

115TH CONGRESS  
1ST SESSION

# H. R. 4094

To establish a public health plan.

---

## IN THE HOUSE OF REPRESENTATIVES

OCTOBER 23, 2017

Mr. HIGGINS of New York (for himself, Mr. LARSON of Connecticut, Mr. COURTNEY, Mr. SCOTT of Virginia, Mr. O'ROURKE, and Mr. POLIS) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, 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 establish a public health 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 “Medicare-X Choice Act  
5 of 2017”.

6 **SEC. 2. ESTABLISHMENT AND ADMINISTRATION OF A PUB-**  
7 **LIC HEALTH PLAN.**

8 The Social Security Act is amended by adding at the  
9 end the following new title:

1                   **“TITLE XXII—MEDICARE**  
2                   **EXCHANGE HEALTH PLAN**

3   **“SEC. 2201. ESTABLISHMENT.**

4           “(a) ESTABLISHMENT OF PLAN.—

5                   “(1) IN GENERAL.—The Secretary shall estab-  
6           lish a coordinated and low-cost health plan, to be  
7           known as the ‘Medicare Exchange health plan’ (re-  
8           ferred to in this section as the ‘health plan’) to pro-  
9           vide access to quality health care for enrollees.

10                   “(2) TIMEFRAME.—

11                           “(A) INDIVIDUAL MARKET AVAIL-  
12           ABILITY.—

13                                   “(i) IN GENERAL.—In accordance  
14           with clause (ii), the Secretary shall make  
15           the health plan available in the individual  
16           market, in certain rating areas, for plan  
17           year 2020 and each subsequent plan year,  
18           and increase the availability such that the  
19           plan is available in the individual market  
20           to all residents of all rating areas in the  
21           United States for plan year 2023 and each  
22           subsequent plan year.

23                                   “(ii) PRIORITY AREAS.—In deter-  
24           mining in which rating areas the Secretary  
25           initially will make the health plan avail-

1           able, the Secretary shall give priority to  
2           rating areas in which—

3                   “(I) not more than 1 health in-  
4                   surance issuer offers plans on the ap-  
5                   plicable State or Federal American  
6                   Health Benefit Exchange (referred to  
7                   in this title as the ‘Exchange’); or

8                   “(II) there is a shortage of  
9                   health providers or lack of competition  
10                  that results in a high cost of health  
11                  care services, including health profes-  
12                  sional shortage areas and rural areas.

13                  “(B) SMALL GROUP MARKET.—The Sec-  
14                  retary shall make the health plan available in  
15                  the small group market in all rating areas for  
16                  plan year 2024.

17           “(b) ESTABLISHMENT OF FUNDS.—

18                   “(1) PLAN RESERVE FUND.—

19                           “(A) IN GENERAL.—There is established in  
20                           the Treasury of the United States a ‘Plan Re-  
21                           serve Fund’, to be administered by the Sec-  
22                           retary of Health and Human Services, for pur-  
23                           poses of establishing the Medicare Exchange  
24                           health plan and administering such plan, con-  
25                           sisting of amounts appropriated to such fund.

1           “(B) APPROPRIATION.—There is appro-  
2           priated \$1,000,000,000, out of monies in the  
3           Treasury not otherwise obligated, to the Plan  
4           Reserve Fund for fiscal year 2018.

5           “(2) DATA AND TECHNOLOGY FUND.—There is  
6           established in the Treasury of the United States a  
7           ‘Data and Technology Fund’, to be administered by  
8           the Secretary of Health and Human Services, acting  
9           through the Chief Actuary of the Centers for Medi-  
10          care & Medicaid Services, for purposes of updating  
11          technology and performing data collection under sec-  
12          tion 2205 in order to establish appropriate pre-  
13          miums for all geographic regions of the United  
14          States. There are authorized to be appropriated to  
15          the Data and Technology Fund such sums as may  
16          be necessary for fiscal year 2018.

17          “(c) RULEMAKING.—The Secretary may promulgate  
18          such regulations as may be necessary to carry out this  
19          title.

20          **“SEC. 2202. AVAILABILITY OF PLAN.**

21          “(a) ELIGIBILITY.—An individual shall be eligible to  
22          enroll in the health plan if such individual, for the entire  
23          period for which enrollment is sought—

1           “(1) is a qualified individual within the mean-  
2           ing of section 1312 of the Patient Protection and  
3           Affordable Care Act (42 U.S.C. 18032); and

4           “(2) is not eligible for benefits under the Medi-  
5           care program under title XVIII.

6           “(b) EXCHANGES.—In accordance with the time-  
7           frame under section 2201(a)(2), the health plan shall be  
8           made available through the American Health Benefit Ex-  
9           changes described in sections 1311 and 1321 of the Pa-  
10          tient Protection and Affordable Care Act (42 U.S.C.  
11          18031, 18041), including the Small Business Health Op-  
12          tions Program Exchange.

13          **“SEC. 2203. PLAN REQUIREMENTS.**

14          “(a) GENERAL REQUIREMENTS.—The health plan  
15          shall comply with all requirements of subtitle D of title  
16          I of the Patient Protection and Affordable Care Act (42  
17          U.S.C. 18021 et seq.) and title XXVII of the Public  
18          Health Service Act (42 U.S.C. 300gg et seq.) applicable  
19          to qualified health plans, and such health plan shall be  
20          a qualified health plan, including for purposes of the Inter-  
21          nal Revenue Code of 1986.

22          “(b) LEVELS OF COVERAGE.—The Secretary—

23                  “(1) shall make available a silver level and gold  
24                  level version of the plan, in accordance with section  
25                  1301(a)(1)(C)(ii); and

1           “(2) may make available no more than 2  
2           versions of the plan for each of the 4 levels of cov-  
3           erage described in subparagraphs (A) through (D) of  
4           section 1302(d)(1) of the Patient Protection and Af-  
5           fordable Care Act (42 U.S.C. 18022(d)(1)).

6   **“SEC. 2204. ADMINISTRATIVE CONTRACTING.**

7           “(a) IN GENERAL.—The Secretary may enter into  
8           contracts for the purpose of performing administrative  
9           functions (including functions described in subsection  
10          (a)(4) of section 1874A) with respect to the health plan  
11          in the same manner as the Secretary may enter into con-  
12          tracts under subsection (a)(1) of such section. The Sec-  
13          retary shall have the same authority with respect to the  
14          public health insurance option as the Secretary has under  
15          such subsection (a)(1) and subsection (b) of section 1874A  
16          with respect to title XVIII.

17          “(b) TRANSFER OF INSURANCE RISK.—Any contract  
18          under subsection (a) shall not involve the transfer of in-  
19          surance risk from the Secretary to the entity entering into  
20          such contract with the Secretary, except in the case of an  
21          alternative payment model under section 2209(h).

22   **“SEC. 2205. DATA COLLECTION.**

23          “Subject to all applicable privacy requirements, in-  
24          cluding the requirements under the regulations promul-  
25          gated pursuant to section 264(c) of the Health Insurance

1 Portability and Accountability Act of 1996 (42 U.S.C.  
2 1320d–2 note), the Secretary may collect data from State  
3 insurance commissioners and other relevant entities to es-  
4 tablish rates for premiums and for other purposes includ-  
5 ing to improve quality, and reduce racial, ethnic, and other  
6 disparities, with respect to the health plan.

7 **“SEC. 2206. PREMIUMS; RISK POOLS; REINSURANCE.**

8       “(a) PREMIUM AMOUNTS.—The Secretary shall es-  
9 tablish premiums for the health plan that cover the full  
10 actuarial cost of offering such plan, including the adminis-  
11 trative costs of offering such plan. Such premiums shall  
12 vary geographically and between the small group market  
13 and the individual market in accordance with differences  
14 in the cost of providing such coverage. If, for any plan  
15 year, the amount collected in premiums exceeds the  
16 amount required for health care benefits and administra-  
17 tive costs in that plan year, such excess amounts shall re-  
18 main available to the Secretary to administer the health  
19 plan and finance beneficiary costs in subsequent years.

20       “(b) RISK POOL.—All enrollees in the health plan  
21 within a State shall be members of a single risk pool, ex-  
22 cept that the Secretary may establish separate risk pools  
23 for the individual market and small group market if the  
24 State has not exercised its authority under section

1 1312(c)(3) of the Patient Protection and Affordable Care  
2 Act (42 U.S.C. 18032(c)(3)).

3 “(c) REINSURANCE.—Notwithstanding subsection  
4 (b), the Secretary may establish a mechanism to pool the  
5 costs of the highest-cost patients on a nationwide basis  
6 to the extent such costs are not already pooled pursuant  
7 to section 1343 of the Patient Protection and Affordable  
8 Care Act (42 U.S.C. 18063).

9 **“SEC. 2207. REIMBURSEMENT RATES.**

10 “(a) MEDICARE RATES.—

11 “(1) IN GENERAL.—Except as provided in para-  
12 graph (2) and subsections (b) and (c) and subject to  
13 subsection (d), the Secretary shall reimburse health  
14 care providers furnishing items and services under  
15 the health plan at rates determined for equivalent  
16 items and services under the original Medicare fee-  
17 for-service program under parts A and B of title  
18 XVIII.

19 “(2) AUTHORITY TO INCREASE PAYMENTS  
20 RATES IN RURAL AREAS.—If the Secretary deter-  
21 mines appropriate, the Secretary may increase the  
22 reimbursements rates described in paragraph (1) by  
23 up to 25 percent for items and services furnished in  
24 rural areas (as defined in section 1886(d)(2)(D)).

1       “(b) PRESCRIPTION DRUGS.—Subject to subsection  
2 (d), payment rates for prescription drugs shall be at a rate  
3 negotiated by the Secretary. Such negotiations may be in  
4 conjunction with negotiations for covered part D drugs  
5 under part D of title XVIII.

6       “(c) ADDITIONAL ITEMS AND SERVICES.—Subject to  
7 subsection (d), the Secretary shall establish reimburse-  
8 ment rates for any items and services provided under the  
9 health plan that are not items and services provided under  
10 the original Medicare fee-for-service program under parts  
11 A and B of title XVIII.

12       “(d) INNOVATIVE PAYMENT METHODS.—The Sec-  
13 retary may utilize innovative payment methods, including  
14 value-based payment arrangements, in making payments  
15 for items and services (including prescription drugs) fur-  
16 nished under the health plan.

17 **“SEC. 2208. PARTICIPATING PROVIDERS.**

18       “(a) IN GENERAL.—A health care provider that is  
19 enrolled under the Medicare program under section  
20 1866(j) or is a participating provider under a State Med-  
21 icaid plan under title XIX on the date of enactment of  
22 this Act shall be a participating provider under the health  
23 plan.

24       “(b) ADDITIONAL PROVIDERS.—The Secretary shall  
25 establish a process to allow health care providers not de-

1 scribed in subsection (a) to become a participating pro-  
2 vider under the health plan.

3 “(c) OPT-OUT.—The Secretary shall establish a proc-  
4 ess by which a health care provider that is a participating  
5 provider under the health plan pursuant to subsection (a)  
6 or (b) may opt-out of being such a participating provider.

7 “(d) REQUIREMENT TO PARTICIPATE IN ORDER TO  
8 BE ENROLLED UNDER MEDICARE.—Beginning January  
9 1, 2019, a health care provider may not be enrolled under  
10 the Medicare program under section 1866(j) unless the  
11 provider is also a participating provider under the health  
12 plan.

13 **“SEC. 2209. DELIVERY SYSTEM REFORM FOR AN ENHANCED**  
14 **HEALTH PLAN.**

15 “(a) IN GENERAL.—For plan years beginning with  
16 plan year 2020, the Secretary may utilize innovative pay-  
17 ment mechanisms and policies to determine payments for  
18 items and services under the health plan. The payment  
19 mechanisms and policies under this section may include  
20 patient-centered medical home and other care manage-  
21 ment payments, accountable care organizations, value-  
22 based purchasing, bundling of services, differential pay-  
23 ment rates, performance or utilization based payments,  
24 telehealth, remote patient monitoring, partial capitation,  
25 and direct contracting with providers.

1 “(b) REQUIREMENTS FOR INNOVATIVE PAYMENTS.—

2 The Secretary shall design and implement the payment  
3 mechanisms and policies under this section in a manner  
4 that—

5 “(1) seeks to—

6 “(A) improve health outcomes;

7 “(B) reduce health disparities (including  
8 racial, ethnic, and other disparities);

9 “(C) provide efficient and affordable care;

10 “(D) address geographic variation in the  
11 provision of health services; or

12 “(E) prevent or manage chronic illness;

13 and

14 “(2) promotes care that is integrated, patient-  
15 centered, quality, and efficient.

16 “(c) ENCOURAGING THE USE OF HIGH-VALUE SERV-  
17 ICES.—To the extent allowed by the benefit standards ap-  
18 plied to all health benefits plans participating in the Ex-  
19 changes (as described in section 2202(b)), the health plan  
20 may modify cost-sharing and payment rates to encourage  
21 the use of services that promote health and value.

22 “(d) PROMOTION OF DELIVERY SYSTEM REFORM.—

23 The Secretary shall monitor and evaluate the progress of  
24 payment and delivery system reforms under this section

1 and shall seek to implement such reforms subject to the  
2 following:

3           “(1) To the extent that the Secretary finds a  
4           payment and delivery system reform successful in  
5           improving quality and reducing costs, the Secretary  
6           shall implement such reform on as large a geo-  
7           graphic scale as practical and economical.

8           “(2) The Secretary may delay the implementa-  
9           tion of such a reform in geographic areas in which  
10          such implementation would place the public health  
11          insurance option at a competitive disadvantage.

12          “(3) The Secretary may prioritize implementa-  
13          tion of such a reform in high-cost geographic areas  
14          or otherwise in order to reduce total program costs  
15          or to promote high-value care.

16          “(e) NON-UNIFORMITY PERMITTED.—Nothing in  
17          this section shall prevent the Secretary from varying pay-  
18          ments based on different payment structure models (such  
19          as accountable care organizations and medical homes)  
20          under the health plan for different geographic areas.

21          “(f) INTEGRATION WITH SOCIAL SERVICES.—The  
22          Secretary shall establish processes and, when appropriate,  
23          collaborate with other agencies to integrate medical care  
24          under the health plan with food, housing, transportation,

1 and income assistance if the Secretary determines that  
2 such integration is expected to—

3 “(1) reduce spending without reducing the qual-  
4 ity of patient care; or

5 “(2) improve the quality of patient care without  
6 increasing spending.

7 “(g) TELEHEALTH.—The Secretary shall ensure the  
8 integration of telehealth tools that increase patient access  
9 to medical care, particularly in remote or underserved  
10 areas, if the Secretary determines that such integration  
11 is expected to—

12 “(1) reduce spending without reducing the qual-  
13 ity of patient care; or

14 “(2) improve the quality of patient care without  
15 increasing spending.

16 “(h) ALTERNATIVE PAYMENT MODEL.—

17 “(1) IN GENERAL.—The Secretary shall evalu-  
18 ate the possibility of providing incentives, and, if ap-  
19 propriate, apply incentives, for enrollees in the  
20 health plan who receive services from providers who  
21 are participating in an alternative payment model  
22 (as defined in section 1833(z)(3)(C)).

23 “(2) AUTHORITY TO USE APMS IN USE UNDER  
24 TRADITIONAL MEDICARE.—Nothing in this section  
25 shall preclude the Secretary from using alternative

1 payment models (as so defined) under this title that  
2 are in use under title XVIII.

3 **“SEC. 2210. NO EFFECT ON MEDICARE BENEFITS OR MEDI-**  
4 **CARE TRUST FUNDS.**

5 “Nothing in this title shall—

6 “(1) affect the benefits available under title  
7 XVIII; or

8 “(2) impact the Federal Hospital Insurance  
9 Trust Fund under section 1817 or the Federal Sup-  
10 plementary Medical Insurance Trust Fund under  
11 section 1841 (including the Medicare Prescription  
12 Drug Account within such Trust Fund).”.

13 **SEC. 3. AUTHORITY TO NEGOTIATE FAIR PRICES FOR MEDI-**  
14 **CARE PRESCRIPTION DRUGS.**

15 (a) **IN GENERAL.**—Section 1860D–11 of the Social  
16 Security Act (42 U.S.C. 1395w–111) is amended by strik-  
17 ing subsection (i).

18 (b) **EFFECTIVE DATE.**—The amendment made by  
19 this section shall take effect on the date of the enactment  
20 of this Act.

○