

115TH CONGRESS
1ST SESSION

H. R. 4129

To establish a State public option through Medicaid to provide Americans with the choice of a high-quality, low-cost health insurance plan.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 25, 2017

Mr. BEN RAY LUJÁN of New Mexico (for himself, Mr. BLUMENAUER, Mr. CARSON of Indiana, Ms. CLARKE of New York, Mr. COHEN, Mr. DELANEY, Mr. MICHAEL F. DOYLE of Pennsylvania, Mr. ENGEL, Ms. ESHOO, Ms. FUDGE, Mr. GALLEG0, Ms. JAYAPAL, Mr. JEFFRIES, Mr. KIHUEN, Mr. LANGEVIN, Mrs. NAPOLITANO, Mr. O’ROURKE, Ms. ROSEN, Ms. TITUS, Mr. TONKO, Mr. WALZ, Ms. MICHELLE LUJAN GRISHAM of New Mexico, Mr. TAKANO, Mr. KRISHNAMOORTHY, and Mr. CICILLINE) 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 State public option through Medicaid to provide Americans with the choice of a high-quality, low-cost health insurance 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 “State Public Option
5 Act”.

1 **SEC. 2. MEDICAID BUY-IN OPTION.**

2 (a) IN GENERAL.—Section 1902 of the Social Secu-
 3 rity Act (42 U.S.C. 1396a) is amended—

4 (1) in subsection (a)(10)—

5 (A) in subparagraph (A)(ii)—

6 (i) in subclause (XXI), by striking “;
 7 or” and inserting a semicolon;

8 (ii) in subclause (XXII), by adding
 9 “or” at the end; and

10 (iii) by adding at the end the fol-
 11 lowing new subclause:

12 “(XXIII) beginning January 1,
 13 2018, who are residents of the State
 14 and are not concurrently enrolled in
 15 another health insurance coverage
 16 plan, subject, in the case of individ-
 17 uals described in subsection (nn) and
 18 notwithstanding section 1916 (except
 19 for subsection (k) of such section), to
 20 payment of premiums or other cost-
 21 sharing charges;” and

22 (B) in the matter following subparagraph
 23 (G), in clause (XV), by inserting “or subsection
 24 (nn)” after “described in subparagraph
 25 (A)(i)(VIII)”; and

1 (2) by adding at the end the following new sub-
2 section:

3 “(nn) PREVIOUSLY UNDESCRIBED INDIVIDUALS.—
4 Individuals described in this subsection are individuals
5 who are—

6 “(1) described in subclause (XXIII) of sub-
7 section (a)(10)(A)(ii); and

8 “(2) are not described in any other subclause of
9 such subsection or any other provision in this Act
10 which provides for eligibility for medical assist-
11 ance.”.

12 (b) PROVISION OF AT LEAST MINIMUM COVERAGE.—

13 (1) IN GENERAL.—Section 1902(k)(1) of the
14 Social Security Act (42 U.S.C. 1396a(k)(1)) is
15 amended by inserting “or an individual described in
16 subsection (nn)” after “an individual described in
17 subclause (VIII) of subsection (a)(10)(A)(i)” each
18 place it appears.

19 (2) CONFORMING AMENDMENT.—Section
20 1903(i)(26) of the Social Security Act (42 U.S.C.
21 1396b(i)(26)) is amended by striking “individuals
22 described in subclause (VIII) of subsection
23 (a)(10)(A)(i)” and inserting “individuals described
24 in subsection (a)(10)(A)(i)(VIII) or (nn) of section
25 1902”.

1 (c) FEDERAL FINANCIAL PARTICIPATION IN BUY-IN
2 PROGRAM.—

3 (1) ENHANCED MATCH FOR ADMINISTRATIVE
4 EXPENSES.—Section 1903(a) of the Social Security
5 Act (42 U.S.C. 1396b(a)) is amended—

6 (A) by redesignating paragraph (7) as
7 paragraph (8); and

8 (B) by inserting after paragraph (6) the
9 following new paragraph:

10 “(7) an amount equal to 90 percent of the
11 sums expended during the quarter which are attrib-
12 utable to reasonable administrative expenses related
13 to the administration of a Medicaid buy-in program
14 for individuals described in section
15 1902(a)(10)(A)(ii)(XXIII); plus”.

16 (2) TREATMENT OF PREMIUM AND COST-SHAR-
17 ING REVENUES FROM MEDICAID BUY-IN PROGRAM.—

18 (A) IN GENERAL.—For purposes of section
19 1903(a)(1) of the Social Security Act (42
20 U.S.C. 1396b(a)(1)), for any fiscal quarter dur-
21 ing which a State collects premiums, cost-shar-
22 ing, or similar charges under subsection (k) of
23 section 1916 of such Act (42 U.S.C. 1396o) (as
24 added by this Act), including any advance pay-
25 ments of premium tax credits under section

1 1412 of the Patient Protection and Affordable
2 Care Act or payments for cost-sharing reduc-
3 tions under section 1402 of such Act that are
4 received by the State, the total amount ex-
5 pended during such quarter as medical assist-
6 ance for individuals who buy into Medicaid cov-
7 erage under subclause (XXIII) of section
8 1902(a)(10)(A)(ii) of the Social Security Act
9 (as added by this Act) shall be reduced by the
10 amount of such premiums or charges.

11 (B) TREATMENT OF EXCESS PREMIUMS.—

12 Each State that collects premiums or similar
13 charges under subsection (k) of section 1916 of
14 the Social Security Act (42 U.S.C. 1396o) (as
15 added by this Act) in a fiscal year shall pay to
16 the Secretary of Health and Human Services,
17 at such time and in such form and manner as
18 the Secretary shall specify, an amount equal to
19 50 percent of the amount, if any, by which—

20 (i) the total amount of such premiums
21 and charges collected by the State for such
22 year; exceeds

23 (ii) the total amount expended by the
24 State during such year as medical assist-
25 ance for individuals who buy into Medicaid

1 coverage under subclause (XXIII) of sec-
 2 tion 1902(a)(10)(A)(ii) of such Act (as
 3 added by this Act).

4 (d) COST-SHARING REQUIREMENT.—Section 1916 of
 5 the Social Security Act (42 U.S.C. 1396o) is amended by
 6 adding at the end the following new subsection:

7 “(k) PREMIUMS AND COST-SHARING FOR INDIVID-
 8 UALS PARTICIPATING IN MEDICAID BUY-IN PROGRAM.—

9 “(1) IN GENERAL.—Subject to paragraph (2),
 10 with respect to individuals who are eligible for med-
 11 ical assistance under subsection
 12 (a)(10)(A)(ii)(XXIII) of section 1902 and are de-
 13 scribed in subsection (nn) of such section, a State
 14 may—

15 “(A) impose premiums, deductibles, cost-
 16 sharing, or other similar charges that are actu-
 17 arially fair; and

18 “(B) vary the premium rate imposed on an
 19 individual based only on the factors described in
 20 section 2701(a)(1)(A) of the Public Health
 21 Service Act and subject to the same limitations
 22 on the weight which may be given to such fac-
 23 tors under such section.

24 “(2) LIMITATIONS.—

1 “(A) PREMIUMS.—The total amount of
2 premiums imposed for a year under this sub-
3 section with respect to all individuals described
4 in paragraph (1) in a family shall not exceed an
5 amount equal to 9.5 percent of the family’s
6 household income (as defined in section
7 36B(d)(2) of the Internal Revenue Code of
8 1986) for the year involved.

9 “(B) OTHER COST-SHARING.—

10 “(i) IN GENERAL.—The cost-sharing
11 limitations described in section 1302(e) of
12 the Patient Protection and Affordable Care
13 Act shall apply to cost-sharing (as defined
14 in such section) for medical assistance pro-
15 vided under section
16 1902(a)(10)(A)(ii)(XXIII) in the same
17 manner as such limitations apply to cost-
18 sharing under qualified health plans under
19 title I of such Act.

20 “(ii) AVAILABILITY OF COST-SHARING
21 REDUCTIONS.—Individuals provided med-
22 ical assistance under section
23 1902(a)(10)(A)(ii)(XXIII) and subject to
24 cost-sharing under this subsection are eli-
25 gible for cost-sharing reductions under sec-

tion 1402 of the Patient Protection and Affordable Care Act (subject to the income eligibility threshold in subsection (b)(2) of such section), and in applying such section—

“(I) enrollment in a State plan under section 1902(a)(10)(A)(ii)(XXIII) shall be treated as coverage under a qualified health plan in the silver level of coverage in the individual market offered through an Exchange established for or by the State under title I of the Patient Protection and Affordable Care Act; and

“(II) the State agency administering such plan shall be treated as the issuer of such plan.

“(3) PREMIUMS AND COST-SHARING FOR CERTAIN OTHER INDIVIDUALS.—If an individual is eligible for medical assistance under subsection (a)(10)(A)(ii)(XXIII) of section 1902 and is not described in subsection (nn) of such section, a State—

1 “(A) shall not impose premiums and cost-
 2 sharing on the individual under this subsection;
 3 and

4 “(B) may impose premiums and cost-shar-
 5 ing on the individual to the extent allowed by
 6 another provision of this Act (other than sec-
 7 tion 1902(a)(10)(A)(ii)(XXIII)) which provides
 8 for eligibility for medical assistance, but only if
 9 the individual is described in such other provi-
 10 sion.

11 “(4) APPLICATION OF PREMIUM ASSISTANCE
 12 TAX CREDITS.—An individual who is required to pay
 13 premiums under this subsection for a year for med-
 14 ical assistance shall be eligible for a premium assist-
 15 ance credit under section 36B of the Internal Rev-
 16 enue Code to the same extent that such individual
 17 would be eligible for a premium assistance credit
 18 under such section if such individual had paid the
 19 same amount in premiums for coverage under a
 20 qualified health plan for such year.”.

21 (e) MANAGED CARE.—Section 1932(a)(1)(A)(i) of
 22 the Social Security Act (42 U.S.C. 1396u–2(a)(1)(A)(i))
 23 is amended by inserting “, including an individual who is
 24 eligible for such assistance after buying into such coverage

1 under section 1902(a)(10)(A)(ii)(XXIII),” after “the
2 State plan under this title”.

3 (f) OFFERING BUY-IN PROGRAM ON STATE EX-
4 CHANGE; ENROLLMENT PERIODS.—

5 (1) IN GENERAL.—A State that has elected to
6 allow individuals to buy into Medicaid coverage
7 under section 1902(a)(10)(A)(ii)(XXIII) of the So-
8 cial Security Act (42 U.S.C.
9 1396a(a)(10)(A)(ii)(XXIII)) shall allow individuals
10 to enroll in such coverage through the Federal, Fed-
11 erally-facilitated, or State Exchange established pur-
12 suant to title I of the Patient Protection and Afford-
13 able Care Act.

14 (2) ENROLLMENT PERIODS.—A State may limit
15 the enrollment of individuals into Medicaid coverage
16 under section 1902(a)(10)(A)(ii)(XXIII) of the So-
17 cial Security Act (42 U.S.C.
18 1396a(a)(10)(A)(ii)(XXIII)) to the enrollment peri-
19 ods provided for under section 1311(c)(6) of the Pa-
20 tient Protection and Affordable Care Act (42 U.S.C.
21 18031(c)(6)).

22 (g) APPLICATION OF ADVANCED PREMIUM TAX
23 CREDITS TO MEDICAID BUY-IN PLANS.—

24 (1) IN GENERAL.—Section 36B of the Internal
25 Revenue Code of 1986 is amended—

1 (A) in subsection (b)(3)(B), by adding at
2 the end the following new sentence:

3 “If an applicable taxpayer resides in a rating
4 area in which no silver plan is offered on the
5 individual market but the taxpayer buys into
6 Medicaid coverage under section
7 1902(a)(10)(A)(ii)(XXIII) of the Social Secu-
8 rity Act, such Medicaid coverage shall be
9 deemed to be the applicable second lowest cost
10 silver plan with respect to such taxpayer.”; and

11 (B) by adding at the end the following new
12 subsection:

13 “(h) APPLICATION TO INDIVIDUALS PURCHASING
14 MEDICAID COVERAGE.—In the case of any individual who
15 buys into Medicaid coverage under section
16 1902(a)(10)(A)(ii)(XXIII) of the Social Security Act, this
17 section shall be applied with the following modifications:

18 “(1) The amount determined under subsection
19 (b)(2)(A) shall be increased by the amount of the
20 monthly premiums paid for such coverage.

21 “(2) Subsection (c)(2)(A)(i) shall be applied by
22 treating coverage under the Medicaid program under
23 title XIX of the Social Security Act in the same
24 manner as a qualified health plan that was enrolled
25 in through an Exchange.

1 “(3) In applying subsection (c)(2)(B)—

2 “(A) an individual shall not be considered
3 to be eligible for minimum essential coverage
4 described in section 5000A(f)(1)(A)(ii) by rea-
5 son of eligibility for medical assistance under a
6 State Medicaid program under section
7 1902(a)(10)(A)(ii)(XXIII); and

8 “(B) an individual who is not covered by
9 minimum essential coverage described in section
10 5000A(f)(1)(B) shall not be considered to be el-
11 igible for such coverage.”.

12 (2) ADVANCED PAYMENT OF CREDIT.—

13 (A) IN GENERAL.—The Secretary of
14 Health and Human Services, in consultation
15 with the Secretary of the Treasury, shall estab-
16 lish a program under which—

17 (i) upon request of a State agency ad-
18 ministering a State Medicaid program
19 under title XIX of the Social Security Act,
20 advance determinations are made in a
21 manner similar to advanced determination
22 under section 1411 of the Patient Protec-
23 tion and Affordable Care Act with respect
24 to the income eligibility of individuals en-
25 rolling in such program for the premium

1 tax credit allowable under section 36B of
2 the Internal Revenue Code of 1986 and
3 the cost-sharing reductions under section
4 1402 of the Patient Protection and Afford-
5 able Care Act;

6 (ii) the Secretary notifies—

7 (I) the State agency admin-
8 istering the program and the Sec-
9 retary of the Treasury of the advance
10 determinations; and

11 (II) the Secretary of the Treas-
12 ury of the name and employer identi-
13 fication number of each employer with
14 respect to whom 1 or more employee
15 of the employer were determined to be
16 eligible for the premium tax credit
17 under section 36B of the Internal
18 Revenue Code of 1986 and the cost-
19 sharing reductions under section 1402
20 of the Patient Protection and Afford-
21 able Care Act because—

22 (aa) the employer did not
23 provide minimum essential cov-
24 erage; or

1 (bb) the employer provided
2 such minimum essential coverage
3 but it was determined under sec-
4 tion 36B(c)(2)(C) of such Code
5 to either be unaffordable to the
6 employee or not provide the re-
7 quired minimum actuarial value;
8 and

9 (iii) the Secretary of the Treasury
10 makes advance payments of such credit or
11 reductions to the State agency admin-
12 istering the program in order to reduce the
13 premiums payable by individuals eligible
14 for such credit.

15 (B) DETERMINATIONS AND PAYMENTS.—
16 Rules similar to subsections (b) and (c) of sec-
17 tion 1412 of the Patient Protection and Afford-
18 able Care Act shall apply for purposes of this
19 subsection.

20 (C) COORDINATION WITH CREDIT.—

21 (i) IN GENERAL.—Section 36B of the
22 Internal Revenue Code of 1986 is amended
23 by inserting “and under section 2(g)(2) of
24 the State Public Option Act” after “sec-
25 tion 1412 of the Patient Protection and

Affordable Care Act” each place it appears
in subsections (f)(1), (f)(2), and (g)(1).

(ii) INFORMATION REPORTING.—Section 36B(f)(3) of such Code is amended by adding at the end the following flush sentence: “In the case of any coverage under the medicaid program under title XIX of the Social Security Act for which a credit under this section is allowable by reason of subsection (h), the State agency administering the Medicaid program shall be treated as an Exchange for purposes of this paragraph and subparagraph (A) shall not apply.”.

(3) CONFORMING AMENDMENT RELATING TO EMPLOYER RESPONSIBILITY.—Paragraph (6) of section 4980H(c) of the Internal Revenue Code of 1986 is amended by inserting “, except that for purposes of subsections (a)(2) and (b)(2), the term ‘qualified health plan’ shall include any plan described in section 36B(h)” after “such Act”.

(h) CONFORMING AMENDMENTS.—

(1) Section 1902(a)(10) of the Social Security Act (42 U.S.C. 1396a(a)(10)), as amended by sub-

1 section (a), is further amended, in the matter fol-
2 lowing subparagraph (G)—

3 (A) by striking “and (XVII)” and inserting
4 “, (XVII)”; and

5 (B) by inserting “, and (XVIII) the med-
6 ical assistance made available to an individual
7 described in subparagraph (A)(ii)(XXIII) shall
8 be limited to medical assistance described in
9 subsection (k)(1)” before the semicolon.

10 (2) Section 1903(f)(4) of the Social Security
11 Act (42 U.S.C. 1396b(f)(4)) is amended by inserting
12 “1902(a)(10)(A)(ii)(XXIII),” after
13 “1902(a)(10)(A)(ii)(XXII),”.

14 (3) Section 1905(a) of the Social Security Act
15 (42 U.S.C. 1396d(a)) is amended in the matter pre-
16 ceding paragraph (1)—

17 (A) by striking “or” at the end of clause
18 (xvi);

19 (B) by inserting “or” at the end of clause
20 (xvii); and

21 (C) by inserting after clause (xvii) the fol-
22 lowing new clause:

23 “(xviii) individuals described in section
24 1902(a)(10)(A)(ii)(XXIII),”.

1 (4) Section 1916A(a)(1) of the Social Security
 2 Act (42 U.S.C. 1396o–1(a)(1)) is amended by strik-
 3 ing “or (j)” and inserting “(j), or (k)”.

4 (5) Section 1937(a)(1)(B) of the Social Secu-
 5 rity Act (42 U.S.C. 1396u–7(a)(1)(B)) is amended
 6 by inserting “, subclause (XXIII) of section
 7 1902(a)(10)(A)(ii),” after “1902(a)(10)(A)(i)”.

8 **SEC. 3. DEVELOPMENT OF STATE-LEVEL METRICS ON MED-**
 9 **ICAID BENEFICIARY ACCESS AND SATISFAC-**
 10 **TION.**

11 (a) IN GENERAL.—

12 (1) DEVELOPMENT OF METRICS.—Not later
 13 than 1 year after the date of enactment of this Act,
 14 the Director of the Agency for Healthcare Research
 15 and Quality, in consultation with the Deputy Admin-
 16 istrator for the Center for Medicaid and CHIP Serv-
 17 ices and State Medicaid Directors, shall develop
 18 standardized, State-level metrics of access to, and
 19 satisfaction with, providers, including primary care
 20 and specialist providers, with respect to individuals
 21 who are enrolled in State Medicaid plans under title
 22 XIX of the Social Security Act.

23 (2) PROCESS.—The Director of the Agency for
 24 Healthcare Research and Quality shall develop the
 25 metrics described in paragraph (1) through a public

1 process, which shall provide opportunities for stake-
 2 holders to participate.

3 (b) UPDATING METRICS.—The Director of the Agen-
 4 cy for Healthcare Research and Quality, in consultation
 5 with the Deputy Administrator for the Center for Med-
 6 icaid and CHIP Services and State Medicaid Directors,
 7 shall update the metrics developed under subsection (a)
 8 not less than once every 3 years.

9 (c) STATE IMPLEMENTATION FUNDING.—The Direc-
 10 tor of the Agency for Healthcare Research and Quality
 11 may award funds, from the amount appropriated under
 12 subsection (d), to States for the purpose of implementing
 13 the metrics developed under this section.

14 (d) APPROPRIATION.—There is appropriated to the
 15 Director of the Agency for Healthcare Research and Qual-
 16 ity out of any funds in the Treasury not otherwise appro-
 17 priated, \$200,000,000 for fiscal year 2019, to remain
 18 available until expended, for the purpose of carrying out
 19 this section.

20 **SEC. 4. RENEWAL OF APPLICATION OF MEDICARE PAY-**
 21 **MENT RATE FLOOR TO PRIMARY CARE SERV-**
 22 **ICES FURNISHED UNDER MEDICAID AND IN-**
 23 **CLUSION OF ADDITIONAL PROVIDERS.**

24 (a) RENEWAL OF PAYMENT FLOOR; ADDITIONAL
 25 PROVIDERS.—

1 (1) IN GENERAL.—Section 1902(a)(13) of the
2 Social Security Act (42 U.S.C. 1396a(a)(13)) is
3 amended by striking subparagraph (C) and inserting
4 the following:

5 “(C) payment for primary care services (as
6 defined in subsection (jj)) at a rate that is not
7 less than 100 percent of the payment rate that
8 applies to such services and physician under
9 part B of title XVIII (or, if greater, the pay-
10 ment rate that would be applicable under such
11 part if the conversion factor under section
12 1848(d) for the year involved were the conver-
13 sion factor under such section for 2009), and
14 that is not less than the rate that would other-
15 wise apply to such services under this title if
16 the rate were determined without regard to this
17 subparagraph, and that are—

18 “(i) furnished in 2013 and 2014, by a
19 physician with a primary specialty designa-
20 tion of family medicine, general internal
21 medicine, or pediatric medicine; or

22 “(ii) furnished in the period that be-
23 gins on the first day of the first month
24 that begins after the date of enactment of
25 the State Public Option Act—

1 “(I) by a physician with a pri-
2 mary specialty designation of family
3 medicine, general internal medicine,
4 or pediatric medicine, but only if the
5 physician self-attests that the physi-
6 cian is Board certified in family medi-
7 cine, general internal medicine, or pe-
8 diatric medicine;

9 “(II) by a physician with a pri-
10 mary specialty designation of obstet-
11 rics and gynecology, but only if the
12 physician self-attests that the physi-
13 cian is Board certified in obstetrics
14 and gynecology;

15 “(III) by an advanced practice
16 clinician, as defined by the Secretary,
17 that works under the supervision of—

18 “(aa) a physician that satis-
19 fies the criteria specified in sub-
20 clause (I) or (II); or

21 “(bb) a nurse practitioner or
22 a physician assistant (as such
23 terms are defined in section
24 1861(aa)(5)(A)) who is working
25 in accordance with State law, or

1 a certified nurse-midwife (as de-
2 fined in section 1861(gg)) who is
3 working in accordance with State
4 law;
5 “(IV) by a rural health clinic,
6 Federally-qualified health center, or
7 other health clinic that receives reim-
8 bursement on a fee schedule applica-
9 ble to a physician, a nurse practi-
10 tioner or a physician assistant (as
11 such terms are defined in section
12 1861(aa)(5)(A)) who is working in ac-
13 cordance with State law, or a certified
14 nurse-midwife (as defined in section
15 1861(gg)) who is working in accord-
16 ance with State law, for services fur-
17 nished by a physician, nurse practi-
18 tioner, physician assistant, or certified
19 nurse-midwife, or services furnished
20 by an advanced practice clinician su-
21 pervised by a physician described in
22 subclause (I)(aa) or (II)(aa), another
23 advanced practice clinician, or a cer-
24 tified nurse-midwife; or

1 “(V) by a nurse practitioner or a
2 physician assistant (as such terms are
3 defined in section 1861(aa)(5)(A))
4 who is working in accordance with
5 State law, or a certified nurse-midwife
6 (as defined in section 1861(gg)) who
7 is working in accordance with State
8 law, in accordance with procedures
9 that ensure that the portion of the
10 payment for such services that the
11 nurse practitioner, physician assist-
12 ant, or certified nurse-midwife is paid
13 is not less than the amount that the
14 nurse practitioner, physician assist-
15 ant, or certified nurse-midwife would
16 be paid if the services were provided
17 under part B of title XVIII;”.

18 (2) CONFORMING AMENDMENTS.—Section
19 1905(dd) of the Social Security Act (42 U.S.C.
20 1396d(dd)) is amended—

21 (A) by striking “Notwithstanding” and in-
22 serting the following:

23 “(1) IN GENERAL.—Notwithstanding”;

1 (B) by inserting “or furnished during an
 2 additional period specified in paragraph (2),”
 3 after “2015,”; and

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

5 “(2) ADDITIONAL PERIODS.—For purposes of
 6 paragraph (1), the following are additional periods:

7 “(A) The period that begins on the first
 8 day of the first month that begins after the
 9 date of enactment of the State Public Option
 10 Act.”.

11 (b) IMPROVED TARGETING OF PRIMARY CARE.—Sec-
 12 tion 1902(jj) of the Social Security Act (42 U.S.C.
 13 1396a(jj)) is amended—

14 (1) by redesignating paragraphs (1) and (2) as
 15 subparagraphs (A) and (B), respectively and realign-
 16 ing the left margins accordingly;

17 (2) by striking “For purposes of” and inserting
 18 the following:

19 “(1) IN GENERAL.—For purposes of”; and

20 (3) by adding at the end the following:

21 “(2) EXCLUSIONS.—Such term does not include
 22 any services described in subparagraph (A) or (B) of
 23 paragraph (1) if such services are provided in an
 24 emergency department of a hospital.”.

1 (c) ENSURING PAYMENT BY MANAGED CARE ENTI-
2 TIES.—

3 (1) IN GENERAL.—Section 1903(m)(2)(A) of
4 the Social Security Act (42 U.S.C. 1396b(m)(2)(A))
5 is amended—

6 (A) in clause (xii), by striking “and” after
7 the semicolon;

8 (B) by realigning the left margin of clause
9 (xiii) so as to align with the left margin of
10 clause (xii) and by striking the period at the
11 end of clause (xiii) and inserting “; and”; and

12 (C) by inserting after clause (xiii) the fol-
13 lowing:

14 “(xiv) such contract provides that (I) payments
15 to providers specified in section 1902(a)(13)(C) for
16 primary care services defined in section 1902(jj)
17 that are furnished during a year or period specified
18 in section 1902(a)(13)(C) and section 1905(dd) are
19 at least equal to the amounts set forth and required
20 by the Secretary by regulation, (II) the entity shall,
21 upon request, provide documentation to the State,
22 sufficient to enable the State and the Secretary to
23 ensure compliance with subclause (I), and (III) the
24 Secretary shall approve payments described in sub-
25 clause (I) that are furnished through an agreed

1 upon capitation, partial capitation, or other value-
 2 based payment arrangement if the capitation, partial
 3 capitation, or other value-based payment arrange-
 4 ment is based on a reasonable methodology and the
 5 entity provides documentation to the State sufficient
 6 to enable the State and the Secretary to ensure com-
 7 pliance with subclause (I).”.

8 (2) CONFORMING AMENDMENT.—Section
 9 1932(f) of the Social Security Act (42 U.S.C.
 10 1396u–2(f)) is amended by inserting “and clause
 11 (xiv) of section 1903(m)(2)(A)” before the period.

12 **SEC. 5. MEDICAID ACCESS GRANTS.**

13 (a) IN GENERAL.—Beginning in fiscal year 2019, the
 14 Secretary of Health and Human Services (referred to in
 15 this section as the “Secretary”) shall award grants to
 16 States that submit an application meeting the require-
 17 ments of subsection (b) for the purpose of improving ac-
 18 cess to services for individuals enrolled in State Medicaid
 19 plans under title XIX of the Social Security Act.

20 (b) APPLICATION REQUIREMENTS.—To be eligible
 21 for a grant under this section, a State shall submit to the
 22 Secretary, at such time and in such manner as the Sec-
 23 retary shall require, an application that contains the fol-
 24 lowing:

1 (1) A description of gaps in access to providers
2 for individuals enrolled in the State Medicaid plan
3 that the State has identified, and how the State pro-
4 poses to fix such gaps.

5 (2) A discussion of any changes the State pro-
6 poses to make to the reimbursement of providers
7 under the State Medicaid plan, including changes to
8 the fee-for-service rates for providers of services
9 under such plans or moving to population-based or
10 episode-based payment models.

11 (3) A justification establishing that the changes
12 proposed by the State will increase access to pro-
13 viders for individuals enrolled in the State Medicaid
14 plan, and a plan for measuring changes to such ac-
15 cess over the grant period.

16 (c) USE OF FUNDS.—

17 (1) IN GENERAL.—If the Secretary determines
18 that a State is using grant funds awarded under this
19 section in a manner that is inconsistent with the
20 purpose described in subsection (a) or paragraph
21 (2), the Secretary may withhold or reduce future
22 grant payments or recover previous grant payments
23 to the State under this section as the Secretary
24 deems appropriate.

1 (2) USE OF FUNDS TO IMPLEMENT MEDICAID
2 BUY-IN PROGRAM.—A State may use up to 10 per-
3 cent of the amount of a grant awarded to the State
4 under this section for the purpose of implementing
5 a Medicaid buy-in program under subclause (XXIII)
6 of section 1902(a)(10)(A)(ii) of the Social Security
7 Act (42 U.S.C. 1396a(a)(10)(A)(ii)).

8 (3) USE OF FUNDS TO INCREASE MEDICAID
9 PROVIDER PAYMENT RATES.—Notwithstanding any
10 other provision of law, a State may use grant funds
11 awarded under this section for the purpose of fi-
12 nancing the portion of the non-Federal share of ex-
13 penditures under the State Medicaid plan under title
14 XIX of the Social Security Act (42 U.S.C. 1396 et
15 seq.) that is attributable to an increase in the pay-
16 ment rate for providers under such plan.

17 (d) SELECTION OF STATES AND MAXIMUM GRANT
18 AMOUNT.—In awarding grants to States under this sec-
19 tion, the Secretary shall—

20 (1) ensure that geographically diverse areas, in-
21 cluding rural and underserved areas, are included;
22 and

23 (2) award grants both to States that have elect-
24 ed to expand Medicaid eligibility under section
25 1902(a)(10)(A)(i)(VIII) of the Social Security Act

1 (42 U.S.C. 1396a(a)(10)(A)(i)(VIII)) and to States
 2 that have not so elected.

3 (e) APPROPRIATION.—There is appropriated to the
 4 Secretary, out of any funds in the Treasury not otherwise
 5 appropriated, \$100,000,000,000 for fiscal year 2018, to
 6 remain available until September 30, 2021, for the pur-
 7 pose of making grants under this section.

8 **SEC. 6. INCREASED FMAP FOR MEDICAL ASSISTANCE TO**
 9 **NEWLY ELIGIBLE INDIVIDUALS.**

10 (a) IN GENERAL.—Section 1905(y)(1) of the Social
 11 Security Act (42 U.S.C. 1396d(y)(1)) is amended—

12 (1) in subparagraph (A), by striking “2014,
 13 2015, and 2016” and inserting “each of the first 3
 14 consecutive 12-month periods in which the State
 15 provides medical assistance to newly eligible individ-
 16 uals”;

17 (2) in subparagraph (B), by striking “2017”
 18 and inserting “the fourth consecutive 12-month pe-
 19 riod in which the State provides medical assistance
 20 to newly eligible individuals”;

21 (3) in subparagraph (C), by striking “2018”
 22 and inserting “the fifth consecutive 12-month period
 23 in which the State provides medical assistance to
 24 newly eligible individuals”;

1 (4) in subparagraph (D), by striking “2019”
2 and inserting “the sixth consecutive 12-month period
3 in which the State provides medical assistance to
4 newly eligible individuals”; and

5 (5) in subparagraph (E), by striking “2020 and
6 each year thereafter” and inserting “the seventh
7 consecutive 12-month period in which the State pro-
8 vides medical assistance to newly eligible individuals
9 and each such period thereafter”.

10 (b) EFFECTIVE DATE.—The amendments made by
11 subsection (a) shall take effect as if included in the enact-
12 ment of Public Law 111–148.

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