directly or indirectly, from any health insurance issuer in connection with the enrollment of any individuals under this section.

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

“(4) FUNDING.—For purposes of carrying out this subsection, there is appropriated to the Secretary, out of any moneys in the Treasury not otherwise appropriated, such sums as are necessary for
calendar year 2020 and for each subsequent cal-
endar year.

“(j) No Effect on Benefits for Individuals
Otherwise Eligible or on Trust Funds.—The Sec-
retary shall implement the provisions of this section in
such a manner to ensure that such provisions—

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

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

“(k) Consultation.—In promulgating regulations
to implement this section, the Secretary shall consult with
interested parties, including groups representing bene-
fi ciaries, health care providers, employers, insurance com-
panies, and organizations representing first responders.”.