

112TH CONGRESS
2D SESSION

S. 2196

To provide higher-quality, lower-cost health care to seniors.

IN THE SENATE OF THE UNITED STATES

MARCH 15, 2012

Mr. PAUL (for himself, Mr. GRAHAM, Mr. LEE, and Mr. DEMINT) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To provide higher-quality, lower-cost health care to seniors.

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 “Congressional Health
5 Care for Seniors Act of 2012”.

6 **SEC. 2. ENROLLING SENIORS IN THE SAME HEALTH CARE**
7 **PLANS AS MEMBERS OF CONGRESS.**

8 (a) IN GENERAL.—Chapter 89 of title 5, United
9 States Code, is amended—

10 (1) in section 8901—

1 (A) in paragraph (10), by striking “and”
2 at the end;

3 (B) in paragraph (11), by striking the pe-
4 riod at the end and inserting “; and”; and

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

6 “(12) the term ‘covered individual’ means an
7 individual who, taking into account section 226(k) of
8 the Social Security Act, would have been entitled to,
9 or could have enrolled for, benefits under part A of
10 title XVIII of such Act or could have enrolled under
11 part B of such title if section 1899B had not been
12 enacted.”;

13 (2) by inserting after section 8901 the fol-
14 lowing:

15 “SUBCHAPTER I—FEDERAL EMPLOYEES”;

16 (3) in section 8902—

17 (A) in subsection (a)—

18 (i) by inserting “(1)” after “(a)”; and

19 (ii) by adding at the end the fol-
20 lowing:

21 “(2)(A) In this paragraph, the term ‘equivalent
22 health benefits plan’ means a health benefits plan pro-
23 posed to be provided that offers benefits that the Director
24 of the Office of Personnel Management determines are
25 substantially equivalent or superior to benefits offered

1 under, and does not impose requirements that are sub-
 2 stantially different than requirements under, a health ben-
 3 efits plan in which an employee could enroll on the date
 4 of enactment of the Congressional Health Care for Seniors
 5 Act of 2012 if the employee resided—

6 “(i) anywhere in the United States; or

7 “(ii) in the same region of the United States as
 8 the health benefits plan proposed to be provided.

9 “(B) For contract years beginning on or after Janu-
 10 ary 1, 2014, if a carrier offers to provide an equivalent
 11 health benefits plan, the Director shall enter into a con-
 12 tract with the carrier to provide the equivalent health ben-
 13 efits plan.”;

14 (B) in subsection (e), by striking “The Of-
 15 fice may prescribe” and inserting “Subject to
 16 subsection (a)(2), the Office may prescribe”;
 17 and

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

19 “(p) A contract under this chapter for a contract year
 20 beginning on or after January 1, 2014, shall offer benefits
 21 for employees, annuitants, members of their families,
 22 former spouses, persons having continued coverage under
 23 section 8905a of this title, and covered individuals. In ad-
 24 ministering this subchapter and subchapter II, employees,
 25 annuitants, members of their families, former spouses,

1 persons having continued coverage under section 8905a of
 2 this title, and covered individuals shall be in the same risk
 3 pool.”;

4 (4) in section 8904—

5 (A) by striking “(a) The benefits” and in-
 6 serting “The benefits”;

7 (B) by striking “this subsection” each
 8 place it appears and inserting “this section”;
 9 and

10 (C) by striking subsection (b);

11 (5) in section 8909(a)(1), by inserting “and for
 12 all payments under section 8921(d)” before the
 13 semicolon;

14 (6) in section 8910, by striking subsection (d);
 15 and

16 (7) by adding at the end the following:

17 “SUBCHAPTER II—COVERED INDIVIDUALS

18 “§ 8921. **Health insurance for covered individuals**

19 “(a) For contract years beginning on or after Janu-
 20 ary 1, 2014, and except as otherwise provided in this sub-
 21 chapter, the Director of the Office of Personnel Manage-
 22 ment shall ensure that to the greatest extent possible
 23 health benefits plans provide benefits for covered individ-
 24 uals to the same extent and in the same manner as pro-
 25 vided under subchapter I for employees, annuitants, mem-

1 bers of their families, former spouses, and persons having
2 continued coverage under section 8905a of this title.

3 “(b)(1) The Director shall establish the deadline by
4 which a covered individual shall elect to—

5 “(A) enroll in a health benefits plan under this
6 chapter based on the status of the individual as a
7 covered individual;

8 “(B) with the concurrence of the employer or
9 former employer of the covered individual, receive
10 payments under subsection (d) to assist in paying
11 for health insurance provided through the employer
12 or former employer of the covered individual; or

13 “(C) not enroll in a health benefits plan or re-
14 ceive payments under this chapter.

15 “(2) Failure to make a timely election under this sub-
16 section shall be deemed as an election to not enroll in a
17 health benefits plan or receive payment under this chapter.

18 “(3) A covered individual—

19 “(A) may elect to enroll in a health benefits
20 plan as an individual; and

21 “(B) may not enroll in a health benefits plan
22 for self and family.

23 “(4)(A) A covered individual who elects not to enroll,
24 or who elects not to continue enrollment, in a health bene-
25 fits plan under this chapter (including a covered individual

1 who elects to receive payments under subsection (d)) may
2 subsequently enroll in a health benefits plan under this
3 chapter based on the status of the covered individual as
4 a covered individual in accordance with such procedures,
5 and after paying such fees, as the Director of the Office
6 of Personnel Management may establish.

7 “(B) The fact that a covered individual elects not to
8 enroll, or elects not to continue enrollment, in a health
9 benefits plan under this chapter shall not affect the eligi-
10 bility of the covered individual for benefits under title II
11 of the Social Security Act (42 U.S.C. 401 et seq.).

12 “(c)(1)(A) A covered individual who elects to enroll
13 in a health benefits plan under this chapter based on the
14 status of the covered individual as a covered individual
15 shall pay a monthly individual premium payment deter-
16 mined in accordance with subparagraph (B).

17 “(B) The individual premium payment under sub-
18 paragraph (A) shall be determined based on income, as
19 follows:

20 “(i) For an individual with an adjusted gross
21 income (as defined under section 62 of the Internal
22 Revenue Code of 1986) of not more than \$85,000,
23 the individual premium payment shall be in an
24 amount equal to the employee contribution for the

1 health benefits plan, as determined under section
2 8906.

3 “(ii) For an individual with an adjusted gross
4 income of more than \$85,000 and not more than
5 \$107,000, the individual premium payment shall be
6 in an amount equal to the sum of—

7 “(I) the employee contribution for the
8 health benefits plan, as determined under sec-
9 tion 8906; and

10 “(II) the product obtained by multi-
11 plying—

12 “(aa) the Government contribution
13 (as determined under section 8906(b)); by

14 “(bb) 0.05.

15 “(iii) For an individual with an adjusted gross
16 income of more than \$107,000 and not more than
17 \$160,000, the individual premium payment shall be
18 in an amount equal to the sum of—

19 “(I) the employee contribution for the
20 health benefits plan, as determined under sec-
21 tion 8906; and

22 “(II) the product obtained by multi-
23 plying—

24 “(aa) the Government contribution
25 (as determined under section 8906(b)); by

1 “(bb) 0.1.

2 “(iv) For an individual with an adjusted gross
3 income of more than \$160,000 and not more than
4 \$250,000, the individual premium payment shall be
5 in an amount equal to the sum of—

6 “(I) the employee contribution for the
7 health benefits plan, as determined under sec-
8 tion 8906; and

9 “(II) the product obtained by multi-
10 plying—

11 “(aa) the Government contribution
12 (as determined under section 8906(b)); by

13 “(bb) 0.15.

14 “(v) For an individual with an adjusted gross
15 income of more than \$250,000 and not more than
16 \$1,000,000, the individual premium payment shall
17 be in an amount equal to the sum of—

18 “(I) the employee contribution for the
19 health benefits plan, as determined under sec-
20 tion 8906; and

21 “(II) the product obtained by multi-
22 plying—

23 “(aa) the Government contribution
24 (as determined under section 8906(b)); by

25 “(bb) 0.5.

1 “(vi) For an individual with an adjusted gross
2 income of more than \$1,000,000, the individual pre-
3 mium payment shall be in an amount equal to the
4 sum of—

5 “(I) the employee contribution for the
6 health benefits plan, as determined under sec-
7 tion 8906; and

8 “(II) the Government contribution (as de-
9 termined under section 8906(b)).

10 “(C) The Director of the Office of Personnel Manage-
11 ment shall adjust the income amounts under subpara-
12 graph (B) annually to reflect changes in the Consumer
13 Price Index for all Urban Consumers published by the De-
14 partment of Labor.

15 “(2)(A) For a covered individual who is entitled to
16 monthly benefits under section 202 or 223 of the Social
17 Security Act (42 U.S.C. 402 and 423), the monthly pre-
18 miums of the covered individual under this subchapter
19 shall (except as provided in subparagraph (B) or (C)) be
20 collected by deducting the amount of the premium from
21 the amount of such monthly benefits.

22 “(B) For a covered individual who is entitled to re-
23 ceive for a month an annuity under the Railroad Retire-
24 ment Act of 1974 (whether or not the covered individual
25 is also entitled for such month to a monthly insurance ben-

1 efit under section 202 of the Social Security Act (42
2 U.S.C. 402)), the monthly premiums of the covered indi-
3 vidual under this subchapter shall (except as provided in
4 subparagraph (C)) be collected by deducting the amount
5 thereof from such annuity or pension.

6 “(C) If a covered individual to whom subparagraph
7 (A) or (B) applies estimates that the amount which will
8 be available for deduction under such subparagraph for
9 any premium payment period will be less than the amount
10 of the monthly premiums for such period, the covered indi-
11 vidual may pay to the Director of the Office of Personnel
12 Management such portion of the monthly premiums for
13 such period as the covered individual desires.

14 “(D) For a covered individual who is not described
15 in subparagraph (A) or (B) and who elects to enroll in
16 a health benefits plan under this chapter, or with respect
17 to whom subparagraph (C) applies, the covered individual
18 shall pay monthly premiums to the Director of the Office
19 of Personnel Management at such times, and in such man-
20 ner, as the Director shall by regulations prescribe.

21 “(E) Amounts deducted or paid under this paragraph
22 shall be deposited in the Treasury to the credit of the Em-
23 ployees Health Benefits Fund established under section
24 8909.

1 “(F) After consultation with the Director of the Of-
2 fice of Personnel Management, the Secretary of Health
3 and Human Services shall establish procedures for making
4 and depositing deductions under this paragraph.

5 “(3) The Director of the Office of Personnel Manage-
6 ment shall establish procedures for terminating the enroll-
7 ment of a covered individual in a health benefits plan if
8 the covered individual fails to make timely payment of pre-
9 miums, which shall allow such a covered individual to re-
10 enroll in a health benefits plan under such terms and con-
11 ditions as the Director may prescribe.

12 “(d) The Director of the Office of Personnel Manage-
13 ment shall make periodic payments to the employer or
14 former employer providing health insurance to a covered
15 individual who makes an election under subsection
16 (b)(1)(B) in a total amount not to exceed the lesser of—

17 “(1) the cost to the employer or former em-
18 ployer of providing health insurance to the covered
19 individual; and

20 “(2) the average Government contribution for
21 an individual enrolled in a health benefits plan under
22 this chapter that is available to individuals residing
23 anywhere in the United States.

24 “(e) For fiscal year 2014 and each fiscal year there-
25 after, there are appropriated to the Employees Health

1 Benefits Fund established under section 8909, out of any
2 funds in the Treasury not otherwise appropriated—

3 “(1) an amount equal to—

4 “(A) the taxes imposed by sections
5 3101(b) and 3111(b) of the Internal Revenue
6 Code of 1986 with respect to wages reported to
7 the Secretary of the Treasury pursuant to sub-
8 title F of such Code after December 31, 2013,
9 as determined by the Secretary of the Treasury
10 by applying the applicable rates of tax under
11 such sections to such wages, which wages shall
12 be certified by the Commissioner of Social Se-
13 curity on the basis of records of wages estab-
14 lished and maintained by the Commissioner of
15 Social Security in accordance with such reports;

16 “(B) the taxes imposed by section 1401(b)
17 of the Internal Revenue Code of 1986 with re-
18 spect to self-employment income reported to the
19 Secretary of the Treasury on tax returns under
20 subtitle F of such Code, as determined by the
21 Secretary of the Treasury by applying the ap-
22 plicable rate of tax under such section to such
23 self-employment income, which self-employment
24 income shall be certified by the Commissioner
25 of Social Security on the basis of records of

1 self-employment established and maintained by
2 the Commissioner of Social Security in accord-
3 ance with such returns; and

4 “(C) any amounts that, on or after Janu-
5 ary 1, 2014, are to be deposited in the Federal
6 Hospital Insurance Trust Fund established
7 under section 1817 of the Social Security Act
8 (42 U.S.C. 1395i) under any other provision of
9 law; and

10 “(2) a Government contribution equal to the
11 difference obtained by subtracting—

12 “(A) the sum of—

13 “(i) the total amount of premiums
14 paid by covered individuals under sub-
15 section (c)(2) for the fiscal year; and

16 “(ii) the amount appropriated under
17 paragraph (1); from

18 “(B) the sum of—

19 “(i) the total cost for the fiscal year
20 of subscription charges for health benefits
21 plans for covered individuals enrolled in a
22 health benefits plan based on the status of
23 the covered individuals as covered individ-
24 uals; and

1 “(b) After the end of each contract year beginning
2 on or after January 1, 2014, the Director of the Office
3 of Personnel Management shall—

4 “(1) identify the high risk individuals for the
5 contract year; and

6 “(2) pay to a carrier contracting to provide a
7 health benefits plan to a high risk individual for the
8 contract year 90 percent of the benefits paid by the
9 carrier relating to the high risk individual.

10 “(c)(1) For fiscal year 2014 and each fiscal year
11 thereafter, there are appropriated to the Director of the
12 Office of Personnel Management from the Federal Hos-
13 pital Insurance Trust Fund established under section
14 1817 of the Social Security Act (42 U.S.C. 1395i) such
15 sums as are necessary to carry out this section.

16 “(2) If the amounts appropriated under paragraph
17 (1) are insufficient to carry out this section, for fiscal year
18 2014 and each fiscal year thereafter, there are appro-
19 priated to the Director of the Office of Personnel Manage-
20 ment, out of any funds in the Treasury not otherwise ap-
21 propriated, such sums as are necessary to carry out this
22 section.”.

23 (b) EXEMPTION FROM INSURANCE REQUIRE-
24 MENTS.—

1 (1) AMENDMENT TO TITLE 5.—Chapter 89 of
2 title 5, United States Code, is amended by inserting
3 after section 8901 the following:

4 **“§ 8901A. Exemption from insurance requirements**

5 “Title I of the Patient Protection and Affordable
6 Care Act, subtitle A of title X of such Act, and the amend-
7 ments made by such title I and subtitle A shall not apply
8 to health benefits plans.”.

9 (2) CONFORMING AMENDMENT.—Section 2709
10 of the Public Health Service Act (42 U.S.C. 300gg–
11 8) (as added by section 10103 of the Patient Protec-
12 tion and Affordable Care Act) is amended—

13 (A) by striking subsection (g); and

14 (B) by redesignating subsection (h) as sub-
15 section (g).

16 (c) TECHNICAL AND CONFORMING AMENDMENTS.—
17 Chapter 89 of title 5, United States Code, is amended—

18 (1) in the table of sections—

19 (A) by inserting after the item relating to
20 section 8901 the following:

“8901A. Exemption from insurance requirements.

“SUBCHAPTER I—FEDERAL EMPLOYEES”;

21 and

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

“SUBCHAPTER II—COVERED INDIVIDUALS

“8921. Health insurance for covered individuals.

“SUBCHAPTER III—HIGH RISK POOL

“8941. Reimbursement of costs for high risk individuals.”;

1 (2) in section 8902a(d)(1)—

2 (A) in subparagraph (A), by adding “or”
3 at the end;

4 (B) by striking subparagraph (B); and

5 (C) by redesignating subparagraph (C) as
6 subparagraph (B); and

7 (3) by striking section 8910(d).

8 (d) EFFECTIVE DATE; APPLICABILITY.—The amend-
9 ments made by this section shall take effect on the date
10 of enactment of this Act and apply on and after January
11 1, 2014.

12 **SEC. 3. TRANSITIONING MEDICARE PATIENTS TO COV-**
13 **ERAGE UNDER THE FEDERAL EMPLOYEES**
14 **HEALTH BENEFITS PROGRAM.**

15 (a) INCREASE IN MEDICARE ELIGIBILITY AGE.—Sec-
16 tion 226 of the Social Security Act (42 U.S.C. 426) is
17 amended by adding at the end the following new sub-
18 section:

19 “(k) INCREASING MEDICARE QUALIFYING AGE.—

20 “(1) IN GENERAL.—Notwithstanding any other
21 provision of law, any reference in this section and
22 title XVIII, title XIX to age 65 shall be deemed a
23 reference to the Medicare qualifying age specified in
24 paragraph (2).

1 “(2) MEDICARE QUALIFYING AGE SPECIFIED.—

2 The Medicare qualifying age specified in this para-
3 graph is determined as follows:

4 “(A) In the case of an individual who at-
5 tains 65 years of age before January 1, 2014,
6 the Medicare qualifying age is 65 years of age.

7 “(B) In the case of an individual who at-
8 tains 65 years of age in a year after 2013, and
9 before 2034, the Medicare qualifying age is the
10 Medicare qualifying age specified in this para-
11 graph for the previous year increased by 3
12 months.

13 “(C) In the case of an individual who at-
14 tains 65 years of age in a year after 2033, the
15 Medicare qualifying age is 70 years of age plus
16 the number of months in the age increase factor
17 (as determined under paragraph (3)).

18 “(3) AGE INCREASE FACTOR.—The Commis-
19 sioner of Social Security shall determine (using rea-
20 sonable actuarial assumptions) and publish on or be-
21 fore November 1 of each calendar year after 2032
22 the number of months (rounded, if not a multiple of
23 one month, to the next lower multiple of one month)
24 by which life expectancy as of October 1 of such cal-
25 endar year of an individual attaining age 65 on such

1 October 1 exceeds the life expectancy as of October
2 1, 2033, of an individual attaining age 65 on Octo-
3 ber 1, 2033. With respect to an individual who at-
4 tains age 65 in the calendar year following any cal-
5 endar year in which a determination is made under
6 this paragraph, the age increase factor shall be the
7 number of months determined under this paragraph
8 as of October 1 of such calendar year in which such
9 determination is made.”.

10 (b) SUNSET.—Title XVIII of the Social Security Act
11 (42 U.S.C. 1395 et seq.) is amended by adding at the end
12 the following new section:

13 “SUNSET OF MEDICARE PROGRAM WITH TRANSITION TO
14 COVERAGE UNDER THE FEDERAL EMPLOYEES
15 HEALTH BENEFITS PROGRAM

16 “SEC. 1899B. Notwithstanding any other provision
17 of law, on and after January 1, 2014, the following rules
18 shall apply:

19 “(1) The preceding provisions of this title shall
20 not apply.

21 “(2) No payments for items and services fur-
22 nished under this title after such date shall be made.
23 No additional, bonus, or incentive payments under
24 this title, such as graduate medical education pay-
25 ments, may be made.

1 “(3) Payments for items and services furnished
2 under this title prior to such date shall be made in
3 the same manner as if this section had not been en-
4 acted.

5 “(4) All Medicare supplemental policies under
6 section 1882 are terminated.

7 “(5) All demonstration projects conducted
8 under this title are terminated.

9 “(6) Entitlement to health benefits for individ-
10 uals who, but for this section (and taking into ac-
11 count section 226(k)), would have been entitled to,
12 or could have enrolled for, benefits under part A or
13 could have enrolled under part B shall be through
14 enrollment in a health benefits plan under chapter
15 89 of title 5, United States Code.

16 “(7) At a date determined appropriate by the
17 Secretary (after payments described in paragraph
18 (3) have been made), amounts in the Federal Hos-
19 pital Insurance Trust Fund and the Federal Supple-
20 mentary Medical Insurance Trust Fund (including
21 the Medicare Prescription Drug Account within such
22 Trust Fund) shall be transferred to the Employees
23 Health Benefits Fund established under section
24 8909 of chapter 5, United States Code.

1 “(8) Any determination under Federal law
2 (other than this title and title II) relating to Medi-
3 care eligibility shall be made based on whether an
4 individual is a covered individual, as defined in sec-
5 tion 8901 of title 5, United States Code.”.

6 (c) CONFORMING AMENDMENT.—(1) Section 226 of
7 the Social Security Act (42 U.S.C. 426) is amended by
8 adding at the end the following new subsection:

9 “(k) Notwithstanding the preceding provisions of this
10 section, on and after January 1, 2014, entitlement to
11 health benefits to individuals who, but for this subsection
12 and section 1899B, would have been entitled to benefits
13 under part A and eligible to enroll under part B of title
14 XVIII pursuant to this section shall be through enrollment
15 in a health benefits plan under chapter 89 of title 5,
16 United States Code, rather than under title XVIII of this
17 Act.”.

18 (2) Section 226A of the Social Security Act (42
19 U.S.C. 426) is amended by adding at the end the following
20 new subsection:

21 “(d) Notwithstanding the preceding provisions of this
22 section, on and after January 1, 2014, entitlement to
23 health benefits to individuals who, but for this subsection
24 and section 1899B, would have been entitled to benefits
25 under part A and eligible to enroll under part B of title

1 XVIII pursuant to this section shall be through enrollment
2 in a health benefits plan under chapter 89 of title 5,
3 United States Code, rather than under title XVIII of this
4 Act.”.

5 (d) RECOMMENDATIONS TO STATES.—Not later than
6 1 year after the date of the enactment of this Act, the
7 Secretary of Health and Human Services shall make avail-
8 able to States recommendations with respect to require-
9 ments for health care entities and individuals under the
10 Medicare program that, by reason of section 1899B of the
11 Social Security Act, as added by subsection (b), will no
12 longer apply but that should be considered on the State
13 level.

○