

109TH CONGRESS  
1ST SESSION

# H. R. 2728

To amend the Public Health Service Act to expand health care access and choice of coverage through Individual Membership Associations (IMAs).

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## IN THE HOUSE OF REPRESENTATIVES

MAY 26, 2005

Mr. SHADEGG introduced the following bill; which was referred to the Committee on Energy and Commerce

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## A BILL

To amend the Public Health Service Act to expand health care access and choice of coverage through Individual Membership Associations (IMAs).

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 “Health Care Access  
5       and Availability Act of 2005”.

6       **SEC. 2. CONSTITUTIONAL AUTHORITY.**

7       The constitutional authority upon which this Act  
8       rests is the power of Congress to regulate commerce with  
9       foreign nations and among the several States, set forth  
10      in article I, section 8 of the United States Constitution.

1 **SEC. 3. EXPANSION OF ACCESS AND CHOICE THROUGH IN-**  
 2 **DIVIDUAL MEMBERSHIP ASSOCIATIONS**  
 3 **(IMAS).**

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

6 **“TITLE XXIX—INDIVIDUAL**  
 7 **MEMBERSHIP ASSOCIATIONS**

8 **“SEC. 2901. DEFINITION OF INDIVIDUAL MEMBERSHIP AS-**  
 9 **SOCIATION (IMA).**

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

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

16 “(2) OFFERING HEALTH BENEFITS COV-  
 17 ERAGE.—

18 “(A) DIFFERENT GROUPS.—The IMA, in  
 19 conjunction with those health insurance issuers  
 20 that offer health benefits coverage through the  
 21 IMA, makes available health benefits coverage  
 22 in the manner described in subsection (b) to all  
 23 members of the IMA and the dependents of  
 24 such members in the manner described in sub-  
 25 section (c)(2) at rates that are established by  
 26 the health insurance issuer on a policy or prod-

uct specific basis and that may vary only as  
permissible under State law.

“(B) NONDISCRIMINATION IN COVERAGE  
OFFERED.—

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

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

“(C) NO FINANCIAL UNDERWRITING.—The  
IMA provides health benefits coverage only  
through contracts with health insurance issuers  
and does not assume insurance risk with re-  
spect to such coverage.

“(3) GEOGRAPHIC AREAS.—Nothing in this title  
shall be construed as preventing the establishment

1 and operation of more than one IMA in a geographic  
2 area or as limiting the number of IMAs that may  
3 operate in any area.

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

6 “(A) IN GENERAL.—The IMA may provide  
7 administrative services for members. Such serv-  
8 ices may include accounting, billing, and enroll-  
9 ment information.

10 “(B) CONSTRUCTION.—Nothing in this  
11 subsection shall be construed as preventing an  
12 IMA from serving as an administrative service  
13 organization to any entity.

14 “(5) FILING INFORMATION.—The IMA files  
15 with the Secretary information that demonstrates  
16 the IMA’s compliance with the applicable require-  
17 ments of this title.

18 “(b) HEALTH BENEFITS COVERAGE REQUIRE-  
19 MENTS.—

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

23 “(A) be underwritten by a health insurance  
24 issuer that—

1 “(i) is licensed (or otherwise regu-  
2 lated) under State law,

3 “(ii) meets all applicable State stand-  
4 ards relating to consumer protection, sub-  
5 ject to section 2902, and

6 “(B) subject to paragraph (2), be approved  
7 or otherwise permitted to be offered under  
8 State law.

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

14 “(A) Coverage through a health mainte-  
15 nance organization.

16 “(B) Coverage in connection with a pre-  
17 ferred provider organization.

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

20 “(D) Indemnity coverage through an insur-  
21 ance company.

22 “(E) Coverage offered in connection with a  
23 contribution into a medical savings account or  
24 flexible spending account.

1           “(F) Coverage that includes a point-of-  
2           service option.

3           “(G) Any combination of such types of  
4           coverage.

5           “(3) WELLNESS BONUSES FOR HEALTH PRO-  
6           MOTION.—Nothing in this title shall be construed as  
7           precluding a health insurance issuer offering health  
8           benefits coverage through an IMA from establishing  
9           premium discounts or rebates for members or from  
10          modifying otherwise applicable copayments or  
11          deductibles in return for adherence to programs of  
12          health promotion and disease prevention so long as  
13          such programs are agreed to in advance by the IMA  
14          and comply with all other provisions of this title and  
15          do not discriminate among similarly situated mem-  
16          bers.

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

18           “(1) MEMBERS.—

19           “(A) IN GENERAL.—Under rules estab-  
20           lished to carry out this title, with respect to an  
21           individual who is a member of an IMA, the in-  
22           dividual may enroll for health benefits coverage  
23           (including coverage for dependents of such indi-  
24           vidual) offered by a health insurance issuer  
25           through the IMA.

“(B) RULES FOR ENROLLMENT.—Nothing in this paragraph shall preclude an IMA from establishing rules of enrollment and reenrollment of members. Such rules shall be applied consistently to all members within the IMA and shall not be based in any manner on health status-related factors.

“(2) HEALTH INSURANCE ISSUERS.—The contract between an IMA and a health insurance issuer shall provide, with respect to a member enrolled with health benefits coverage offered by the issuer through the IMA, for the payment of the premiums collected by the issuer.

**“SEC. 2902. APPLICATION OF CERTAIN LAWS AND REQUIREMENTS.**

“State laws insofar as they relate to any of the following are superseded and shall not apply to health benefits coverage made available through an IMA:

“(1) Benefit requirements for health benefits coverage offered through an IMA, including (but not limited to) requirements relating to coverage of specific providers, specific services or conditions, or the amount, duration, or scope of benefits, but not including requirements to the extent required to implement title XXVII or other Federal law and to the

1 extent the requirement prohibits an exclusion of a  
2 specific disease from such coverage.

3 “(2) Any other requirements (including limita-  
4 tions on compensation arrangements) that, directly  
5 or indirectly, preclude (or have the effect of pre-  
6 cluding) the offering of such coverage through an  
7 IMA, if the IMA meets the requirements of this  
8 title.

9 **“SEC. 2903. ADMINISTRATION.**

10 “(a) IN GENERAL.—The Secretary shall administer  
11 this title and is authorized to issue such regulations as  
12 may be required to carry out this title. Such regulations  
13 shall be subject to Congressional review under the provi-  
14 sions of chapter 8 of title 5, United States Code. The Sec-  
15 retary shall incorporate the process of ‘deemed file and  
16 use’ with respect to the information filed under section  
17 2901(a)(5) and shall determine whether information filed  
18 by an IMA demonstrates compliance with the applicable  
19 requirements of this title. The Secretary shall exercise au-  
20 thority under this title in a manner that fosters and pro-  
21 motes the development of IMAs in order to improve access  
22 to health care coverage and services.

23 “(b) PERIODIC REPORTS.—The Secretary shall sub-  
24 mit to Congress a report every 30 months, during the 10-  
25 year period beginning on the effective date of the rules



1 promulgated by the Secretary to carry out this title, on  
2 the effectiveness of this title in promoting coverage of un-  
3 insured individuals. The Secretary may provide for the  
4 production of such reports through one or more contracts  
5 with appropriate private entities.

6 **“SEC. 2904. DEFINITIONS.**

7 “For purposes of this title:

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

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

13 “(B) has been formed and maintained in  
14 good faith for purposes other than obtaining in-  
15 surance;

16 “(C) does not condition membership in the  
17 association on any health status-related factor  
18 relating to an individual (including an employee  
19 of an employer or a dependent of an employee);  
20 and

21 “(D) does not make health insurance cov-  
22 erage offered through the association available  
23 other than in connection with a member of the  
24 association.

1           “(2) DEPENDENT.—The term ‘dependent’, as  
2           applied to health insurance coverage offered by a  
3           health insurance issuer licensed (or otherwise regu-  
4           lated) in a State, shall have the meaning applied to  
5           such term with respect to such coverage under the  
6           laws of the State relating to such coverage and such  
7           an issuer. Such term may include the spouse and  
8           children of the individual involved.

9           “(3) HEALTH BENEFITS COVERAGE.—The term  
10          ‘health benefits coverage’ has the meaning given the  
11          term health insurance coverage in section  
12          2791(b)(1).

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

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

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

22          “(7) MEMBER.—The term ‘member’ means,  
23          with respect to an IMA, an individual who is a mem-

- 1       ber of the association to which the IMA is offering
- 2       coverage.”.

