

116TH CONGRESS
1ST SESSION

S. 2428

To amend title XVIII of the Social Security Act to provide for certain reforms with respect to Medicare supplemental health insurance policies, and for other purposes.

IN THE SENATE OF THE UNITED STATES

AUGUST 1, 2019

Mr. BROWN (for himself and Ms. KLOBUCHAR) introduced the following bill;
which was read twice and referred to the Committee on Finance

A BILL

To amend title XVIII of the Social Security Act to provide for certain reforms with respect to Medicare supplemental health insurance policies, 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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Medigap Consumer Protection Act of 2019”.

6 (b) TABLE OF CONTENTS.—The table of contents of
7 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Guaranteed issue.
- Sec. 3. Limitations on pricing discrimination.
- Sec. 4. Clarification regarding standardized Medigap plans.

Sec. 5. Improving information available to Medicare beneficiaries.

Sec. 6. Broker conflicts of interest.

Sec. 7. Protecting against high out-of-pocket expenditures for Medicare fee-for-service benefits.

Sec. 8. Study and report on variations among Medigap plans.

1 **SEC. 2. GUARANTEED ISSUE.**

2 (a) GUARANTEED ISSUE OF MEDIGAP POLICIES TO
3 ALL MEDIGAP-ELIGIBLE MEDICARE BENEFICIARIES.—

4 (1) IN GENERAL.—Section 1882(s) of the So-
5 cial Security Act (42 U.S.C. 1395ss(s)) is amend-
6 ed—

7 (A) in paragraph (2)(A), by striking “65
8 years of age or older and is enrolled for benefits
9 under part B” and inserting “entitled to, or en-
10 rolled for, benefits under part A and enrolled
11 for benefits under part B”;

12 (B) in paragraph (2)(D), by striking “who
13 is 65 years of age or older as of the date of
14 issuance and”;

15 (C) in paragraph (3)(B)(ii), by striking “is
16 65 years of age or older and”; and

17 (D) in paragraph (3)(B)(vi), by striking
18 “at age 65”.

19 (2) EFFECTIVE DATE; PHASE-IN AUTHORITY.—

20 (A) EFFECTIVE DATE.—Subject to sub-
21 paragraph (B), the amendments made by para-
22 graph (1) shall apply to Medicare supplemental
23 policies effective on or after January 1, 2023.

1 (B) PHASE-IN AUTHORITY.—

2 (i) IN GENERAL.—Subject to clause
3 (ii), the Secretary of Health and Human
4 Services may phase-in the implementation
5 of the amendments made under paragraph
6 (1) (with such phase-in beginning on or
7 after January 1, 2023) in such manner as
8 the Secretary determines appropriate in
9 order to minimize any adverse impact on
10 individuals enrolled under a Medicare sup-
11 plemental policy.

12 (ii) PHASE-IN PERIOD MAY NOT EX-
13 CEED 5 YEARS.—The Secretary of Health
14 and Human Services shall ensure that the
15 amendments made by paragraph (1) are
16 fully implemented by not later than Janu-
17 ary 1, 2028.

18 (3) ADDITIONAL ENROLLMENT PERIOD FOR
19 CERTAIN INDIVIDUALS.—

20 (A) ONE-TIME ENROLLMENT PERIOD.—

21 (i) IN GENERAL.—In the case of an
22 individual described in subparagraph (B),
23 the Secretary of Health and Human Serv-
24 ices shall establish a one-time enrollment
25 period during which such an individual

may enroll in any Medicare supplemental policy of the individual's choosing.

(ii) PERIOD.—The enrollment period established under clause (i) shall begin on the date on which the phase-in period under paragraph (2) is completed and end 6 months after such date.

(B) INDIVIDUAL DESCRIBED.—An individual described in this paragraph is an individual who—

(i) is entitled to hospital insurance benefits under part A under section 226(b) or section 226A of the Social Security Act (42 U.S.C. 426(b); 426–1);

(ii) is enrolled for benefits under part B of such Act (42 U.S.C. 1395j et seq.); and

(iii) would not, but for the provisions of and amendments made by paragraphs (1) and (2), be eligible for the guaranteed issue of a Medicare supplemental policy under paragraph (2) or (3) of section 1882(s) of such Act (42 U.S.C. 1395ss(s)).

(b) GUARANTEED ISSUE OF MEDIGAP POLICIES FOR MEDICARE ADVANTAGE AND MEDICAID ENROLLEES,

1 CERTAIN VETERANS, AND OTHER INDIVIDUALS DETER-
 2 MINED APPROPRIATE BY THE SECRETARY; TREATMENT
 3 OF INDIVIDUALS WITH COBRA.—

4 (1) IN GENERAL.—Section 1882(s)(3) of the
 5 Social Security Act (42 U.S.C. 1395ss(s)(3)) is
 6 amended—

7 (A) in subparagraph (B), by adding at the
 8 end the following new clauses:

9 “(vii) The individual was enrolled in a Medicare
 10 Advantage plan under part C for not less than 12
 11 months and subsequently disenrolled from such plan
 12 and elects to receive benefits under this title through
 13 the original Medicare fee-for-service program under
 14 parts A and B.

15 “(viii) The individual—

16 “(I) is entitled to, or enrolled for, benefits
 17 under part A and enrolled for benefits under
 18 part B; and

19 “(II) either—

20 “(aa) is eligible for medical assistance
 21 under a State plan or waiver under title
 22 XIX based on a reduction of income of the
 23 individual based on costs incurred for med-
 24 ical or other remedial care and was en-
 25 rolled in such plan or waiver; or

1 “(bb) was otherwise eligible for med-
2 ical assistance under a State plan or waiv-
3 er under title XIX and subsequently lost
4 eligibility for such medical assistance.

5 “(ix) The individual—

6 “(I) is entitled to, or enrolled for, benefits
7 under part A and enrolled for benefits under
8 part B;

9 “(II) is a covered beneficiary (as that term
10 is defined in section 1072(5) of title 10, United
11 States Code), entitled to medical and dental
12 care under chapter 55 of that title, who was re-
13 ceiving medical care at a facility of the uni-
14 formed services through such entitlement; and

15 “(III) no longer receives such care at such
16 facility because—

17 “(aa) such facility has been closed;

18 “(bb) such facility no longer offers
19 such care;

20 “(cc) the individual no longer meets
21 the requirements for eligibility for such
22 care; or

23 “(dd) the individual moved away from
24 the facility.

1 “(x) The individual meets such other require-
 2 ments that the Secretary, through notice and com-
 3 ment rulemaking, determines appropriate.”;

4 (B) by striking subparagraph (C)(iii) and
 5 inserting the following:

6 “(iii) Subject to subsection (v)(1), for purposes
 7 of an individual described in clause (vi), (vii), (viii),
 8 (ix), or (x) of subparagraph (B), a Medicare supple-
 9 mental policy described in this subparagraph shall
 10 include any Medicare supplemental policy.”; and

11 (C) in subparagraph (E)—

12 (i) in clause (iv), by striking “and” at
 13 the end;

14 (ii) in clause (v), by striking the pe-
 15 riod at the end and inserting a semicolon;
 16 and

17 (iii) by adding at the end the fol-
 18 lowing new clauses—

19 “(vi) in the case of an individual described in
 20 subparagraph (B)(vii), the annual, coordinated elec-
 21 tion period (as defined in section 1851(e)(3)(B)) or
 22 a continuous open enrollment period (as defined in
 23 section 1851(e)(2)) during which the individual
 24 disenrolls from a Medicare Advantage plan under
 25 part C;

1 “(vii) in the case of an individual described in
 2 subparagraph (B)(viii) who is eligible for medical as-
 3 sistance under a State plan or waiver under title
 4 XIX for a reason described in item (aa), such period
 5 as is specified by the Secretary;

6 “(viii) in the case of an individual described in
 7 subparagraph (B)(viii) who is eligible for medical as-
 8 sistance under a State plan or waiver under title
 9 XIX for a reason described in item (bb), the period
 10 beginning on the date that the individual receives a
 11 notice of cessation of such individual’s eligibility for
 12 medical assistance under the State plan or waiver
 13 under title XIX and ending on the date that is six
 14 months after the individual receives such notice;

15 “(ix) in the case of an individual described in
 16 subparagraph (B)(ix), during the 63 days after the
 17 individual is no longer eligible to receive the care
 18 from the facility described in such subparagraph;

19 “(x) in the case of an individual described in
 20 subparagraph (B)(x), such period as is specified by
 21 the Secretary; and”.

22 (2) TREATMENT OF INDIVIDUALS WITH
 23 COBRA.—

24 (A) IN GENERAL.—Section 1882(s)(3) of
 25 the Social Security Act (42 U.S.C.

1 1395ss(s)(3)), as amended by subsection (a)
 2 and paragraph (1), is further amended—

3 (i) in subparagraph (B)(i) by insert-
 4 ing “or, in the case of an individual en-
 5 rolled in such an employee welfare benefit
 6 plan pursuant to a COBRA continuation
 7 provision (as defined in section 2791(d)(4)
 8 of the Public Health Service Act), that the
 9 individual disenrolls from such plan and
 10 enrolls under part B” before the period at
 11 the end; and

12 (ii) in subparagraph (E), as amended
 13 by paragraph (1), by adding at the end the
 14 following new clause:

15 “(viii) in the case of an individual described in
 16 subparagraph (B)(i) who enrolled in an employee
 17 welfare benefit plan described in such subparagraph
 18 pursuant to a COBRA continuation provision (as de-
 19 fined in section 2791(d)(4) of the Public Health
 20 Service Act) and who disenrolls from such plan and
 21 enrolls under part B, the period beginning on the
 22 date that is 60 days before the effective date of such
 23 disenrollment and ending on the date that is 63 days
 24 after such effective date.”.

1 (B) TECHNICAL CORRECTION.—Section
 2 1882(s)(2)(D) of the Social Security Act (42
 3 U.S.C. 1395ss(s)(2)(D)) is amended—

4 (i) by striking “2701(c)” and insert-
 5 ing “2704(c)”; and

6 (ii) by striking “2701(a)(3)” and in-
 7 serting “2704(a)(3)”.

8 (3) EFFECTIVE DATE.—The amendments made
 9 by paragraphs (1) and (2)(A) shall apply to Medi-
 10 care supplemental policies effective on or after Janu-
 11 ary 1, 2023.

12 (c) MEDPAC STUDIES AND REPORTS.—

13 (1) ANNUAL OPEN ENROLLMENT.—

14 (A) STUDY.—The Medicare Payment Advi-
 15 sory Commission (in this section referred to as
 16 the “Commission”) shall conduct a study on
 17 providing an open enrollment period for Medi-
 18 care supplemental policies (under section 1882
 19 of the Social Security Act (42 U.S.C. 1395ss))
 20 under which an individual could enroll in such
 21 a policy with guaranteed issue protections. Such
 22 study shall include an analysis of—

23 (i) the impact of the “birthday rule”
 24 in California and Oregon, where an indi-
 25 vidual can enroll with such protections in

1 a new policy with the same or lesser bene-
2 fits within 30 days of their birthday;

3 (ii) the impact of such birthday rule if
4 such rule permitted the individual to enroll
5 with such protections in any policy; and

6 (iii) other areas determined appro-
7 priate by the Commission.

8 (B) REPORT.—Not later than 2 years after
9 the date of the enactment of this Act, the Com-
10 mission shall submit to Congress a report on
11 the study conducted under subparagraph (A),
12 together with recommendations for such legisla-
13 tion and administrative action as the Commis-
14 sion determines appropriate.

15 (2) EQUITABLE RELIEF.—

16 (A) STUDY.—The Medicare Payment Advi-
17 sory Commission (in this section referred to as
18 the “Commission”) shall conduct a study on the
19 Secretary of Health and Human Services grant-
20 ing equitable relief for enrollment in a Medicare
21 supplemental policy (under section 1882 of the
22 Social Security Act (42 U.S.C. 1395ss)) in a
23 similar manner as the Secretary grants such re-
24 lief for enrollment under part B of the Medi-
25 care program.

1 (B) REPORT.—Not later than 2 years after
2 the date of the enactment of this Act, the Com-
3 mission shall submit to Congress a report on
4 the study conducted under subparagraph (A),
5 together with recommendations for such legisla-
6 tion and administrative action as the Commis-
7 sion determines appropriate.

8 (d) OUTREACH PLAN.—

9 (1) IN GENERAL.—The Secretary of Health and
10 Human Services shall develop an outreach plan to
11 notify individuals (including individuals described in
12 clause (viii) of section 1882(s)(3)(B) of the Social
13 Security Act (42 U.S.C. 1395ss(s)(3)(B)), as added
14 by subsection (b)(1)) that may be affected by the
15 provisions of, and amendments made by, this section
16 regarding such provisions and amendments.

17 (2) CONSULTATION.—In implementing the out-
18 reach plan developed under paragraph (1), the Sec-
19 retary of Health and Human Services shall consult
20 with consumer advocates, brokers, insurers, the Na-
21 tional Association of Insurance Commissioners, and
22 State Health Insurance Assistance Programs.

1 **SEC. 3. LIMITATIONS ON PRICING DISCRIMINATION.**

2 (a) IN GENERAL.—Section 1882 of the Social Secu-
 3 rity Act (42 U.S.C. 1395ss) is amended by adding at the
 4 end the following new subsection:

5 “(aa) DEVELOPMENT OF NEW STANDARDS RELAT-
 6 ING TO PRICING DISCRIMINATION.—

7 “(1) IN GENERAL.—The Secretary shall request
 8 the National Association of Insurance Commis-
 9 sioners to review and revise the standards for all
 10 benefit packages under subsection (p)(1), including
 11 the core benefit package, in order to provide cov-
 12 erage consistent with paragraph (2). Such revisions
 13 shall be made consistent with the rules applicable
 14 under subsection (p)(1)(E) (with the reference to the
 15 ‘1991 NAIC Model Regulation’ deemed a reference
 16 to the NAIC Model Regulation as most recently up-
 17 dated by the National Association of Insurance
 18 Commissioners to reflect previous changes in law
 19 and the reference to ‘date of enactment of this sub-
 20 section’ deemed a reference to the date of enactment
 21 of this subsection).

22 “(2) CHANGES IN COST-SHARING DESCRIBED.—

23 Under the revised standards, coverage shall not be
 24 available under a Medicare supplemental insurance
 25 policy unless the issuer of the policy, in addition to

1 conforming to the other applicable requirements of
2 this section—

3 “(A) does not discriminate in the pricing
4 of the policy because of the age or health status
5 of the individual to whom the policy is issued;

6 “(B) does not, to an extent that jeopard-
7 izes the access to such policy for individuals
8 who are eligible to participate in the program
9 under this title because the individuals are indi-
10 viduals described in paragraph (2) or (3) of sec-
11 tion 1811, discriminate in the pricing of the
12 policy because the individual to whom the policy
13 is issued is so eligible to participate in such
14 program because the individual is an individual
15 so described in such a paragraph; and

16 “(C) does not establish premiums applica-
17 ble under such policy on a basis that would
18 apply to a portion of, but not the entirety of,
19 a metropolitan statistical area.

20 “(3) APPLICATION DATE.—The revised stand-
21 ards shall apply to benefit packages sold, issued, or
22 renewed under this section to an individual who first
23 become entitled to benefits under part A or first en-
24 rolls in part B on or after January 1, 2023.”.

1 (b) CONFORMING AMENDMENT.—Section 1882(o)(1)
 2 of the Social Security Act (42 U.S.C. 1395ss(o)(1)) is
 3 amended by striking “, and (y)” and inserting “(y), and
 4 (aa)”.

5 **SEC. 4. CLARIFICATION REGARDING STANDARDIZED**
 6 **MEDIGAP PLANS.**

7 Section 1882 of the Social Security Act (42 U.S.C.
 8 1395ss), as amended by section (3), is amended by adding
 9 at the end the following new subsection:

10 “(bb) LIMITATION ON ADDITIONAL BENEFITS.—A
 11 standard benefit package established under this section
 12 may not include benefits that are in addition to the stand-
 13 ard benefits under the package. An issuer of a Medicare
 14 supplemental policy may offer such additional standard-
 15 ized benefits through a separate rider.”.

16 **SEC. 5. IMPROVING INFORMATION AVAILABLE TO MEDI-**
 17 **CARE BENEFICIARIES.**

18 (a) CLARIFYING BENEFICIARY OPTIONS ON THE
 19 MEDICARE PLAN FINDER WEBSITE.—Section 1804 of the
 20 Social Security Act (42 U.S.C. 1395b–2) is amended by
 21 adding at the end the following new subsections:

22 “(e) In the case that the Secretary provides for a
 23 Medicare plan finder Internet website of the Centers for
 24 Medicare & Medicaid Services (or a successor website), the

1 Secretary shall, with respect to such website and in ac-
 2 cordance with subsection (f)—

3 “(1) consult with at least one independent enti-
 4 ty that represents consumers in the development of
 5 such website;

6 “(2) make available on such website—

7 “(A) access to provider networks in order
 8 to provide to individuals entitled to benefits
 9 under part A or enrolled under part B informa-
 10 tion to assist such individuals in understanding
 11 the restrictions on providers and potential costs
 12 entailed by their decisions regarding enrollment
 13 under parts A and B, under part C, and in
 14 Medicare supplemental policies under section
 15 1882;

16 “(B) a review of out-of-pocket expendi-
 17 tures, including deductibles, copayments, coin-
 18 surance, monthly premiums, and estimated an-
 19 nual out-of-pocket costs, displayed overall and
 20 by components, based on the best available in-
 21 formation as determined by the Secretary and
 22 based on the individual’s specific health status;

23 “(C) during the period prior to January 1,
 24 2023, information regarding the rules that, in
 25 each State, pertain to guaranteed issue of Medi-

1 care supplemental health insurance policies
2 prior to implementation of the provisions of the
3 Medigap Consumer Protection Act of 2019 and,
4 in the case that a State has no such rules per-
5 taining to guaranteed issue of such policies,
6 clear language explaining the implications of
7 such lack of rules for individuals with pre-exist-
8 ing conditions; and

9 “(D) clear information on local resources
10 for individuals, such as information on their
11 State Health Insurance Assistance Program
12 (SHIP);

13 “(3) not later than January 1, 2021, and peri-
14 odically thereafter, perform a review of such website
15 in order to ensure that such website makes available
16 to individuals entitled to benefits under part A or
17 enrolled under part B the information that the Sec-
18 retary determines is necessary for such individuals
19 to make informed choices regarding their options
20 under the program under this title; and

21 “(4) not later than 12 months after the last
22 day of each period for the request for information
23 under subsection (f), update such website, taking
24 into consideration the information collected pursuant
25 to such subsection, to clarify the presentation of con-

1 sumer options for Medicare supplemental health in-
2 surance policy options, including by presenting such
3 information in a manner calculated to be understood
4 by the average consumer and in a manner that—

5 “(A) improves consumer access to informa-
6 tion regarding the applicable premiums under
7 such policy options as of the date on which such
8 website is so updated;

9 “(B) facilitates consumers’ ability to com-
10 pare and sort policy options and premium infor-
11 mation across plan offerings in a given location;

12 “(C) clarifies and explains differences in
13 policy value;

14 “(D) rates and explains the financial sta-
15 bility of issuers of such policies;

16 “(E) provides data on the inflation rate of
17 different policies;

18 “(F) provides information regarding the
19 guaranteed issue requirements that apply to
20 Medicare supplemental health insurance policies
21 under section 1882(s); and

22 “(G) includes such general information as
23 is determined by the Secretary to be necessary
24 for individuals entitled to benefits under part A
25 or enrolled under part B to understand costs

1 under MA plans available pursuant to part C
2 and prescription drug plans available pursuant
3 to part D.

4 “(f) Not later than 6 months after the date of the
5 enactment of this subsection and beginning on December
6 7 of each year thereafter, the Secretary of Health and
7 Human Services shall provide an opportunity for public
8 comment during which the Secretary requests informa-
9 tion, including recommendations, from stakeholders re-
10 garding potential improvements to the presentation of
11 Medicare supplemental health insurance policy options
12 under section 1882 on the Medicare plan finder Internet
13 website of the Centers for Medicare & Medicaid Services
14 (or a successor website).

15 “(g) With respect to any information that the Sec-
16 retary makes available on the Medicare plan finder Inter-
17 net website of the Centers for Medicare & Medicaid Serv-
18 ices (or a successor website) pursuant to subsection (e),
19 the Secretary shall, prior to making such information
20 available—

21 “(1) provide, in consultation with the National
22 Association of Insurance Commissioners, an oppor-
23 tunity for consumer testing of such information;

1 “(2) share the results of such consumer testing
2 of such information with interested stakeholders;
3 and

4 “(3) provide a 60-day public comment period
5 with respect to such information.”.

6 (b) IMPROVED INFORMATION ON MEDIGAP.—As the
7 Secretary of Health and Human Services works to update
8 the materials provided to Medicare beneficiaries regarding
9 the Medicare program and Medicare supplemental policies
10 based on the provisions of, and amendments made by, this
11 Act, the Secretary shall consult with at least one inde-
12 pendent entity that represents consumers.

13 (c) EQUAL TREATMENT BETWEEN INFORMATION ON
14 THE MEDICARE FEE-FOR-SERVICE PROGRAM AND THE
15 MEDICARE ADVANTAGE PROGRAM.—The Secretary of
16 Health and Human Services shall ensure that—

17 (1) any information distributed or otherwise
18 made available to the public and related to the Medi-
19 care program does not display a bias towards the
20 Medicare Advantage program over the original Medi-
21 care fee-for-service program, or vice versa; and

22 (2) the volume of such information is equally
23 weighted between such programs.

1 **SEC. 6. BROKER CONFLICTS OF INTEREST.**

2 Section 1128G of the Social Security Act (42 U.S.C.
3 1320a–7h) is amended—

4 (1) in subsection (c)(1)(A), by striking “2011,”
5 and inserting “2011 (or, with respect to information
6 required to be submitted under subsection (f)(1), not
7 later than 6 months after the date of the enactment
8 of such subsection),”; and

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

11 “(f) APPLICATION TO MEDIGAP INSURANCE BRO-
12 KERS.—

13 “(1) IN GENERAL.—Beginning not later than
14 12 months after the date of enactment of this sub-
15 section, each issuer of a Medicare supplemental
16 health insurance policy shall annually submit to the
17 Secretary a report regarding payments or other
18 transfers of value made during the previous year to
19 agents, brokers, and other third parties representing
20 such policy. Each such report shall include the fol-
21 lowing information, with respect to such a payment
22 or other transfer of value:

23 “(A) The name of the recipient of the pay-
24 ment or other transfer of value.

25 “(B) The business address of the recipient.

1 “(C) The amount of the payment or other
2 transfer of value.

3 “(D) The dates on which the payment or
4 transfer of value was provided.

5 “(E) A description of the form of the pay-
6 ment or transfer of value.

7 “(F) Any other categories of information
8 the Secretary determines appropriate.

9 “(2) APPLICATION OF TRANSPARENCY SYS-
10 TEM.—The provisions of subsections (b) through (d)
11 shall apply to an issuer described in paragraph (1),
12 information required to be reported under such
13 paragraph, and agents, brokers, and other third par-
14 ties described in such paragraph in the same manner
15 and to the same extent as such provisions apply to
16 an applicable manufacturer, information required to
17 be reported under subsection (a), and a covered re-
18 cipient.”.

19 **SEC. 7. PROTECTING AGAINST HIGH OUT-OF-POCKET EX-**
20 **PENDITURES FOR MEDICARE FEE-FOR-SERV-**
21 **ICE BENEFITS.**

22 Title XVIII of the Social Security Act (42 U.S.C.
23 1395 et seq.) is amended by adding at the end the fol-
24 lowing new section:

“(1) the amount otherwise payable under part A and the total amount of expenses incurred by the individual which would (except for this section) constitute incurred expenses for which benefits are payable under part B, shall be 100 percent of such amount for the remainder of that year; and

19 “(b) ANNUAL OUT-OF-POCKET LIMIT.—

22 “(A) for 2022, \$5,500; or

23 “(B) for a subsequent year, the amount
24 specified in this subsection for the preceding
25 year increased or decreased by the percentage

1 change in the Consumer Price Index for All
2 Urban Consumers for the 12-month period end-
3 ing with June of such preceding year.

4 “(2) ROUNDING.—If any amount determined
5 under paragraph (1)(B) is not a multiple of \$5, such
6 amount shall be rounded to the nearest multiple of
7 \$5.

8 “(c) OUT-OF-POCKET COST-SHARING DEFINED.—

9 “(1) IN GENERAL.—Subject to paragraphs (2)
10 and (3), in this section, the term ‘out-of-pocket cost-
11 sharing’ means, with respect to an individual, the
12 amount of the expenses incurred by the individual
13 that are attributable to—

14 “(A) deductibles, coinsurance and copay-
15 ments applicable under part A or B; or

16 “(B) for items and services that would
17 have otherwise been covered under part A or B
18 but for the exhaustion of those benefits.

19 “(2) CERTAIN COSTS NOT INCLUDED.—

20 “(A) NON-COVERED ITEMS AND SERV-
21 ICES.—Expenses incurred for items and serv-
22 ices which are not covered under part A or B
23 shall not be considered incurred expenses for
24 purposes of determining out-of-pocket cost-
25 sharing under paragraph (1).

1 “(B) ITEMS AND SERVICES NOT FUR-
2 NISHED ON AN ASSIGNMENT-RELATED BASIS.—

3 If an item or service is furnished to an indi-
4 vidual under this title and is not furnished on
5 an assignment-related basis, any additional ex-
6 penses the individual incurs above the amount
7 the individual would have incurred if the item
8 or service was furnished on an assignment-re-
9 lated basis shall not be considered incurred ex-
10 penses for purposes of determining out-of-pock-
11 et cost-sharing under paragraph (1).

12 “(3) SOURCE OF PAYMENT.—For purposes of
13 paragraph (1), the Secretary shall consider expenses
14 to be incurred by the individual without regard to
15 whether the individual or another person, including
16 a State program, an employer, a Medicare supple-
17 mental policy, or other third-party coverage, has
18 paid for such expenses.

19 “(d) ANNOUNCEMENT OF THE ANNUAL OUT-OF-
20 POCKET LIMIT.—The Secretary shall (beginning in 2021)
21 announce (in a manner intended to provide notice to all
22 interested parties) the annual out-of-pocket limit under
23 this section that will be applicable for the succeeding
24 year.”.

1 **SEC. 8. STUDY AND REPORT ON VARIATIONS AMONG**
2 **MEDIGAP PLANS.**

3 (a) STUDY.—The Comptroller General of the United
4 States (in this section referred to as the “Comptroller
5 General”) shall conduct a study on the variations among
6 Medicare supplemental policies under section 1882 of the
7 Social Security Act (42 U.S.C. 1395ss). Such study shall
8 include an analysis of the following:

9 (1) How the variations among such policies im-
10 pacts Medicare beneficiaries’ choices.

11 (2) Ways to improve standardization and tools
12 to help Medicare beneficiaries make informed choices
13 with respect to such policies.

14 (3) Other items determined appropriate by the
15 Comptroller General.

16 (b) REPORT.—Not later than 2 years after the date
17 of the enactment of this Act, the Comptroller General shall
18 submit to Congress a report on the study conducted under
19 subsection (a), together with recommendations for such
20 legislation and administrative action as the Comptroller
21 General determines appropriate.

○