

112TH CONGRESS  
2D SESSION

# S. 2196

To provide higher-quality, lower-cost health care to seniors.

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IN THE SENATE OF THE UNITED STATES

MARCH 15, 2012

Mr. PAUL (for himself, Mr. GRAHAM, Mr. LEE, and Mr. DEMINT) introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To provide higher-quality, lower-cost health care to seniors.

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 “Congressional Health  
5       Care for Seniors Act of 2012”.

6       **SEC. 2. ENROLLING SENIORS IN THE SAME HEALTH CARE**  
7               **PLANS AS MEMBERS OF CONGRESS.**

8       (a) IN GENERAL.—Chapter 89 of title 5, United  
9       States Code, is amended—

10               (1) in section 8901—

1 (A) in paragraph (10), by striking “and”  
2 at the end;

3 (B) in paragraph (11), by striking the pe-  
4 riod at the end and inserting “; and”; and

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

6 “(12) the term ‘covered individual’ means an  
7 individual who, taking into account section 226(k) of  
8 the Social Security Act, would have been entitled to,  
9 or could have enrolled for, benefits under part A of  
10 title XVIII of such Act or could have enrolled under  
11 part B of such title if section 1899B had not been  
12 enacted.”;

13 (2) by inserting after section 8901 the fol-  
14 lowing:

15 “SUBCHAPTER I—FEDERAL EMPLOYEES”;

16 (3) in section 8902—

17 (A) in subsection (a)—

18 (i) by inserting “(1)” after “(a)”; and

19 (ii) by adding at the end the fol-  
20 lowing:

21 “(2)(A) In this paragraph, the term ‘equivalent  
22 health benefits plan’ means a health benefits plan pro-  
23 posed to be provided that offers benefits that the Director  
24 of the Office of Personnel Management determines are  
25 substantially equivalent or superior to benefits offered

1 under, and does not impose requirements that are sub-  
 2 stantially different than requirements under, a health ben-  
 3 efits plan in which an employee could enroll on the date  
 4 of enactment of the Congressional Health Care for Seniors  
 5 Act of 2012 if the employee resided—

6 “(i) anywhere in the United States; or

7 “(ii) in the same region of the United States as  
 8 the health benefits plan proposed to be provided.

9 “(B) For contract years beginning on or after Janu-  
 10 ary 1, 2014, if a carrier offers to provide an equivalent  
 11 health benefits plan, the Director shall enter into a con-  
 12 tract with the carrier to provide the equivalent health ben-  
 13 efits plan.”;

14 (B) in subsection (e), by striking “The Of-  
 15 fice may prescribe” and inserting “Subject to  
 16 subsection (a)(2), the Office may prescribe”;  
 17 and

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

19 “(p) A contract under this chapter for a contract year  
 20 beginning on or after January 1, 2014, shall offer benefits  
 21 for employees, annuitants, members of their families,  
 22 former spouses, persons having continued coverage under  
 23 section 8905a of this title, and covered individuals. In ad-  
 24 ministering this subchapter and subchapter II, employees,  
 25 annuitants, members of their families, former spouses,

1 persons having continued coverage under section 8905a of  
 2 this title, and covered individuals shall be in the same risk  
 3 pool.”;

4 (4) in section 8904—

5 (A) by striking “(a) The benefits” and in-  
 6 serting “The benefits”;

7 (B) by striking “this subsection” each  
 8 place it appears and inserting “this section”;  
 9 and

10 (C) by striking subsection (b);

11 (5) in section 8909(a)(1), by inserting “and for  
 12 all payments under section 8921(d)” before the  
 13 semicolon;

14 (6) in section 8910, by striking subsection (d);  
 15 and

16 (7) by adding at the end the following:

17 “SUBCHAPTER II—COVERED INDIVIDUALS

18 “§ 8921. **Health insurance for covered individuals**

19 “(a) For contract years beginning on or after Janu-  
 20 ary 1, 2014, and except as otherwise provided in this sub-  
 21 chapter, the Director of the Office of Personnel Manage-  
 22 ment shall ensure that to the greatest extent possible  
 23 health benefits plans provide benefits for covered individ-  
 24 uals to the same extent and in the same manner as pro-  
 25 vided under subchapter I for employees, annuitants, mem-

1 bers of their families, former spouses, and persons having  
2 continued coverage under section 8905a of this title.

3 “(b)(1) The Director shall establish the deadline by  
4 which a covered individual shall elect to—

5 “(A) enroll in a health benefits plan under this  
6 chapter based on the status of the individual as a  
7 covered individual;

8 “(B) with the concurrence of the employer or  
9 former employer of the covered individual, receive  
10 payments under subsection (d) to assist in paying  
11 for health insurance provided through the employer  
12 or former employer of the covered individual; or

13 “(C) not enroll in a health benefits plan or re-  
14 ceive payments under this chapter.

15 “(2) Failure to make a timely election under this sub-  
16 section shall be deemed as an election to not enroll in a  
17 health benefits plan or receive payment under this chapter.

18 “(3) A covered individual—

19 “(A) may elect to enroll in a health benefits  
20 plan as an individual; and

21 “(B) may not enroll in a health benefits plan  
22 for self and family.

23 “(4)(A) A covered individual who elects not to enroll,  
24 or who elects not to continue enrollment, in a health bene-  
25 fits plan under this chapter (including a covered individual

1 who elects to receive payments under subsection (d)) may  
2 subsequently enroll in a health benefits plan under this  
3 chapter based on the status of the covered individual as  
4 a covered individual in accordance with such procedures,  
5 and after paying such fees, as the Director of the Office  
6 of Personnel Management may establish.

7 “(B) The fact that a covered individual elects not to  
8 enroll, or elects not to continue enrollment, in a health  
9 benefits plan under this chapter shall not affect the eligi-  
10 bility of the covered individual for benefits under title II  
11 of the Social Security Act (42 U.S.C. 401 et seq.).

12 “(c)(1)(A) A covered individual who elects to enroll  
13 in a health benefits plan under this chapter based on the  
14 status of the covered individual as a covered individual  
15 shall pay a monthly individual premium payment deter-  
16 mined in accordance with subparagraph (B).

17 “(B) The individual premium payment under sub-  
18 paragraph (A) shall be determined based on income, as  
19 follows:

20 “(i) For an individual with an adjusted gross  
21 income (as defined under section 62 of the Internal  
22 Revenue Code of 1986) of not more than \$85,000,  
23 the individual premium payment shall be in an  
24 amount equal to the employee contribution for the

1 health benefits plan, as determined under section  
2 8906.

3 “(ii) For an individual with an adjusted gross  
4 income of more than \$85,000 and not more than  
5 \$107,000, the individual premium payment shall be  
6 in an amount equal to the sum of—

7 “(I) the employee contribution for the  
8 health benefits plan, as determined under sec-  
9 tion 8906; and

10 “(II) the product obtained by multi-  
11 plying—

12 “(aa) the Government contribution  
13 (as determined under section 8906(b)); by

14 “(bb) 0.05.

15 “(iii) For an individual with an adjusted gross  
16 income of more than \$107,000 and not more than  
17 \$160,000, the individual premium payment shall be  
18 in an amount equal to the sum of—

19 “(I) the employee contribution for the  
20 health benefits plan, as determined under sec-  
21 tion 8906; and

22 “(II) the product obtained by multi-  
23 plying—

24 “(aa) the Government contribution  
25 (as determined under section 8906(b)); by

1 “(bb) 0.1.

2 “(iv) For an individual with an adjusted gross  
3 income of more than \$160,000 and not more than  
4 \$250,000, the individual premium payment shall be  
5 in an amount equal to the sum of—

6 “(I) the employee contribution for the  
7 health benefits plan, as determined under sec-  
8 tion 8906; and

9 “(II) the product obtained by multi-  
10 plying—

11 “(aa) the Government contribution  
12 (as determined under section 8906(b)); by

13 “(bb) 0.15.

14 “(v) For an individual with an adjusted gross  
15 income of more than \$250,000 and not more than  
16 \$1,000,000, the individual premium payment shall  
17 be in an amount equal to the sum of—

18 “(I) the employee contribution for the  
19 health benefits plan, as determined under sec-  
20 tion 8906; and

21 “(II) the product obtained by multi-  
22 plying—

23 “(aa) the Government contribution  
24 (as determined under section 8906(b)); by

25 “(bb) 0.5.

1           “(vi) For an individual with an adjusted gross  
2           income of more than \$1,000,000, the individual pre-  
3           mium payment shall be in an amount equal to the  
4           sum of—

5                   “(I) the employee contribution for the  
6           health benefits plan, as determined under sec-  
7           tion 8906; and

8                   “(II) the Government contribution (as de-  
9           termined under section 8906(b)).

10          “(C) The Director of the Office of Personnel Manage-  
11       ment shall adjust the income amounts under subpara-  
12       graph (B) annually to reflect changes in the Consumer  
13       Price Index for all Urban Consumers published by the De-  
14       partment of Labor.

15          “(2)(A) For a covered individual who is entitled to  
16       monthly benefits under section 202 or 223 of the Social  
17       Security Act (42 U.S.C. 402 and 423), the monthly pre-  
18       miums of the covered individual under this subchapter  
19       shall (except as provided in subparagraph (B) or (C)) be  
20       collected by deducting the amount of the premium from  
21       the amount of such monthly benefits.

22          “(B) For a covered individual who is entitled to re-  
23       ceive for a month an annuity under the Railroad Retire-  
24       ment Act of 1974 (whether or not the covered individual  
25       is also entitled for such month to a monthly insurance ben-

1 efit under section 202 of the Social Security Act (42  
2 U.S.C. 402)), the monthly premiums of the covered indi-  
3 vidual under this subchapter shall (except as provided in  
4 subparagraph (C)) be collected by deducting the amount  
5 thereof from such annuity or pension.

6       “(C) If a covered individual to whom subparagraph  
7 (A) or (B) applies estimates that the amount which will  
8 be available for deduction under such subparagraph for  
9 any premium payment period will be less than the amount  
10 of the monthly premiums for such period, the covered indi-  
11 vidual may pay to the Director of the Office of Personnel  
12 Management such portion of the monthly premiums for  
13 such period as the covered individual desires.

14       “(D) For a covered individual who is not described  
15 in subparagraph (A) or (B) and who elects to enroll in  
16 a health benefits plan under this chapter, or with respect  
17 to whom subparagraph (C) applies, the covered individual  
18 shall pay monthly premiums to the Director of the Office  
19 of Personnel Management at such times, and in such man-  
20 ner, as the Director shall by regulations prescribe.

21       “(E) Amounts deducted or paid under this paragraph  
22 shall be deposited in the Treasury to the credit of the Em-  
23 ployees Health Benefits Fund established under section  
24 8909.

1       “(F) After consultation with the Director of the Of-  
2       fice of Personnel Management, the Secretary of Health  
3       and Human Services shall establish procedures for making  
4       and depositing deductions under this paragraph.

5       “(3) The Director of the Office of Personnel Manage-  
6       ment shall establish procedures for terminating the enroll-  
7       ment of a covered individual in a health benefits plan if  
8       the covered individual fails to make timely payment of pre-  
9       miums, which shall allow such a covered individual to re-  
10      enroll in a health benefits plan under such terms and con-  
11      ditions as the Director may prescribe.

12      “(d) The Director of the Office of Personnel Manage-  
13      ment shall make periodic payments to the employer or  
14      former employer providing health insurance to a covered  
15      individual who makes an election under subsection  
16      (b)(1)(B) in a total amount not to exceed the lesser of—

17             “(1) the cost to the employer or former em-  
18             ployer of providing health insurance to the covered  
19             individual; and

20             “(2) the average Government contribution for  
21             an individual enrolled in a health benefits plan under  
22             this chapter that is available to individuals residing  
23             anywhere in the United States.

24      “(e) For fiscal year 2014 and each fiscal year there-  
25      after, there are appropriated to the Employees Health

1 Benefits Fund established under section 8909, out of any  
2 funds in the Treasury not otherwise appropriated—

3 “(1) an amount equal to—

4 “(A) the taxes imposed by sections  
5 3101(b) and 3111(b) of the Internal Revenue  
6 Code of 1986 with respect to wages reported to  
7 the Secretary of the Treasury pursuant to sub-  
8 title F of such Code after December 31, 2013,  
9 as determined by the Secretary of the Treasury  
10 by applying the applicable rates of tax under  
11 such sections to such wages, which wages shall  
12 be certified by the Commissioner of Social Se-  
13 curity on the basis of records of wages estab-  
14 lished and maintained by the Commissioner of  
15 Social Security in accordance with such reports;

16 “(B) the taxes imposed by section 1401(b)  
17 of the Internal Revenue Code of 1986 with re-  
18 spect to self-employment income reported to the  
19 Secretary of the Treasury on tax returns under  
20 subtitle F of such Code, as determined by the  
21 Secretary of the Treasury by applying the ap-  
22 plicable rate of tax under such section to such  
23 self-employment income, which self-employment  
24 income shall be certified by the Commissioner  
25 of Social Security on the basis of records of

1 self-employment established and maintained by  
2 the Commissioner of Social Security in accord-  
3 ance with such returns; and

4 “(C) any amounts that, on or after Janu-  
5 ary 1, 2014, are to be deposited in the Federal  
6 Hospital Insurance Trust Fund established  
7 under section 1817 of the Social Security Act  
8 (42 U.S.C. 1395i) under any other provision of  
9 law; and

10 “(2) a Government contribution equal to the  
11 difference obtained by subtracting—

12 “(A) the sum of—

13 “(i) the total amount of premiums  
14 paid by covered individuals under sub-  
15 section (c)(2) for the fiscal year; and

16 “(ii) the amount appropriated under  
17 paragraph (1); from

18 “(B) the sum of—

19 “(i) the total cost for the fiscal year  
20 of subscription charges for health benefits  
21 plans for covered individuals enrolled in a  
22 health benefits plan based on the status of  
23 the covered individuals as covered individ-  
24 uals; and

1                   “(ii) the total amount of payments for  
2                   the fiscal year under subsection (d).

3           “(f) The Director of the Office of Personnel Manage-  
4 ment shall establish, in consultation with the Secretary of  
5 Health and Human Services acting through the Adminis-  
6 trator of the Centers for Medicare & Medicaid Services,  
7 procedures to ensure that health benefits plans coordinate  
8 with State Medicaid programs with respect to the provi-  
9 sion of cost-sharing and other medical assistance for cov-  
10 ered individuals enrolled in health benefit plans who are  
11 also eligible for medical assistance and enrolled in a State  
12 Medicaid program.

13           “SUBCHAPTER III—HIGH RISK POOL  
14 **“§ 8941. Reimbursement of costs for high risk individ-**  
15                   **uals**

16           “(a) In this section, the term ‘high risk individual’  
17 means an individual—

18                   “(1) enrolled in a health benefits plan under  
19 this chapter for a contract year; and

20                   “(2) who, of all individuals enrolled in a health  
21 benefits plan under this chapter for the contract  
22 year, is in the highest 5 percent in terms of benefits  
23 paid by a carrier under a health benefits plan relat-  
24 ing to the contract year.

1 “(b) After the end of each contract year beginning  
2 on or after January 1, 2014, the Director of the Office  
3 of Personnel Management shall—

4 “(1) identify the high risk individuals for the  
5 contract year; and

6 “(2) pay to a carrier contracting to provide a  
7 health benefits plan to a high risk individual for the  
8 contract year 90 percent of the benefits paid by the  
9 carrier relating to the high risk individual.

10 “(c)(1) For fiscal year 2014 and each fiscal year  
11 thereafter, there are appropriated to the Director of the  
12 Office of Personnel Management from the Federal Hos-  
13 pital Insurance Trust Fund established under section  
14 1817 of the Social Security Act (42 U.S.C. 1395i) such  
15 sums as are necessary to carry out this section.

16 “(2) If the amounts appropriated under paragraph  
17 (1) are insufficient to carry out this section, for fiscal year  
18 2014 and each fiscal year thereafter, there are appro-  
19 priated to the Director of the Office of Personnel Manage-  
20 ment, out of any funds in the Treasury not otherwise ap-  
21 propriated, such sums as are necessary to carry out this  
22 section.”.

23 (b) EXEMPTION FROM INSURANCE REQUIRE-  
24 MENTS.—

1           (1) AMENDMENT TO TITLE 5.—Chapter 89 of  
2           title 5, United States Code, is amended by inserting  
3           after section 8901 the following:

4   **“§ 8901A. Exemption from insurance requirements**

5           “Title I of the Patient Protection and Affordable  
6   Care Act, subtitle A of title X of such Act, and the amend-  
7   ments made by such title I and subtitle A shall not apply  
8   to health benefits plans.”.

9           (2) CONFORMING AMENDMENT.—Section 2709  
10          of the Public Health Service Act (42 U.S.C. 300gg–  
11          8) (as added by section 10103 of the Patient Protec-  
12          tion and Affordable Care Act) is amended—

13                   (A) by striking subsection (g); and

14                   (B) by redesignating subsection (h) as sub-  
15          section (g).

16          (c) TECHNICAL AND CONFORMING AMENDMENTS.—  
17          Chapter 89 of title 5, United States Code, is amended—

18                   (1) in the table of sections—

19                           (A) by inserting after the item relating to  
20          section 8901 the following:

“8901A. Exemption from insurance requirements.

“SUBCHAPTER I—FEDERAL EMPLOYEES”;

21                   and

22                           (B) by adding at the end the following:

“SUBCHAPTER II—COVERED INDIVIDUALS

“8921. Health insurance for covered individuals.

## “SUBCHAPTER III—HIGH RISK POOL

“8941. Reimbursement of costs for high risk individuals.”;

1 (2) in section 8902a(d)(1)—

2 (A) in subparagraph (A), by adding “or”  
3 at the end;

4 (B) by striking subparagraph (B); and

5 (C) by redesignating subparagraph (C) as  
6 subparagraph (B); and

7 (3) by striking section 8910(d).

8 (d) EFFECTIVE DATE; APPLICABILITY.—The amend-  
9 ments made by this section shall take effect on the date  
10 of enactment of this Act and apply on and after January  
11 1, 2014.

12 **SEC. 3. TRANSITIONING MEDICARE PATIENTS TO COV-**  
13 **ERAGE UNDER THE FEDERAL EMPLOYEES**  
14 **HEALTH BENEFITS PROGRAM.**

15 (a) INCREASE IN MEDICARE ELIGIBILITY AGE.—Sec-  
16 tion 226 of the Social Security Act (42 U.S.C. 426) is  
17 amended by adding at the end the following new sub-  
18 section:

19 “(k) INCREASING MEDICARE QUALIFYING AGE.—

20 “(1) IN GENERAL.—Notwithstanding any other  
21 provision of law, any reference in this section and  
22 title XVIII, title XIX to age 65 shall be deemed a  
23 reference to the Medicare qualifying age specified in  
24 paragraph (2).

1           “(2) MEDICARE QUALIFYING AGE SPECIFIED.—

2           The Medicare qualifying age specified in this para-  
3           graph is determined as follows:

4                   “(A) In the case of an individual who at-  
5                   tains 65 years of age before January 1, 2014,  
6                   the Medicare qualifying age is 65 years of age.

7                   “(B) In the case of an individual who at-  
8                   tains 65 years of age in a year after 2013, and  
9                   before 2034, the Medicare qualifying age is the  
10                  Medicare qualifying age specified in this para-  
11                  graph for the previous year increased by 3  
12                  months.

13                  “(C) In the case of an individual who at-  
14                  tains 65 years of age in a year after 2033, the  
15                  Medicare qualifying age is 70 years of age plus  
16                  the number of months in the age increase factor  
17                  (as determined under paragraph (3)).

18           “(3) AGE INCREASE FACTOR.—The Commis-  
19           sioner of Social Security shall determine (using rea-  
20           sonable actuarial assumptions) and publish on or be-  
21           fore November 1 of each calendar year after 2032  
22           the number of months (rounded, if not a multiple of  
23           one month, to the next lower multiple of one month)  
24           by which life expectancy as of October 1 of such cal-  
25           endar year of an individual attaining age 65 on such

1       October 1 exceeds the life expectancy as of October  
2       1, 2033, of an individual attaining age 65 on Octo-  
3       ber 1, 2033. With respect to an individual who at-  
4       tains age 65 in the calendar year following any cal-  
5       endar year in which a determination is made under  
6       this paragraph, the age increase factor shall be the  
7       number of months determined under this paragraph  
8       as of October 1 of such calendar year in which such  
9       determination is made.”.

10       (b) SUNSET.—Title XVIII of the Social Security Act  
11       (42 U.S.C. 1395 et seq.) is amended by adding at the end  
12       the following new section:

13       “SUNSET OF MEDICARE PROGRAM WITH TRANSITION TO  
14       COVERAGE UNDER THE FEDERAL EMPLOYEES  
15       HEALTH BENEFITS PROGRAM

16       “SEC. 1899B. Notwithstanding any other provision  
17       of law, on and after January 1, 2014, the following rules  
18       shall apply:

19               “(1) The preceding provisions of this title shall  
20       not apply.

21               “(2) No payments for items and services fur-  
22       nished under this title after such date shall be made.  
23       No additional, bonus, or incentive payments under  
24       this title, such as graduate medical education pay-  
25       ments, may be made.

1           “(3) Payments for items and services furnished  
2           under this title prior to such date shall be made in  
3           the same manner as if this section had not been en-  
4           acted.

5           “(4) All Medicare supplemental policies under  
6           section 1882 are terminated.

7           “(5) All demonstration projects conducted  
8           under this title are terminated.

9           “(6) Entitlement to health benefits for individ-  
10          uals who, but for this section (and taking into ac-  
11          count section 226(k)), would have been entitled to,  
12          or could have enrolled for, benefits under part A or  
13          could have enrolled under part B shall be through  
14          enrollment in a health benefits plan under chapter  
15          89 of title 5, United States Code.

16          “(7) At a date determined appropriate by the  
17          Secretary (after payments described in paragraph  
18          (3) have been made), amounts in the Federal Hos-  
19          pital Insurance Trust Fund and the Federal Supple-  
20          mentary Medical Insurance Trust Fund (including  
21          the Medicare Prescription Drug Account within such  
22          Trust Fund) shall be transferred to the Employees  
23          Health Benefits Fund established under section  
24          8909 of chapter 5, United States Code.

1           “(8) Any determination under Federal law  
2           (other than this title and title II) relating to Medi-  
3           care eligibility shall be made based on whether an  
4           individual is a covered individual, as defined in sec-  
5           tion 8901 of title 5, United States Code.”.

6           (c) CONFORMING AMENDMENT.—(1) Section 226 of  
7           the Social Security Act (42 U.S.C. 426) is amended by  
8           adding at the end the following new subsection:

9           “(k) Notwithstanding the preceding provisions of this  
10          section, on and after January 1, 2014, entitlement to  
11          health benefits to individuals who, but for this subsection  
12          and section 1899B, would have been entitled to benefits  
13          under part A and eligible to enroll under part B of title  
14          XVIII pursuant to this section shall be through enrollment  
15          in a health benefits plan under chapter 89 of title 5,  
16          United States Code, rather than under title XVIII of this  
17          Act.”.

18          (2) Section 226A of the Social Security Act (42  
19          U.S.C. 426) is amended by adding at the end the following  
20          new subsection:

21          “(d) Notwithstanding the preceding provisions of this  
22          section, on and after January 1, 2014, entitlement to  
23          health benefits to individuals who, but for this subsection  
24          and section 1899B, would have been entitled to benefits  
25          under part A and eligible to enroll under part B of title

1 XVIII pursuant to this section shall be through enrollment  
2 in a health benefits plan under chapter 89 of title 5,  
3 United States Code, rather than under title XVIII of this  
4 Act.”.

5 (d) RECOMMENDATIONS TO STATES.—Not later than  
6 1 year after the date of the enactment of this Act, the  
7 Secretary of Health and Human Services shall make avail-  
8 able to States recommendations with respect to require-  
9 ments for health care entities and individuals under the  
10 Medicare program that, by reason of section 1899B of the  
11 Social Security Act, as added by subsection (b), will no  
12 longer apply but that should be considered on the State  
13 level.

○