

109TH CONGRESS
1ST SESSION

H. R. 765

To amend the Internal Revenue Code of 1986 to allow individuals a refundable credit against income tax for the purchase of private health insurance, and to establish State health insurance safety-net programs.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 10, 2005

Mr. KENNEDY of Minnesota (for himself, Mr. LIPINSKI, Mr. AKIN, Mr. BRADLEY of New Hampshire, Mr. CHOCOLA, Mr. MARIO DIAZ-BALART of Florida, Mr. FLAKE, Mr. HAYES, Mr. JOHNSON of Illinois, Mr. KLINE, Mr. MCCOTTER, Mr. MCHUGH, Mr. NEUGEBAUER, Mr. NORWOOD, Mr. PLATTS, Mr. SENSENBRENNER, Mr. SESSIONS, Mrs. JO ANN DAVIS of Virginia, and Mr. NEY) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Internal Revenue Code of 1986 to allow individuals a refundable credit against income tax for the purchase of private health insurance, and to establish State health insurance safety-net programs.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Fair Care for the Un-
3 insured Act of 2005”.

4 **TITLE I—REFUNDABLE CREDIT**
5 **FOR HEALTH INSURANCE**
6 **COVERAGE**

7 **SEC. 101. REFUNDABLE CREDIT FOR HEALTH INSURANCE**
8 **COVERAGE.**

9 (a) IN GENERAL.—Subpart C of part IV of sub-
10 chapter A of chapter 1 of the Internal Revenue Code of
11 1986 (relating to refundable credits) is amended by redес-
12 ignating section 36 as section 37 and by inserting after
13 section 35 the following new section:

14 **“SEC. 36. HEALTH INSURANCE COSTS.**

15 “(a) IN GENERAL.—In the case of an individual,
16 there shall be allowed as a credit against the tax imposed
17 by this subtitle an amount equal to the amount paid by
18 the taxpayer for qualified health insurance for the tax-
19 payer, his spouse, and dependents for eligible coverage
20 months beginning in the taxable year.

21 “(b) LIMITATIONS.—

22 “(1) IN GENERAL.—The amount allowed as a
23 credit under subsection (a) to the taxpayer for the
24 taxable year shall not exceed the sum of the monthly
25 limitations for eligible coverage months during such
26 taxable year for each individual referred to in sub-

1 section (a) for whom the taxpayer paid during the
2 taxable year any amount for coverage under quali-
3 fied health insurance.

4 “(2) MONTHLY LIMITATIONS.—

5 “(A) IN GENERAL.—The monthly limita-
6 tion for an individual for each eligible coverage
7 month of such individual during the taxable
8 year is the amount equal to $\frac{1}{12}$ of—

9 “(i) \$1,000 if such individual is the
10 taxpayer,

11 “(ii) \$1,000 if—

12 “(I) such individual is the spouse
13 of the taxpayer,

14 “(II) the taxpayer and such
15 spouse are married as of the first day
16 of such month, and

17 “(III) the taxpayer files a joint
18 return for the taxable year, and

19 “(iii) \$500 if such individual is an in-
20 dividual for whom a deduction under sec-
21 tion 151(c) is allowable to the taxpayer for
22 such taxable year.

23 “(B) LIMITATION TO 2 DEPENDENTS.—

24 Not more than 2 individuals may be taken into

1 account by the taxpayer under subparagraph
2 (A)(iii).

3 “(C) SPECIAL RULE FOR MARRIED INDI-
4 VIDUALS.—In the case of an individual—

5 “(i) who is married (within the mean-
6 ing of section 7703) as of the close of the
7 taxable year but does not file a joint return
8 for such year, and

9 “(ii) who does not live apart from
10 such individual’s spouse at all times during
11 the taxable year,

12 the limitation imposed by subparagraph (B)
13 shall be divided equally between the individual
14 and the individual’s spouse unless they agree on
15 a different division.

16 “(3) ELIGIBLE COVERAGE MONTH.—For pur-
17 poses of this subsection—

18 “(A) IN GENERAL.—The term ‘eligible cov-
19 erage month’ means, with respect to an indi-
20 vidual, any month if—

21 “(i) as of the first day of such month
22 such individual is covered by qualified
23 health insurance, and

1 “(ii) the premium for coverage under
2 such insurance for such month is paid by
3 the taxpayer.

4 “(B) EMPLOYER-SUBSIDIZED COV-
5 ERAGE.—

6 “(i) IN GENERAL.—Such term shall
7 not include any month for which such indi-
8 vidual is eligible to participate in any sub-
9 sidized health plan (within the meaning of
10 section 162(l)(2)) maintained by any em-
11 ployer of the taxpayer or of the spouse of
12 the taxpayer.

13 “(ii) PREMIUMS TO NONSUBSIDIZED
14 PLANS.—If an employer of the taxpayer or
15 the spouse of the taxpayer maintains a
16 health plan which is not a subsidized
17 health plan (as so defined) and which con-
18 stitutes qualified health insurance, em-
19 ployee contributions to the plan shall be
20 treated as amounts paid for qualified
21 health insurance.

22 “(C) CAFETERIA PLAN AND FLEXIBLE
23 SPENDING ACCOUNT BENEFICIARIES.—Such
24 term shall not include any month during a tax-
25 able year if any amount is not includable in the

1 gross income of the taxpayer for such year
2 under section 106 with respect to—

3 “(i) a benefit chosen under a cafeteria
4 plan (as defined in section 125(d)), or

5 “(ii) a benefit provided under a flexi-
6 ble spending or similar arrangement.

7 “(D) MEDICARE AND MEDICAID.—Such
8 term shall not include any month with respect
9 to an individual if, as of the first day of such
10 month, such individual—

11 “(i) is entitled to any benefits under
12 title XVIII of the Social Security Act, or

13 “(ii) is a participant in the program
14 under title XIX or XXI of such Act.

15 “(E) CERTAIN OTHER COVERAGE.—Such
16 term shall not include any month during a tax-
17 able year with respect to an individual if, at any
18 time during such year, any benefit is provided
19 to such individual under—

20 “(i) chapter 89 of title 5, United
21 States Code,

22 “(ii) chapter 55 of title 10, United
23 States Code,

24 “(iii) chapter 17 of title 38, United
25 States Code, or

1 “(iv) any medical care program under
2 the Indian Health Care Improvement Act.

3 “(F) PRISONERS.—Such term shall not in-
4 clude any month with respect to an individual
5 if, as of the first day of such month, such indi-
6 vidual is imprisoned under Federal, State, or
7 local authority.

8 “(G) INSUFFICIENT PRESENCE IN UNITED
9 STATES.—Such term shall not include any
10 month during a taxable year with respect to an
11 individual if such individual is present in the
12 United States on fewer than 183 days during
13 such year (determined in accordance with sec-
14 tion 7701(b)(7)).

15 “(4) COORDINATION WITH DEDUCTION FOR
16 HEALTH INSURANCE COSTS OF SELF-EMPLOYED IN-
17 DIVIDUALS.—In the case of a taxpayer who is eligi-
18 ble to deduct any amount under section 162(l) for
19 the taxable year, this section shall apply only if the
20 taxpayer elects not to claim any amount as a deduc-
21 tion under such section for such year.

22 “(c) QUALIFIED HEALTH INSURANCE.—For pur-
23 poses of this section—

24 “(1) IN GENERAL.—The term ‘qualified health
25 insurance’ means insurance which constitutes med-

1 ical care as defined in section 213(d) without regard
2 to—

3 “(A) paragraph (1)(C) thereof, and

4 “(B) so much of paragraph (1)(D) thereof
5 as relates to qualified long-term care insurance
6 contracts.

7 “(2) EXCLUSION OF CERTAIN OTHER CON-
8 TACTS.—Such term shall not include insurance if a
9 substantial portion of its benefits are excepted bene-
10 fits (as defined in section 9832(c)).

11 “(d) SPECIAL RULES.—

12 “(1) COORDINATION WITH MEDICAL EXPENSE
13 DEDUCTION.—The amount which would (but for this
14 paragraph) be taken into account by the taxpayer
15 under section 213 for the taxable year shall be re-
16 duced by the credit (if any) allowed by this section
17 to the taxpayer for such year.

18 “(2) MEDICAL AND HEALTH SAVINGS AC-
19 COUNTS.—Amounts distributed from an Archer
20 MSA (as defined in section 220(d)) or from a health
21 savings account (as defined in section 223(d)) shall
22 not be taken into account under subsection (a).

23 “(3) COORDINATION WITH TAA AND PBGC
24 HEALTH INSURANCE CREDIT.—No credit shall be al-
25 lowed under this section to any taxpayer with re-

1 spect to any month if, as of the first day of such
2 month, the taxpayer or the taxpayer's spouse is an
3 eligible individual (as defined in section 35(c)).

4 “(4) DENIAL OF CREDIT TO DEPENDENTS.—No
5 credit shall be allowed under this section to any indi-
6 vidual with respect to whom a deduction under sec-
7 tion 151 is allowable to another taxpayer for a tax-
8 able year beginning in the calendar year in which
9 such individual's taxable year begins.

10 “(5) INFLATION ADJUSTMENT.—In the case of
11 any taxable year beginning in a calendar year after
12 2006, each dollar amount contained in subsection
13 (b)(2)(A) shall be increased by an amount equal
14 to—

15 “(A) such dollar amount, multiplied by

16 “(B) the cost-of-living adjustment deter-
17 mined under section 1(f)(3) for the calendar
18 year in which the taxable year begins, deter-
19 mined by substituting ‘calendar year 2005’ for
20 ‘calendar year 1992’ in subparagraph (B)
21 thereof.

22 Any increase determined under the preceding sen-
23 tence shall be rounded to the nearest multiple of \$50
24 (\$25 in the case of the dollar amount in subsection
25 (b)(2)(A)(iii)).”.

1 (b) MAINTENANCE OF EFFORT REQUIREMENT.—
 2 Section 162 of such Code (relating to trade or business
 3 expenses) is amended by redesignating subsection (q) as
 4 subsection (r) and by inserting after subsection (p) the
 5 following new subsection:

6 “(q) GROUP HEALTH PLAN MAINTENANCE OF EF-
 7 FORT.—No deduction shall be allowed under this chapter
 8 to an employer for any amount paid or incurred in connec-
 9 tion with a group health plan (as defined in subsection
 10 (n)(3)) for any taxable year in which occurs the date of
 11 introduction of the Fair Care for the Uninsured Act of
 12 2005 unless such plan remains in effect for at least 60
 13 months after the date of the enactment of such Act.”.

14 (c) INFORMATION REPORTING.—

15 (1) IN GENERAL.—Subpart B of part III of
 16 subchapter A of chapter 61 of such Code (relating
 17 to information concerning transactions with other
 18 persons) is amended by inserting after section
 19 6050T the following new section:

20 **“SEC. 6050U. RETURNS RELATING TO PAYMENTS FOR**
 21 **QUALIFIED HEALTH INSURANCE.**

22 “(a) IN GENERAL.—Any person who, in connection
 23 with a trade or business conducted by such person, re-
 24 ceives payments during any calendar year from any indi-
 25 vidual for coverage of such individual or any other indi-

1 vidual under creditable health insurance, shall make the
2 return described in subsection (b) (at such time as the
3 Secretary may by regulations prescribe) with respect to
4 each individual from whom such payments were received.

5 “(b) FORM AND MANNER OF RETURNS.—A return
6 is described in this subsection if such return—

7 “(1) is in such form as the Secretary may pre-
8 scribe, and

9 “(2) contains—

10 “(A) the name, address, and TIN of the
11 individual from whom payments described in
12 subsection (a) were received,

13 “(B) the name, address, and TIN of each
14 individual who was provided by such person
15 with coverage under creditable health insurance
16 by reason of such payments and the period of
17 such coverage, and

18 “(C) such other information as the Sec-
19 retary may reasonably prescribe.

20 “(c) CREDITABLE HEALTH INSURANCE.—For pur-
21 poses of this section, the term ‘creditable health insurance’
22 means qualified health insurance (as defined in section
23 36(c)) other than—

24 “(1) insurance under a subsidized group health
25 plan maintained by an employer, or

1 “(2) to the extent provided in regulations pre-
2 scribed by the Secretary, any other insurance cov-
3 ering an individual if no credit is allowable under
4 section 36 with respect to such coverage.

5 “(d) STATEMENTS TO BE FURNISHED TO INDIVID-
6 UALS WITH RESPECT TO WHOM INFORMATION IS RE-
7 QUIRED.—Every person required to make a return under
8 subsection (a) shall furnish to each individual whose name
9 is required under subsection (b)(2)(A) to be set forth in
10 such return a written statement showing—

11 “(1) the name and address of the person re-
12 quired to make such return and the phone number
13 of the information contact for such person,

14 “(2) the aggregate amount of payments de-
15 scribed in subsection (a) received by the person re-
16 quired to make such return from the individual to
17 whom the statement is required to be furnished, and

18 “(3) the information required under subsection
19 (b)(2)(B) with respect to such payments.

20 The written statement required under the preceding sen-
21 tence shall be furnished on or before January 31 of the
22 year following the calendar year for which the return
23 under subsection (a) is required to be made.

24 “(e) RETURNS WHICH WOULD BE REQUIRED TO BE
25 MADE BY 2 OR MORE PERSONS.—Except to the extent

1 provided in regulations prescribed by the Secretary, in the
2 case of any amount received by any person on behalf of
3 another person, only the person first receiving such
4 amount shall be required to make the return under sub-
5 section (a).”.

6 (2) ASSESSABLE PENALTIES.—

7 (A) Subparagraph (B) of section
8 6724(d)(1) of such Code (relating to defini-
9 tions) is amended by redesignating clauses (xiii)
10 through (xviii) as clauses (xiv) through (xix),
11 respectively, and by inserting after clause (xii)
12 the following new clause:

13 “(xiiii) section 6050U (relating to re-
14 turns relating to payments for qualified
15 health insurance),”.

16 (B) Paragraph (2) of section 6724(d) of
17 such Code is amended by striking “or” at the
18 end of the next to last subparagraph, by strik-
19 ing the period at the end of the last subpara-
20 graph and inserting “, or”, and by adding at
21 the end the following new subparagraph:

22 “(CC) section 6050U(d) (relating to re-
23 turns relating to payments for qualified health
24 insurance).”.

1 (3) CLERICAL AMENDMENT.—The table of sec-
 2 tions for subpart B of part III of subchapter A of
 3 chapter 61 of such Code is amended by inserting
 4 after the item relating to section 6050T the fol-
 5 lowing new item:

“Sec. 6050U. Returns relating to payments for qualified health insurance.”.

6 (d) CONFORMING AMENDMENTS.—

7 (1) Paragraph (2) of section 1324(b) of title
 8 31, United States Code, is amended by inserting “or
 9 36” after “section 35”.

10 (2) The table of sections for subpart C of part
 11 IV of subchapter A of chapter 1 of such Code is
 12 amended by striking the last item and inserting the
 13 following new items:

“Sec. 36. Health insurance costs.

“Sec. 37. Overpayments of tax.”.

14 (e) EFFECTIVE DATE.—The amendments made by
 15 this section shall apply to taxable years beginning after
 16 December 31, 2005.

17 **SEC. 102. ADVANCE PAYMENT OF CREDIT FOR PUR-**
 18 **CHASERS OF QUALIFIED HEALTH INSUR-**
 19 **ANCE.**

20 (a) IN GENERAL.—Chapter 77 of the Internal Rev-
 21 enue Code of 1986 (relating to miscellaneous provisions)
 22 is amended by inserting after section 7527 the following
 23 new section:

1 **“SEC. 7527A. ADVANCE PAYMENT OF HEALTH INSURANCE**
2 **CREDIT FOR PURCHASERS OF QUALIFIED**
3 **HEALTH INSURANCE.**

4 “(a) **GENERAL RULE.**—In the case of an eligible indi-
5 vidual, the Secretary shall make payments to the provider
6 of such individual’s qualified health insurance equal to
7 such individual’s qualified health insurance credit advance
8 amount with respect to such provider.

9 “(b) **ELIGIBLE INDIVIDUAL.**—For purposes of this
10 section, the term ‘eligible individual’ means any indi-
11 vidual—

12 “(1) who purchases qualified health insurance
13 (as defined in section 36(c)), and

14 “(2) for whom a qualified health insurance
15 credit eligibility certificate is in effect.

16 “(c) **QUALIFIED HEALTH INSURANCE CREDIT ELIGI-**
17 **BILITY CERTIFICATE.**—For purposes of this section, a
18 qualified health insurance credit eligibility certificate is a
19 statement furnished by an individual to the Secretary
20 which—

21 “(1) certifies that the individual will be eligible
22 to receive the credit provided by section 36 for the
23 taxable year,

24 “(2) estimates the amount of such credit for
25 such taxable year, and

1 “(3) provides such other information as the
2 Secretary may require for purposes of this section.

3 “(d) QUALIFIED HEALTH INSURANCE CREDIT AD-
4 VANCE AMOUNT.—For purposes of this section, the term
5 ‘qualified health insurance credit advance amount’ means,
6 with respect to any provider of qualified health insurance,
7 the Secretary’s estimate of the amount of credit allowable
8 under section 36 to the individual for the taxable year
9 which is attributable to the insurance provided to the indi-
10 vidual by such provider.

11 “(e) REGULATIONS.—The Secretary shall prescribe
12 such regulations as may be necessary to carry out the pur-
13 poses of this section.”.

14 (b) CLERICAL AMENDMENT.—The table of sections
15 for chapter 77 of such Code is amended by inserting after
16 the item relating to section 7527 the following new item:

“Sec. 7527A. Advance payment of health insurance credit for purchasers of
qualified health insurance.”.

17 (c) EFFECTIVE DATE.—The amendments made by
18 this section shall take effect on January 1, 2006.

19 **TITLE II—ASSURING HEALTH IN-**
20 **SURANCE COVERAGE FOR UN-**
21 **INSURABLE INDIVIDUALS**

22 **SEC. 201. ESTABLISHMENT OF HEALTH INSURANCE SAFETY**
23 **NETS.**

24 (a) IN GENERAL.—

1 (1) REQUIREMENT.—For years beginning with
2 2006, each health insurer, health maintenance orga-
3 nization, and health service organization shall be a
4 participant in a health insurance safety net (in this
5 title referred to as a “safety net”) established by the
6 State in which it operates.

7 (2) FUNCTIONS.—Any safety net shall assure,
8 in accordance with this title, the availability of quali-
9 fied health insurance coverage to uninsurable indi-
10 viduals.

11 (3) FUNDING.—Any safety net shall be funded
12 by an assessment against health insurers, health
13 service organizations, and health maintenance orga-
14 nizations on a pro rata basis of premiums collected
15 in the State in which the safety net operates. The
16 costs of the assessment may be added by a health
17 insurer, health service organization, or health main-
18 tenance organization to the costs of its health insur-
19 ance or health coverage provided in the State.

20 (4) GUARANTEED RENEWABLE.—Coverage
21 under a safety net shall be guaranteed renewable ex-
22 cept for nonpayment of premiums, material mis-
23 representation, fraud, medicare eligibility under title
24 XVIII of the Social Security Act (42 U.S.C. 1395 et

1 seq.), loss of dependent status, or eligibility for other
2 health insurance coverage.

3 (5) COMPLIANCE WITH NAIC MODEL ACT.—In
4 the case of a State that has not established, as of
5 the date of the enactment of this Act, a high risk
6 pool or other comprehensive health insurance pro-
7 gram that assures the availability of qualified health
8 insurance coverage to all eligible individuals residing
9 in the State, a safety net shall be established in ac-
10 cordance with the requirements of the “Model
11 Health Plan For Uninsurable Individuals Act” (or
12 the successor model Act), as adopted by the Na-
13 tional Association of Insurance Commissioners and
14 as in effect on the date of the safety net’s establish-
15 ment.

16 (b) DEADLINE.—Safety nets required under sub-
17 section (a) shall be established not later than January 1,
18 2006.

19 (c) WAIVER.—This title shall not apply in the case
20 of insurers and organizations operating in a State if the
21 State has established a similar comprehensive health in-
22 surance program that assures the availability of qualified
23 health insurance coverage to all eligible individuals resid-
24 ing in the State.

1 (d) RECOMMENDATION FOR COMPLIANCE REQUIRE-
2 MENT.—Not later than January 1, 2007, the Secretary
3 of Health and Human Services shall submit to Congress
4 a recommendation on appropriate sanctions for States
5 that fail to meet the requirement of subsection (a).

6 **SEC. 202. UNINSURABLE INDIVIDUALS ELIGIBLE FOR COV-**
7 **ERAGE.**

8 (a) UNINSURABLE AND ELIGIBLE INDIVIDUAL DE-
9 FINED.—In this title:

10 (1) UNINSURABLE INDIVIDUAL.—The term
11 “uninsurable individual” means, with respect to a
12 State, an eligible individual who presents proof of
13 uninsurability by a private insurer in accordance
14 with subsection (b) or proof of a condition previously
15 recognized as uninsurable by the State.

16 (2) ELIGIBLE INDIVIDUAL.—

17 (A) IN GENERAL.—The term “eligible indi-
18 vidual” means, with respect to a State, a citizen
19 or national of the United States (or an alien
20 lawfully admitted for permanent residence) who
21 is a resident of the State for at least 90 days
22 and includes any dependent (as defined for pur-
23 poses of the Internal Revenue Code of 1986) of
24 such a citizen, national, or alien who also is
25 such a resident.

1 (B) EXCEPTION.—An individual is not an
2 “eligible individual” if the individual—

3 (i) is covered by or eligible for benefits
4 under a State medicaid plan approved
5 under title XIX of the Social Security Act
6 (42 U.S.C. 1396 et seq.),

7 (ii) has voluntarily terminated safety
8 net coverage within the past 6 months,

9 (iii) has received the maximum benefit
10 payable under the safety net,

11 (iv) is an inmate in a public institu-
12 tion, or

13 (v) is eligible for other public or pri-
14 vate health care programs (including pro-
15 grams that pay for directly, or reimburse,
16 otherwise eligible individuals with pre-
17 miums charged for safety net coverage).

18 (b) PROOF OF UNINSURABILITY.—

19 (1) IN GENERAL.—The proof of uninsurability
20 for an individual shall be in the form of—

21 (A) a notice of rejection or refusal to issue
22 substantially similar health insurance for health
23 reasons by one insurer; or

24 (B) a notice of refusal by an insurer to
25 issue substantially similar health insurance ex-

1 cept at a rate in excess of the rate applicable
2 to the individual under the safety net plan.

3 For purposes of this paragraph, the term “health in-
4 surance” does not include insurance consisting only
5 of stoploss, excess of loss, or reinsurance coverage.

6 (2) EXCEPTION FOR INDIVIDUALS WITH UNIN-
7 SURABLE CONDITIONS.—The State shall promulgate
8 a list of medical or health conditions for which an
9 individual shall be eligible for safety net plan cov-
10 erage without applying for health insurance or estab-
11 lishing proof of uninsurability under paragraph (1).
12 Individuals who can demonstrate the existence or
13 history of any medical or health conditions on such
14 list shall not be required to provide the proof de-
15 scribed in paragraph (1). The list shall be effective
16 on the first day of the operation of the safety net
17 plan and may be amended from time to time as may
18 be appropriate.

19 **SEC. 203. QUALIFIED HEALTH INSURANCE COVERAGE**
20 **UNDER SAFETY NET.**

21 In this title, the term “qualified health insurance cov-
22 erage” means, with respect to a State, health insurance
23 coverage that provides benefits typical of major medical
24 insurance available in the individual health insurance mar-
25 ket in such State.

1 **SEC. 204. FUNDING OF SAFETY NET.**

2 (a) LIMITATIONS ON PREMIUMS.—

3 (1) IN GENERAL.—The premium established
4 under a safety net may not exceed 125 percent of
5 the applicable standard risk rate, except as provided
6 in paragraph (2).

7 (2) SURCHARGE FOR AVOIDABLE HEALTH
8 RISKS.—A safety net may impose a surcharge on
9 premiums for individuals with avoidable high risks,
10 such as smoking.

11 (b) ADDITIONAL FUNDING.—A safety net shall pro-
12 vide for additional funding through an assessment on all
13 health insurers, health service organizations, and health
14 maintenance organizations in the State through a non-
15 profit association consisting of all such insurers and orga-
16 nizations doing business in the State on an equitable and
17 pro rata basis consistent with section 201.

18 **SEC. 205. ADMINISTRATION.**

19 A safety net in a State shall be administered through
20 a contract with 1 or more insurers or third party adminis-
21 trators operating in the State.

22 **SEC. 206. AUTHORIZATION OF APPROPRIATIONS.**

23 There are authorized to be appropriated such sums
24 as may be necessary to reimburse States for their costs
25 in administering this title.

1 **TITLE III—INDIVIDUAL**
 2 **MEMBERSHIP ASSOCIATIONS**

3 **SEC. 301. EXPANSION OF ACCESS AND CHOICE THROUGH**
 4 **INDIVIDUAL MEMBERSHIP ASSOCIATIONS**
 5 **(IMAS).**

6 The Public Health Service Act is amended by adding
 7 at the end the following new title:

8 **“TITLE XXIX—INDIVIDUAL**
 9 **MEMBERSHIP ASSOCIATIONS**

10 **“SEC. 2901. DEFINITION OF INDIVIDUAL MEMBERSHIP AS-**
 11 **SOCIATION (IMA).**

12 “(a) IN GENERAL.—For purposes of this title, the
 13 terms ‘individual membership association’ and ‘IMA’
 14 mean a legal entity that meets the following requirements:

15 “(1) ORGANIZATION.—The IMA is an organiza-
 16 tion operated under the direction of an association
 17 (as defined in section 2904(1)).

18 “(2) OFFERING HEALTH BENEFITS COV-
 19 ERAGE.—

20 “(A) DIFFERENT GROUPS.—The IMA, in
 21 conjunction with those health insurance issuers
 22 that offer health benefits coverage through the
 23 IMA, makes available health benefits coverage
 24 in the manner described in subsection (b) to all
 25 members of the IMA and the dependents of

1 such members in the manner described in sub-
2 section (c)(2) at rates that are established by
3 the health insurance issuer or a policy or prod-
4 uct specific basis and that may vary only as
5 permissible under State law.

6 “(B) NONDISCRIMINATION IN COVERAGE
7 OFFERED.—

8 “(i) IN GENERAL.—Subject to clause
9 (ii), the IMA may not offer health benefits
10 coverage to a member of an IMA unless
11 the same coverage is offered to all such
12 members of the IMA.

13 “(ii) CONSTRUCTION.—Nothing in
14 this title shall be construed as requiring or
15 permitting a health insurance issuer to
16 provide coverage outside the service area of
17 the issuer, as approved under State law, or
18 preventing a health insurance issuer from
19 excluding or limiting the coverage on any
20 individual, subject to the requirement of
21 section 2741.

22 “(C) NO FINANCIAL UNDERWRITING.—The
23 IMA provides health benefits coverage only
24 through contracts with health insurance issuers

1 and does not assume insurance risk with re-
2 spect to such coverage.

3 “(3) GEOGRAPHIC AREAS.—Nothing in this title
4 shall be construed as preventing the establishment
5 and operation of more than one IMA in a geographic
6 area or as limiting the number of IMAs that may
7 operate in any area.

8 “(4) PROVISION OF ADMINISTRATIVE SERVICES
9 TO PURCHASERS.—

10 “(A) IN GENERAL.—The IMA may provide
11 administrative services for members. Such serv-
12 ices may include accounting, billing, and enroll-
13 ment information.

14 “(B) CONSTRUCTION.—Nothing in this
15 subsection shall be construed as preventing an
16 IMA from serving as an administrative service
17 organization to any entity

18 “(5) FILING INFORMATION.—The IMA files
19 with the Secretary information that demonstrates
20 the IMA’s compliance with the applicable require-
21 ments of this title.

22 “(b) HEALTH BENEFITS COVERAGE REQUIRE-
23 MENTS.—

1 “(1) COMPLIANCE WITH CONSUMER PROTEC-
2 TION REQUIREMENTS.—Any health benefits coverage
3 offered through an IMA shall—

4 “(A) be underwritten by a health insurance
5 issuer that—

6 “(i) is licensed (or otherwise regu-
7 lated) under State law,

8 “(ii) meets all applicable State stand-
9 ards relating to consumer protection, sub-
10 ject to section 2902(2), and

11 “(iii) offers the coverage under a con-
12 tract with the IMA; and

13 “(B) subject to paragraph (2) and section
14 2902(2), be approved or otherwise permitted to
15 be offered under State law.

16 “(2) EXAMPLES OF TYPES OF COVERAGE.—The
17 benefits coverage made available through an IMA
18 may include, but is not limited to, any of the fol-
19 lowing if it meets the other applicable requirements
20 of this title:

21 “(A) Coverage through a health mainte-
22 nance organization.

23 “(B) Coverage in connection with a pre-
24 ferred provider organization.

1 “(C) Coverage in connection with a li-
2 censed provider-sponsored organization.

3 “(D) Indemnity coverage through an insur-
4 ance company.

5 “(E) Coverage offered in connection with a
6 contribution into a medical savings account or
7 flexible spending account.

8 “(F) Coverage that includes a point-of-
9 service option.

10 “(G) Any combination of such types of
11 coverage.

12 “(3) HEALTH INSURANCE COVERAGE OP-
13 TIONS.—An IMA shall include a minimum of 2
14 health insurance coverage options. At least 1 option
15 shall meet all applicable State benefit mandates.

16 “(4) WELLNESS BONUSES FOR HEALTH PRO-
17 MOTION.—Nothing in this title shall be construed as
18 precluding a health insurance issuer offering health
19 benefits coverage through an IMA from establishing
20 premium discounts or rebates for members or from
21 modifying otherwise applicable copayments or
22 deductibles in return for adherence to programs of
23 health promotion and disease prevention so long as
24 such programs are agreed to in advance by the IMA
25 and comply with all other provisions of this title and

1 do not discriminate among similarly situated mem-
2 bers.

3 “(c) MEMBERS; HEALTH INSURANCE ISSUERS.—

4 “(1) MEMBERS.—

5 “(A) IN GENERAL.—Under rules estab-
6 lished to carry out this title, with respect to an
7 individual who is a member of an IMA, the in-
8 dividual may apply for health benefits coverage
9 (including coverage for dependents of such indi-
10 vidual) offered by a health insurance issuer
11 through the IMA.

12 “(B) RULES FOR ENROLLMENT.—Nothing
13 in this paragraph shall preclude an IMA from
14 establishing rules of enrollment and reenroll-
15 ment of members. Such rules shall be applied
16 consistently to all members within the IMA and
17 shall not be based in any manner on health sta-
18 tus-related factors.

19 “(2) HEALTH INSURANCE ISSUERS.—The con-
20 tract between an IMA and a health insurance issuer
21 shall provide, with respect to a member enrolled with
22 health benefits coverage offered by the issuer
23 through the IMA, for the payment of the premiums
24 collected by the issuer.

1 **“SEC. 2902. APPLICATION OF CERTAIN LAWS AND REQUIRE-**
2 **MENTS.**

3 “State laws insofar as they relate to any of the fol-
4 lowing are superseded and shall not apply to health bene-
5 fits coverage made available through an IMA:

6 “(1) Benefit requirements for health benefits
7 coverage offered through an IMA, including (but not
8 limited to) requirements relating to coverage of spe-
9 cific providers, specific services or conditions, or the
10 amount, duration, or scope of benefits, but not in-
11 cluding requirements to the extent required to imple-
12 ment title XXVII or other Federal law and to the
13 extent the requirement prohibits an exclusion of a
14 specific disease from such coverage.

15 “(2) Any other requirement (including limita-
16 tions on compensation arrangements) that, directly
17 or indirectly, preclude (or have the effect of pre-
18 cluding) the offering of such coverage through an
19 IMA, if the IMA meets the requirements of this
20 title.

21 Any State law or regulation relating to the composition
22 or organization of an IMA is preempted to the extent the
23 law or regulation is inconsistent with the provisions of this
24 title.

1 **“SEC. 2903. ADMINISTRATION.**

2 “(a) IN GENERAL.—The Secretary shall administer
3 this title and is authorized to issue such regulations as
4 may be required to carry out this title. Such regulations
5 shall be subject to Congressional review under the provi-
6 sions of chapter 8 of title 5, United States Code. The Sec-
7 retary shall incorporate the process of ‘deemed file and
8 use’ with respect to the information filed under section
9 2901(a)(5)(A) and shall determine whether information
10 filed by an IMA demonstrates compliance with the applica-
11 ble requirements of this title. The Secretary shall exercise
12 authority under this title in a manner that fosters and
13 promotes the development of IMAs in order to improve
14 access to health care coverage and services.

15 “(b) PERIODIC REPORTS.—The Secretary shall sub-
16 mit to Congress a report every 30 months, during the 10-
17 year period beginning on the effective date of the rules
18 promulgated by the Secretary to carry out this title, on
19 the effectiveness of this title in promoting coverage of un-
20 insured individuals. The Secretary may provide for the
21 production of such reports through one or more contracts
22 with appropriate private entities.

23 **“SEC. 2904. DEFINITIONS.**

24 “For purposes of this title:

1 “(1) ASSOCIATION.—The term ‘association’
2 means, with respect to health insurance coverage of-
3 fered in a State, an association which—

4 “(A) has been actively in existence for at
5 least 5 years;

6 “(B) has been formed and maintained in
7 good faith for purposes other than obtaining in-
8 surance;

9 “(C) does not condition membership in the
10 association on any health status-related factor
11 relating to an individual (including an employee
12 of an employer or a dependent of an employee);
13 and

14 “(D) does not make health insurance cov-
15 erage offered through the association available
16 other than in connection with a member of the
17 association.

18 “(2) DEPENDENT.—The term ‘dependent’, as
19 applied to health insurance coverage offered by a
20 health insurance issuer licensed (or otherwise regu-
21 lated) in a State, shall have the meaning applied to
22 such term with respect to such coverage under the
23 laws of the State relating to such coverage and such
24 an issuer. Such term may include the spouse and
25 children of the individual involved.

1 “(3) HEALTH BENEFITS COVERAGE.—The term
2 ‘health benefits coverage’ has the meaning given the
3 term health insurance coverage in section
4 2791(b)(1).

5 “(4) HEALTH INSURANCE ISSUER.—The term
6 ‘health insurance issuer’ has the meaning given such
7 term in section 2791(b)(2).

8 “(5) HEALTH STATUS-RELATED FACTOR.—The
9 term ‘health status-related factor’ has the meaning
10 given such term in section 2791(d)(9).

11 “(6) IMA; INDIVIDUAL MEMBERSHIP ASSOCIA-
12 TION.—The terms ‘IMA’ and ‘individual membership
13 association’ are defined in section 2901(a).

14 “(7) MEMBER.—The term ‘member’ means,
15 with respect to the IMA, an individual who is a
16 member of the association to which the IMA is offer-
17 ing coverage.”.

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