

116TH CONGRESS
1ST SESSION

S. 489

To establish a State public option through Medicaid to provide Americans with the choice of a high-quality, low-cost health insurance plan.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 14, 2019

Mr. SCHATZ (for himself, Mr. HEINRICH, Mr. WHITEHOUSE, Mr. MURPHY, Ms. BALDWIN, Mr. MARKEY, Mrs. GILLIBRAND, Ms. KLOBUCHAR, Mr. BLUMENTHAL, Ms. ROSEN, Mr. MERKLEY, Ms. HARRIS, Mr. LEAHY, Mr. BOOKER, Mr. UDALL, Ms. SMITH, Ms. WARREN, Ms. HIRONO, Mr. BROWN, Mr. REED, Mrs. SHAHEEN, Ms. CORTEZ MASTO, and Mr. DURBIN) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To establish a State public option through Medicaid to provide Americans with the choice of a high-quality, low-cost health insurance plan.

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 “State Public Option
5 Act”.

1 **SEC. 2. MEDICAID BUY-IN OPTION.**

2 (a) IN GENERAL.—Section 1902 of the Social Secu-
3 rity Act (42 U.S.C. 1396a) is amended—

4 (1) in subsection (a)(10)—

5 (A) in subparagraph (A)(ii)—

6 (i) in subclause (XXI), by striking “;
7 or” and inserting a semicolon;

8 (ii) in subclause (XXII), by adding
9 “or” at the end; and

10 (iii) by adding at the end the fol-
11 lowing new subclause:

12 “(XXIII) beginning January 1,
13 2020, who are residents of the State
14 and are not concurrently enrolled in
15 another health insurance coverage
16 plan, subject, in the case of individ-
17 uals described in subsection (qq) and
18 notwithstanding section 1916 (except
19 for subsection (k) of such section), to
20 payment of premiums or other cost-
21 sharing charges;” and

22 (B) in the matter following subparagraph
23 (G), in clause (XV), by inserting “or subsection
24 (qq)” after “described in subparagraph
25 (A)(i)(VIII)”; and

1 (2) by adding at the end the following new sub-
2 section:

3 “(qq) PREVIOUSLY UNDESCRIBED INDIVIDUALS.—
4 Individuals described in this subsection are individuals
5 who are—

6 “(1) described in subclause (XXIII) of sub-
7 section (a)(10)(A)(ii); and

8 “(2) are not described in any other subclause of
9 such subsection or any other provision in this Act
10 which provides for eligibility for medical assist-
11 ance.”.

12 (b) PROVISION OF AT LEAST MINIMUM COVERAGE.—

13 (1) IN GENERAL.—Section 1902(k)(1) of the
14 Social Security Act (42 U.S.C. 1396a(k)(1)) is
15 amended by inserting “or an individual described in
16 subsection (qq)” after “an individual described in
17 subclause (VIII) of subsection (a)(10)(A)(i)” each
18 place it appears.

19 (2) CONFORMING AMENDMENT.—Section
20 1903(i)(26) of the Social Security Act (42 U.S.C.
21 1396b(i)(26)) is amended by striking “individuals
22 described in subclause (VIII) of subsection
23 (a)(10)(A)(i)” and inserting “individuals described
24 in subsection (a)(10)(A)(i)(VIII) or (qq) of section
25 1902”.

1 (c) FEDERAL FINANCIAL PARTICIPATION IN BUY-IN
2 PROGRAM.—

3 (1) ENHANCED MATCH FOR ADMINISTRATIVE
4 EXPENSES.—Section 1903(a) of the Social Security
5 Act (42 U.S.C. 1396b(a)) is amended—

6 (A) by redesignating paragraph (7) as
7 paragraph (8); and

8 (B) by inserting after paragraph (6) the
9 following new paragraph:

10 “(7) an amount equal to 90 percent of the
11 sums expended during such quarter which are at-
12 tributable to reasonable administrative expenses re-
13 lated to the administration of a Medicaid buy-in pro-
14 gram for individuals described in section
15 1902(a)(10)(A)(ii)(XXIII); plus”.

16 (2) TREATMENT OF PREMIUM AND COST-SHAR-
17 ING REVENUES FROM MEDICAID BUY-IN PROGRAM.—

18 (A) IN GENERAL.—For purposes of section
19 1903(a)(1) of the Social Security Act (42
20 U.S.C. 1396b(a)(1)), for any fiscal quarter dur-
21 ing which a State collects premiums, cost-shar-
22 ing, or similar charges under subsection (k) of
23 section 1916 of such Act (42 U.S.C. 1396o) (as
24 added by this Act), including any advance pay-
25 ments of premium tax credits under section

1 1412 of the Patient Protection and Affordable
2 Care Act or payments for cost-sharing reduc-
3 tions under section 1402 of such Act that are
4 received by the State, the total amount ex-
5 pended during such quarter as medical assist-
6 ance for individuals who buy into Medicaid cov-
7 erage under subclause (XXIII) of section
8 1902(a)(10)(A)(ii) of the Social Security Act
9 (as added by this Act) shall be reduced by the
10 amount of such premiums or charges.

11 (B) TREATMENT OF EXCESS PREMIUMS.—
12 Each State that collects premiums or similar
13 charges under subsection (k) of section 1916 of
14 the Social Security Act (42 U.S.C. 1396o) (as
15 added by this Act) in a fiscal year shall pay to
16 the Secretary of Health and Human Services,
17 at such time and in such form and manner as
18 the Secretary shall specify, an amount equal to
19 50 percent of the amount, if any, by which—

20 (i) the total amount of such premiums
21 and charges collected by the State for such
22 year; exceeds

23 (ii) the total amount expended by the
24 State during such year as medical assist-
25 ance for individuals who buy into Medicaid

1 coverage under subclause (XXIII) of sec-
2 tion 1902(a)(10)(A)(ii) of such Act (as
3 added by this Act).

4 (d) COST-SHARING REQUIREMENT.—Section 1916 of
5 the Social Security Act (42 U.S.C. 1396o) is amended by
6 adding at the end the following new subsection:

7 “(k) PREMIUMS AND COST-SHARING FOR INDIVID-
8 UALS PARTICIPATING IN MEDICAID BUY-IN PROGRAM.—

9 “(1) IN GENERAL.—Subject to paragraph (2),
10 with respect to individuals who are eligible for med-
11 ical assistance under subsection
12 (a)(10)(A)(ii)(XXIII) of section 1902 and are de-
13 scribed in subsection (qq) of such section, a State
14 may—

15 “(A) impose premiums, deductibles, cost-
16 sharing, or other similar charges that are actu-
17 arially fair; and

18 “(B) vary the premium rate imposed on an
19 individual based only on the factors described in
20 section 2701(a)(1)(A) of the Public Health
21 Service Act and subject to the same limitations
22 on the weight which may be given to such fac-
23 tors under such section.

24 “(2) LIMITATIONS.—

1 “(A) PREMIUMS.—The total amount of
2 premiums imposed for a year under this sub-
3 section with respect to all individuals described
4 in paragraph (1) in a family shall not exceed an
5 amount equal to 9.5 percent of the family’s
6 household income (as defined in section
7 36B(d)(2) of the Internal Revenue Code of
8 1986) for the year involved.

9 “(B) OTHER COST-SHARING.—

10 “(i) IN GENERAL.—The cost-sharing
11 limitations described in section 1302(e) of
12 the Patient Protection and Affordable Care
13 Act shall apply to cost-sharing (as defined
14 in such section) for medical assistance pro-
15 vided under section
16 1902(a)(10)(A)(ii)(XXIII) in the same
17 manner as such limitations apply to cost-
18 sharing under qualified health plans under
19 title I of such Act.

20 “(ii) AVAILABILITY OF COST-SHARING
21 REDUCTIONS.—Individuals provided med-
22 ical assistance under section
23 1902(a)(10)(A)(ii)(XXIII) and subject to
24 cost-sharing under this subsection are eli-
25 gible for cost-sharing reductions under sec-

1 tion 1402 of the Patient Protection and
2 Affordable Care Act (subject to the income
3 eligibility threshold in subsection (b)(2) of
4 such section), and in applying such sec-
5 tion—

6 “(I) enrollment in a State plan
7 under section
8 1902(a)(10)(A)(ii)(XXIII) shall be
9 treated as coverage under a qualified
10 health plan in the silver level of cov-
11 erage in the individual market offered
12 through an Exchange established for
13 or by the State under title I of the
14 Patient Protection and Affordable
15 Care Act; and

16 “(II) the State agency admin-
17 istering such plan shall be treated as
18 the issuer of such plan.

19 “(3) PREMIUMS AND COST-SHARING FOR CER-
20 TAIN OTHER INDIVIDUALS.—If an individual is eligi-
21 ble for medical assistance under subsection
22 (a)(10)(A)(ii)(XXIII) of section 1902 and is not de-
23 scribed in subsection (qq) of such section, a State—

1 “(A) shall not impose premiums and cost-
2 sharing on the individual under this subsection;
3 and

4 “(B) may impose premiums and cost-shar-
5 ing on the individual to the extent allowed by
6 another provision of this Act (other than sec-
7 tion 1902(a)(10)(A)(ii)(XXIII)) which provides
8 for eligibility for medical assistance, but only if
9 the individual is described in such other provi-
10 sion.

11 “(4) APPLICATION OF PREMIUM ASSISTANCE
12 TAX CREDITS.—An individual who is required to pay
13 premiums under this subsection for a year for med-
14 ical assistance shall be eligible for a premium assist-
15 ance credit under section 36B of the Internal Rev-
16 enue Code to the same extent that such individual
17 would be eligible for a premium assistance credit
18 under such section if such individual had paid the
19 same amount in premiums for coverage under a
20 qualified health plan for such year.”.

21 (e) MANAGED CARE.—Section 1932(a)(1)(A)(i) of
22 the Social Security Act (42 U.S.C. 1396u-2(a)(1)(A)(i))
23 is amended by inserting “, including an individual who is
24 eligible for such assistance after buying into such coverage

1 under section 1902(a)(10)(A)(ii)(XXIII),” after “the
2 State plan under this title”.

3 (f) OFFERING BUY-IN PROGRAM ON STATE EX-
4 CHANGE; ENROLLMENT PERIODS.—

5 (1) IN GENERAL.—A State that has elected to
6 allow individuals to buy into Medicaid coverage
7 under section 1902(a)(10)(A)(ii)(XXIII) of the So-
8 cial Security Act (as added by this Act) shall allow
9 individuals to enroll in such coverage through the
10 Federal, federally facilitated, or State Exchange es-
11 tablished pursuant to title I of the Patient Protec-
12 tion and Affordable Care Act.

13 (2) ENROLLMENT PERIODS.—A State may limit
14 the enrollment of individuals into Medicaid coverage
15 under section 1902(a)(10)(A)(ii)(XXIII) of the So-
16 cial Security Act (as added by this Act) to the en-
17 rollment periods provided for under section
18 1311(c)(6) of the Patient Protection and Affordable
19 Care Act.

20 (g) APPLICATION OF ADVANCED PREMIUM TAX
21 CREDITS TO MEDICAID BUY-IN PLANS.—

22 (1) IN GENERAL.—Section 36B of the Internal
23 Revenue Code of 1986 is amended—

24 (A) in subsection (b)(3)(B), by adding at
25 the end the following new sentence:

1 “If an applicable taxpayer resides in a rating
2 area in which no silver plan is offered on the
3 individual market but the taxpayer buys into
4 Medicaid coverage under section
5 1902(a)(10)(A)(ii)(XXIII) of the Social Secu-
6 rity Act, such Medicaid coverage shall be
7 deemed to be the applicable second lowest cost
8 silver plan with respect to such taxpayer.”; and

9 (B) by adding at the end the following new
10 subsection:

11 “(h) APPLICATION TO INDIVIDUALS PURCHASING
12 MEDICAID COVERAGE.—In the case of any individual who
13 buys into Medicaid coverage under section
14 1902(a)(10)(A)(ii)(XXIII) of the Social Security Act, this
15 section shall be applied with the following modifications:

16 “(1) The amount determined under subsection
17 (b)(2)(A) shall be increased by the amount of the
18 monthly premiums paid for such coverage.

19 “(2) Subsection (c)(2)(A)(i) shall be applied by
20 treating coverage under the Medicaid program under
21 title XIX of the Social Security Act in the same
22 manner as a qualified health plan that was enrolled
23 in through an Exchange.

24 “(3) In applying subsection (c)(2)(B)—

1 “(A) an individual shall not be considered
2 to be eligible for minimum essential coverage
3 described in section 5000A(f)(1)(A)(ii) by rea-
4 son of eligibility for medical assistance under a
5 State Medicaid program under section
6 1902(a)(10)(A)(ii)(XXIII); and

7 “(B) an individual who is not covered by
8 minimum essential coverage described in section
9 5000A(f)(1)(B) shall not be considered to be el-
10 ible for such coverage.”.

11 (2) ADVANCED PAYMENT OF CREDIT.—

12 (A) IN GENERAL.—The Secretary of
13 Health and Human Services, in consultation
14 with the Secretary of the Treasury, shall estab-
15 lish a program under which—

16 (i) upon request of a State agency ad-
17 ministering a State Medicaid program
18 under title XIX of the Social Security Act,
19 advance determinations are made in a
20 manner similar to advanced determinations
21 under section 1412 of the Patient Protec-
22 tion and Affordable Care Act with respect
23 to the income eligibility of individuals en-
24 rolling in such program for the premium
25 tax credit allowable under section 36B of

1 the Internal Revenue Code of 1986 and
2 the cost-sharing reductions under section
3 1402 of the Patient Protection and Afford-
4 able Care Act;

5 (ii) the Secretary notifies—

6 (I) the State agency admin-
7 istering the program and the Sec-
8 retary of the Treasury of the advance
9 determinations; and

10 (II) the Secretary of the Treas-
11 ury of the name and employer identi-
12 fication number of each employer with
13 respect to whom 1 or more employees
14 of the employer were determined to be
15 eligible for the premium tax credit
16 under section 36B of the Internal
17 Revenue Code of 1986 and the cost-
18 sharing reductions under section 1402
19 of the Patient Protection and Afford-
20 able Care Act because—

21 (aa) the employer did not
22 provide minimum essential cov-
23 erage; or

24 (bb) the employer provided
25 such minimum essential coverage

1 but it was determined under sec-
2 tion 36B(e)(2)(C) of such Code
3 to either be unaffordable to the
4 employee or not provide the re-
5 quired minimum actuarial value;
6 and

7 (iii) the Secretary of the Treasury
8 makes advance payments of such credit or
9 reductions to the State agency admin-
10 istering the program in order to reduce the
11 premiums payable by individuals eligible
12 for such credit.

13 (B) DETERMINATIONS AND PAYMENTS.—
14 Rules similar to subsections (b) and (c) of sec-
15 tion 1412 of the Patient Protection and Afford-
16 able Care Act shall apply for purposes of this
17 subsection.

18 (C) COORDINATION WITH CREDIT.—

19 (i) IN GENERAL.—Section 36B of the
20 Internal Revenue Code of 1986 is amended
21 by inserting “and under section 2(g)(2) of
22 the State Public Option Act” after “sec-
23 tion 1412 of the Patient Protection and
24 Affordable Care Act” each place it appears
25 in subsections (f)(1), (f)(2), and (g)(1).

1 (ii) INFORMATION REPORTING.—Sec-
2 tion 36B(f)(3) of such Code is amended by
3 adding at the end the following flush sen-
4 tence: “In the case of any coverage under
5 the Medicaid program under title XIX of
6 the Social Security Act for which a credit
7 under this section is allowable by reason of
8 subsection (h), the State agency admin-
9 istering the Medicaid program shall be
10 treated as an Exchange for purposes of
11 this paragraph and subparagraph (A) shall
12 not apply.”.

13 (3) CONFORMING AMENDMENT RELATING TO
14 EMPLOYER RESPONSIBILITY.—Paragraph (6) of sec-
15 tion 4980H(c) of the Internal Revenue Code of 1986
16 is amended by inserting “, except that for purposes
17 of subsections (a)(2) and (b)(2), the term ‘qualified
18 health plan’ shall include any plan described in sec-
19 tion 36B(h)” after “such Act”.

20 (h) CONFORMING AMENDMENTS.—

21 (1) Section 1902(a)(10) of the Social Security
22 Act (42 U.S.C. 1396a(a)(10)), as amended by sub-
23 section (a), is further amended, in the matter fol-
24 lowing subparagraph (G)—

1 (A) by striking “and (XVII)” and inserting
2 “, (XVII)”;

3 (B) by inserting “, and (XVIII) the med-
4 ical assistance made available to an individual
5 described in subparagraph (A)(ii)(XXIII) shall
6 be limited to medical assistance described in
7 subsection (k)(1)” before the semicolon.

8 (2) Section 1903(f)(4) of the Social Security
9 Act (42 U.S.C. 1396b(f)(4)) is amended by inserting
10 “1902(a)(10)(A)(ii)(XXIII),” after
11 “1902(a)(10)(A)(ii)(XXII),”.

12 (3) Section 1905(a) of the Social Security Act
13 (42 U.S.C. 1396d(a)) is amended, in the matter pre-
14 ceding paragraph (1)—

15 (A) by striking “or” at the end of clause
16 (xvi);

17 (B) by inserting “or” at the end of clause
18 (xvii); and

19 (C) by inserting after clause (xvii) the fol-
20 lowing new clause:

21 “(xviii) individuals described in section
22 1902(a)(10)(A)(ii)(XXIII),”.

23 (4) Section 1916A(a)(1) of the Social Security
24 Act (42 U.S.C. 1396o–1(a)(1)) is amended by strik-
25 ing “or (j)” and inserting “(j), or (k)”.

1 (5) Section 1937(a)(1)(B) of the Social Secu-
 2 rity Act (42 U.S.C. 1396u-7(a)(1)(B)) is amended
 3 by inserting “, subclause (XXIII) of section
 4 1902(a)(10)(A)(ii),” after “1902(a)(10)(A)(i)”.

5 **SEC. 3. DEVELOPMENT OF STATE-LEVEL METRICS ON MED-**
 6 **ICAID BENEFICIARY ACCESS AND SATISFAC-**
 7 **TION.**

8 (a) IN GENERAL.—

9 (1) DEVELOPMENT OF METRICS.—Not later
 10 than 1 year after the date of enactment of this Act,
 11 the Director of the Agency for Healthcare Research
 12 and Quality, in consultation with State Medicaid Di-
 13 rectors, shall develop standardized, State-level
 14 metrics of access to, and satisfaction with, providers,
 15 including primary care and specialist providers, with
 16 respect to individuals who are enrolled in State Med-
 17 icaid plans under title XIX of the Social Security
 18 Act.

19 (2) PROCESS.—The Director of the Agency for
 20 Healthcare Research and Quality shall develop the
 21 metrics described in paragraph (1) through a public
 22 process, which shall provide opportunities for stake-
 23 holders to participate.

24 (b) UPDATING METRICS.—The Director of the Agen-
 25 cy for Healthcare Research and Quality, in consultation

1 with the Deputy Administrator for the Center for Med-
 2 icaid and CHIP Services and State Medicaid Directors,
 3 shall update the metrics developed under subsection (a)
 4 not less than once every 3 years.

5 (c) STATE IMPLEMENTATION FUNDING.—The Direc-
 6 tor of the Agency for Healthcare Research and Quality
 7 may award funds, from the amount appropriated under
 8 subsection (d), to States for the purpose of implementing
 9 the metrics developed under this section.

10 (d) APPROPRIATION.—There is appropriated to the
 11 Director of the Agency for Healthcare Research and Qual-
 12 ity, out of any funds in the Treasury not otherwise appro-
 13 priated, \$200,000,000 for fiscal year 2020, to remain
 14 available until expended, for the purpose of carrying out
 15 this section.

16 **SEC. 4. RENEWAL OF APPLICATION OF MEDICARE PAY-**
 17 **MENT RATE FLOOR TO PRIMARY CARE SERV-**
 18 **ICES FURNISHED UNDER MEDICAID AND IN-**
 19 **CLUSION OF ADDITIONAL PROVIDERS.**

20 (a) RENEWAL OF PAYMENT FLOOR; ADDITIONAL
 21 PROVIDERS.—

22 (1) IN GENERAL.—Section 1902(a)(13) of the
 23 Social Security Act (42 U.S.C. 1396a(a)(13)) is
 24 amended by striking subparagraph (C) and inserting
 25 the following:

1 “(C) payment for primary care services (as
2 defined in subsection (jj)) at a rate that is not
3 less than 100 percent of the payment rate that
4 applies to such services and physician under
5 part B of title XVIII (or, if greater, the pay-
6 ment rate that would be applicable under such
7 part if the conversion factor under section
8 1848(d) for the year involved were the conver-
9 sion factor under such section for 2009), and
10 that is not less than the rate that would other-
11 wise apply to such services under this title if
12 the rate were determined without regard to this
13 subparagraph, and that are—

14 “(i) furnished in 2013 and 2014, by a
15 physician with a primary specialty designa-
16 tion of family medicine, general internal
17 medicine, or pediatric medicine; or

18 “(ii) furnished in the period that be-
19 gins on the first day of the first month
20 that begins after the date of enactment of
21 the State Public Option Act—

22 “(I) by a physician with a pri-
23 mary specialty designation of family
24 medicine, general internal medicine,
25 or pediatric medicine, but only if the

1 physician self-attests that the physi-
2 cian is Board certified in family medi-
3 cine, general internal medicine, or pe-
4 diatric medicine;

5 “(II) by a physician with a pri-
6 mary specialty designation of obstet-
7 rics and gynecology, but only if the
8 physician self-attests that the physi-
9 cian is Board certified in obstetrics
10 and gynecology;

11 “(III) by an advanced practice
12 clinician, as defined by the Secretary,
13 that works under the supervision of—

14 “(aa) a physician that satis-
15 fies the criteria specified in sub-
16 clause (I) or (II); or

17 “(bb) a nurse practitioner or
18 a physician assistant (as such
19 terms are defined in section
20 1861(aa)(5)(A)) who is working
21 in accordance with State law, or
22 a certified nurse-midwife (as de-
23 fined in section 1861(gg)) who is
24 working in accordance with State
25 law;

1 “(IV) by a rural health clinic,
2 federally qualified health center, or
3 other health clinic that receives reim-
4 bursement on a fee schedule applica-
5 ble to a physician, a nurse practi-
6 tioner or a physician assistant (as
7 such terms are defined in section
8 1861(aa)(5)(A)) who is working in ac-
9 cordance with State law, or a certified
10 nurse-midwife (as defined in section
11 1861(gg)) who is working in accord-
12 ance with State law, for services fur-
13 nished by a physician, nurse practi-
14 tioner, physician assistant, or certified
15 nurse-midwife, or services furnished
16 by an advanced practice clinician su-
17 pervised by a physician described in
18 subclause (I)(aa) or (II)(aa), another
19 advanced practice clinician, or a cer-
20 tified nurse-midwife; or

21 “(V) by a nurse practitioner or a
22 physician assistant (as such terms are
23 defined in section 1861(aa)(5)(A))
24 who is working in accordance with
25 State law, or a certified nurse-midwife

1 (as defined in section 1861(gg)) who
2 is working in accordance with State
3 law, in accordance with procedures
4 that ensure that the portion of the
5 payment for such services that the
6 nurse practitioner, physician assist-
7 ant, or certified nurse-midwife is paid
8 is not less than the amount that the
9 nurse practitioner, physician assist-
10 ant, or certified nurse-midwife would
11 be paid if the services were provided
12 under part B of title XVIII;”.

13 (2) CONFORMING AMENDMENTS.—Section
14 1905(dd) of the Social Security Act (42 U.S.C.
15 1396d(dd)) is amended—

16 (A) by striking “Notwithstanding” and in-
17 serting the following:

18 “(1) IN GENERAL.—Notwithstanding”;

19 (B) by inserting “or furnished during the
20 additional period specified in paragraph (2),”
21 after “2015,”; and

22 (C) by adding at the end the following:

23 “(2) ADDITIONAL PERIOD.—For purposes of
24 paragraph (1), the additional period specified in this
25 paragraph is the period that begins on the first day

1 of the first month that begins after the date of en-
2 actment of the State Public Option Act.”.

3 (b) IMPROVED TARGETING OF PRIMARY CARE.—Sec-
4 tion 1902(jj) of the Social Security Act (42 U.S.C.
5 1396a(jj)) is amended—

6 (1) by redesignating paragraphs (1) and (2) as
7 subparagraphs (A) and (B), respectively and realign-
8 ing the left margins accordingly;

9 (2) by striking “For purposes of” and inserting
10 the following:

11 “(1) IN GENERAL.—For purposes of”; and

12 (3) by adding at the end the following:

13 “(2) EXCLUSIONS.—Such term does not include
14 any services described in subparagraph (A) or (B) of
15 paragraph (1) if such services are provided in an
16 emergency department of a hospital.”.

17 (c) ENSURING PAYMENT BY MANAGED CARE ENTI-
18 TIES.—

19 (1) IN GENERAL.—Section 1903(m)(2)(A) of
20 the Social Security Act (42 U.S.C. 1396b(m)(2)(A))
21 is amended—

22 (A) in clause (xii), by striking “and” after
23 the semicolon;

24 (B) by realigning the left margin of clause
25 (xiii) so as to align with the left margin of

1 clause (xii) and by striking the period at the
2 end of clause (xiii) and inserting “; and”;

3 (C) by inserting after clause (xiii) the fol-
4 lowing:

5 “(xiv) such contract provides that (I) payments
6 to providers specified in section 1902(a)(13)(C) for
7 primary care services defined in section 1902(jj)
8 that are furnished during a year or period specified
9 in section 1902(a)(13)(C) and section 1905(dd) are
10 at least equal to the amounts set forth and required
11 by the Secretary by regulation, (II) the entity shall,
12 upon request, provide documentation to the State,
13 sufficient to enable the State and the Secretary to
14 ensure compliance with subclause (I), and (III) the
15 Secretary shall approve payments described in sub-
16 clause (I) that are furnished through an agreed
17 upon capitation, partial capitation, or other value-
18 based payment arrangement if the capitation, partial
19 capitation, or other value-based payment arrange-
20 ment is based on a reasonable methodology and the
21 entity provides documentation to the State sufficient
22 to enable the State and the Secretary to ensure com-
23 pliance with subclause (I).”.

24 (2) CONFORMING AMENDMENT.—Section
25 1932(f) of the Social Security Act (42 U.S.C.

1 1396u–2(f)) is amended by inserting “and clause
2 (xiv) of section 1903(m)(2)(A)” before the period.

3 **SEC. 5. INCREASED FMAP FOR MEDICAL ASSISTANCE TO**
4 **NEWLY ELIGIBLE INDIVIDUALS.**

5 (a) IN GENERAL.—Section 1905(y)(1) of the Social
6 Security Act (42 U.S.C. 1396d(y)(1)) is amended—

7 (1) in subparagraph (A), by striking “2014,
8 2015, and 2016” and inserting “each of the first 3
9 consecutive 12-month periods in which the State
10 provides medical assistance to newly eligible individ-
11 uals”;

12 (2) in subparagraph (B), by striking “2017”
13 and inserting “the fourth consecutive 12-month pe-
14 riod in which the State provides medical assistance
15 to newly eligible individuals”;

16 (3) in subparagraph (C), by striking “2018”
17 and inserting “the fifth consecutive 12-month period
18 in which the State provides medical assistance to
19 newly eligible individuals”;

20 (4) in subparagraph (D), by striking “2019”
21 and inserting “the sixth consecutive 12-month period
22 in which the State provides medical assistance to
23 newly eligible individuals”; and

24 (5) in subparagraph (E), by striking “2020 and
25 each year thereafter” and inserting “the seventh

1 consecutive 12-month period in which the State pro-
 2 vides medical assistance to newly eligible individuals
 3 and each such period thereafter”.

4 (b) EFFECTIVE DATE.—The amendments made by
 5 subsection (a) shall take effect as if included in the enact-
 6 ment of Public Law 111–148.

7 **SEC. 6. MEDICAID COVERAGE OF COMPREHENSIVE REPRO-**
 8 **DUCTIVE HEALTH CARE SERVICES.**

9 (a) INCLUSION OF COMPREHENSIVE REPRODUCTIVE
 10 HEALTH CARE SERVICES AS MEDICAL ASSISTANCE.—
 11 Section 1905(a) of the Social Security Act (42 U.S.C.
 12 1396d(a)), as amended by section 2(h), is further amend-
 13 ed—

14 (1) in paragraph (29), by striking “and” at the
 15 end;

16 (2) by redesignating paragraph (30) as para-
 17 graph (31); and

18 (3) by inserting after paragraph (29) the fol-
 19 lowing new paragraph:

20 “(30) comprehensive reproductive health care
 21 services, including abortion services; and”.

22 (b) REQUIRING COVERAGE OF COMPREHENSIVE RE-
 23 PRODUCTIVE HEALTH CARE SERVICES AS CONDITION OF
 24 STATE PLAN APPROVAL.—Section 1902(a)(10)(A) of the
 25 Social Security Act (42 U.S.C. 1396a(a)(10)(A)), as

1 amended by subsections (a) and (h) of section 2, is further
2 amended, in the matter preceding clause (i), by striking
3 “and (29)” and inserting “(29), and (30)”.

4 (c) CONFORMING AMENDMENT.—Section
5 1932(e)(1)(B) of the Social Security Act (42 U.S.C.
6 1396u–2(e)(1)(B)) is amended by striking “Clause (i)”
7 and inserting “With respect to the period beginning before
8 January 1, 2021, clause (i)”.

9 (d) EFFECTIVE DATE.—The amendments made by
10 this section shall apply with respect to medical assistance
11 furnished on or after January 1, 2021.

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