

107<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# S. 3173

To amend title 5, United States Code, to establish a national health program administered by the Office of Personnel Management to offer Federal employee health benefits plans to individuals who are not Federal employees, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

NOVEMBER 9, 2002

Mr. DURBIN introduced the following bill; which was read twice and referred to the Committee on Governmental Affairs

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## A BILL

To amend title 5, United States Code, to establish a national health program administered by the Office of Personnel Management to offer Federal employee health benefits plans to individuals who are not Federal employees, and for other purposes.

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 “Offering People True  
5       Insurance Options Nationwide Act of 2002”.

1 **SEC. 2. OPTION HEALTH INSURANCE.**

2 Subpart G of part III of title 5, United States Code,  
3 is amended by adding at the end the following:

4 **“CHAPTER 90A—HEALTH INSURANCE FOR**  
5 **NON-FEDERAL EMPLOYEES**

“Sec.

“9051. Definitions.

“9052. Health insurance for non-Federal employees.

“9053. Contract requirement.

“9054. Eligibility.

“9055. Alternative conditions to Federal employee plans.

“9056. Coordination with social security benefits.

“9057. Non-Federal employer participation.

6 **“§ 9051. Definitions**

7 “In this chapter—

8 “(1) the terms defined under section 8901 shall  
9 have the meanings given such terms under that sec-  
10 tion; and

11 “(2) the term ‘Office’ means the Office of Per-  
12 sonnel Management.

13 **“§ 9052. Health insurance for non-Federal employees**

14 “(a) The Office of Personnel Management shall ad-  
15 minister a health insurance program for non-Federal em-  
16 ployees in accordance with this chapter.

17 “(b) Except as provided under this chapter, the Of-  
18 fice shall prescribe regulations to apply the provisions of  
19 chapter 89 to the greatest extent practicable to eligible  
20 individuals covered under this chapter.

1       “(c) In no event shall the enactment of this chapter  
2 result in—

3               “(1) any increase in the level of individual or  
4 Government contributions required under chapter  
5 89, including copayments or deductibles;

6               “(2) any decrease in the types of benefits of-  
7 fered under chapter 89; or

8               “(3) any other change that would adversely af-  
9 fect the coverage afforded under chapter 89 to em-  
10 ployees and annuitants and members of family  
11 under that chapter.

12       “(d) The Office shall develop methods to facilitate en-  
13 rollment under this chapter, including the use of the Inter-  
14 net.

15       “(e) The Office may enter into contracts for the per-  
16 formance of appropriate administrative functions under  
17 this chapter.

18 **“§ 9053. Contract requirement**

19       “(a) Each contract entered into under section 8902  
20 shall require a carrier to offer to eligible individuals under  
21 this chapter, throughout each term for which the contract  
22 remains effective, the same benefits (subject to the same  
23 maximums, limitations, exclusions, and other similar  
24 terms or conditions) as would be offered under such con-

1 tract or applicable health benefits plan to employees,  
2 annuitants, and members of family.

3 “(b)(1) The Office may waive the requirements of  
4 this section, if the Office determines, based on a petition  
5 submitted by a carrier that—

6 “(A) the carrier is unable to offer the applicable  
7 health benefits plan because of a limitation in the  
8 capacity of the plan to deliver services or assure fi-  
9 nancial solvency;

10 “(B) the applicable health benefits plan is not  
11 sponsored by a carrier licensed under applicable  
12 State law; or

13 “(C) bona fide enrollment restrictions make the  
14 application of this chapter inappropriate, including  
15 restrictions common to plans which are limited to in-  
16 dividuals having a past or current employment rela-  
17 tionship with a particular agency or other authority  
18 of the Government.

19 “(2) The Office may require a petition under this  
20 subsection to include—

21 “(A) a description of the efforts the carrier  
22 proposes to take in order to offer the applicable  
23 health benefits plan under this chapter; and

24 “(B) the proposed date for offering such a  
25 health benefits plan.

1 “(3) A waiver under this subsection may be for any  
2 period determined by the Office. The Office may grant  
3 subsequent waivers under this section.

4 **“§ 9054. Eligibility**

5 “An individual shall be eligible to enroll in a plan  
6 under this chapter, unless the individual is enrolled or eli-  
7 gible to enroll in a plan under chapter 89.

8 **“§ 9055. Alternative conditions to Federal employee**  
9 **plans**

10 “(a) For purposes of enrollment in a health benefits  
11 plan under this chapter, an individual who had coverage  
12 under a health insurance plan and is not a qualified bene-  
13 ficiary as defined under section 4980B(g)(1) of the Inter-  
14 nal Revenue Code of 1986 shall be treated in a similar  
15 manner as an individual who begins employment as an em-  
16 ployee under chapter 89.

17 “(b) In the administration of this chapter, covered  
18 individuals under this chapter shall be in a risk pool sepa-  
19 rate from covered individuals under chapter 89.

20 “(c)(1) Each contract under this chapter may include  
21 a preexisting condition exclusion as defined under section  
22 9801(b)(1) of the Internal Revenue Code of 1986.

23 “(2)(A) The preexisting condition exclusion under  
24 this subsection shall provide for coverage of a preexisting  
25 condition to begin not more than 1 year after the date

1 of coverage of an individual under a health benefits plan,  
2 reduced by 1 month for each month that individual was  
3 covered under a health insurance plan immediately pre-  
4 ceding the date the individual submitted an application for  
5 coverage under this chapter.

6 “(B) For purposes of this paragraph, a lapse in cov-  
7 erage of not more than 63 days immediately preceding the  
8 date of the submission of an application for coverage shall  
9 not be considered a lapse in continuous coverage.

10 “(d)(1) Rates charged and premiums paid for a  
11 health benefits plan under this chapter—

12 “(A) may be adjusted and differ from such  
13 rates charged and premiums paid for the same  
14 health benefits plan offered under chapter 89;

15 “(B) shall be negotiated in the same manner as  
16 negotiated under chapter 89; and

17 “(C) shall be adjusted to cover the administra-  
18 tive costs of this chapter.

19 “(2) In determining rates and premiums under this  
20 chapter—

21 “(A) the age of covered individuals may be con-  
22 sidered; and

23 “(B) rebates or lower rates and premiums shall  
24 be set to encourage longevity of coverage.

1 “(e) No Government contribution shall be made for  
2 any covered individual under this chapter.

3 “(f) If an individual who is enrolled in a health bene-  
4 fits plan under this chapter terminates the enrollment, the  
5 individual shall not be eligible for reenrollment until the  
6 first open enrollment period following 6 months after the  
7 date of such termination.

8 **“§ 9056. Coordination with social security benefits**

9 “Benefits under this chapter shall, with respect to an  
10 individual who is entitled to benefits under part A of title  
11 XVIII of the Social Security Act, be offered (for use in  
12 coordination with those social security benefits) to the  
13 same extent and in the same manner as if coverage were  
14 under chapter 89.

15 **“§ 9057. Non-Federal employer participation**

16 “(a) In this section the term—

17 “(1) ‘employee’, notwithstanding section 9051,  
18 means an employee of a non-Federal employer;

19 “(2) ‘non-Federal employer’ means an employer  
20 that is not the Federal Government; and

21 “(3) ‘total premium amount’ means the total  
22 premiums for individual coverage for the health ben-  
23 efits plan under which the employee is enrolled, re-  
24 gardless of whether the employee is enrolled as an  
25 individual or for self and family.

1       “(b)(1) The Office shall prescribe regulations under  
2 which non-Federal employers may participate under this  
3 chapter, including—

4           “(A) the offering of health benefits plans under  
5 this chapter to employees through participating non-  
6 Federal employers; and

7           “(B) a requirement for participating non-Fed-  
8 eral employer contributions to the payment of pre-  
9 miums for employees who enroll in a health benefits  
10 plan under this chapter.

11       “(2) A participating non-Federal employer shall pay  
12 an employer contribution for the premiums of an employee  
13 or other applicable covered individual as follows:

14           “(A) A non-Federal employer that employs not  
15 more than 2 employees shall not be required to pay  
16 an employer contribution.

17           “(B) A non-Federal employer that employs  
18 more than 2 and not more than 25 employees shall  
19 pay not less than 40 percent of the total premium  
20 amount.

21           “(C) A non-Federal employer that employs  
22 more than 25 and not more than 50 employees shall  
23 pay not less than 50 percent of the total premium  
24 amount.

1           “(D) A non-Federal employer that employs  
2           more than 50 employees shall pay not less than 60  
3           percent of the total premium amount.

4           “(3) Notwithstanding paragraph (2) (B), (C), or (D),  
5           a non-Federal employer that employs more than 2 employ-  
6           ees shall pay not less than 20 percent of the total premium  
7           amount with respect to the first year in which that em-  
8           ployer participates under this chapter.

9           “(c)(1) A participating non-Federal employer shall  
10          ensure that each eligible full-time employee may enroll in  
11          a plan under this chapter.

12          “(2)(A) A participating non-Federal employer may  
13          not offer a health insurance plan to employees (other than  
14          a health benefits plan under this chapter) unless such  
15          health insurance plan is offered continuously on and after  
16          the date of enactment of this chapter.

17          “(B) If a participating non-Federal employer offers  
18          coverage under this chapter and under another plan as  
19          provided under subparagraph (A), the non-Federal em-  
20          ployer—

21                 “(i) shall treat all employees in the same man-  
22                 ner with respect to such offerings; and

23                 “(ii) may not use financial incentives or dis-  
24                 incentives to encourage an employee or class of em-

1        ployees to enroll in the health insurance plan not of-  
 2        fered under this chapter.”.

3        **SEC. 3. TECHNICAL AND CONFORMING AMENDMENTS.**

4        (a) CONTRACT REQUIREMENT UNDER CHAPTER  
 5        89.—Section 8902 of title 5, United States Code, is  
 6        amended by adding after subsection (o) the following:

7        “(p) Each contract under this chapter shall include  
 8        a provision that the carrier shall offer any health benefits  
 9        plan as required under chapter 90A.”.

10       (b) TABLE OF CHAPTERS.—The table of chapters for  
 11       part III of title 5, United States Code, is amended by in-  
 12       serting after the item relating to chapter 90 the following:

**“90A. Health Insurance for Non-Federal Employees ..... 9051”.**

13       **SEC. 4. EFFECTIVE DATE.**

14       This Act and the amendments made by this Act shall  
 15       take effect on the date of enactment of this Act and shall  
 16       apply to contracts that take effect with respect to calendar  
 17       year 2003 and each calendar year thereafter.

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