

**AMENDMENT TO H.R. 1213, AS REPORTED  
OFFERED BY MS. WOOLSEY OF CALIFORNIA**

Page 3, after line 11, insert the following:

1           (c) **EFFECTIVE DATE.**—Subsections (a) and (b) shall  
2 not take effect unless and until—

3                   (1) the Director of the Office of Management  
4 and Budget, in consultation with the Director of the  
5 Congressional Budget Office, certifies to the Con-  
6 gress that the enactment of such subsections will not  
7 reduce the availability of affordable health coverage  
8 choices for all Americans otherwise provided under  
9 title I of the Patient Protection and Affordable Care  
10 Act (Public Law 111-148); and

11                   (2) the provisions of section 2 are enacted.

12 **SEC. 2. PUBLIC HEALTH INSURANCE OPTION.**

13           (a) **ESTABLISHMENT AND ADMINISTRATION OF A**  
14 **PUBLIC HEALTH INSURANCE OPTION.**—

15                   (1) **ESTABLISHMENT.**—For years beginning  
16 with 2014, the Secretary of Health and Human  
17 Services (in this section referred to as the “Sec-  
18 retary”) shall provide for the offering through Ex-  
19 changes established under title I of the Patient Pro-  
20 tection and Affordable Care Act of a health benefits

1 plan (in this section referred to as the “public health  
2 insurance option”) that ensures choice, competition,  
3 and stability of affordable, high-quality coverage  
4 throughout the United States in accordance with  
5 this section. In designing the option, the Secretary’s  
6 primary responsibility is to create a low-cost plan  
7 without compromising quality or access to care.

8 (2) OFFERING THROUGH EXCHANGES.—

9 (A) EXCLUSIVE TO EXCHANGES.—The  
10 public health insurance option shall only be  
11 made available through Exchanges established  
12 under title I of the Patient Protection and Af-  
13 fordable Care Act.

14 (B) ENSURING A LEVEL PLAYING FIELD.—  
15 Consistent with this section, the public health  
16 insurance option shall comply with require-  
17 ments that are applicable under title I of the  
18 Patient Protection and Affordable Care Act to  
19 health benefits plans offered through such Ex-  
20 changes, including requirements related to ben-  
21 efits, benefit levels, provider networks, notices,  
22 consumer protections, and cost sharing.

23 (C) PROVISION OF BENEFIT LEVELS.—The  
24 public health insurance option—

1 (i) shall offer bronze, silver, and gold  
2 plans; and

3 (ii) may offer platinum plans.

4 (3) ADMINISTRATIVE CONTRACTING.—The Sec-  
5 retary may enter into contracts for the purpose of  
6 performing administrative functions (including func-  
7 tions described in subsection (a)(4) of section 1874A  
8 of the Social Security Act) with respect to the public  
9 health insurance option in the same manner as the  
10 Secretary may enter into contracts under subsection  
11 (a)(1) of such section. The Secretary has the same  
12 authority with respect to the public health insurance  
13 option as the Secretary has under subsections (a)(1)  
14 and (b) of section 1874A of the Social Security Act  
15 with respect to title XVIII of such Act. Contracts  
16 under this paragraph shall not involve the transfer  
17 of insurance risk to such entity.

18 (4) OMBUDSMAN.—The Secretary shall estab-  
19 lish an office of the ombudsman for the public  
20 health insurance option which shall have duties with  
21 respect to the public health insurance option similar  
22 to the duties of the Medicare Beneficiary Ombuds-  
23 man under section 1808(c)(2) of the Social Security  
24 Act. In addition, such office shall work with States  
25 to ensure that information and notice is provided

1           that the public health insurance option is one of the  
2           health plans available through an Exchange.

3           (5) DATA COLLECTION.—The Secretary shall  
4           collect such data as may be required to establish  
5           premiums and payment rates for the public health  
6           insurance option and for other purposes under this  
7           section, including to improve quality and to reduce  
8           racial, ethnic, and other disparities in health and  
9           health care.

10          (6) ACCESS TO FEDERAL COURTS.—The provi-  
11          sions of Medicare (and related provisions of title II  
12          of the Social Security Act) relating to access of  
13          Medicare beneficiaries to Federal courts for the en-  
14          forcement of rights under Medicare, including with  
15          respect to amounts in controversy, shall apply to the  
16          public health insurance option and individuals en-  
17          rolled under such option under this title in the same  
18          manner as such provisions apply to Medicare and  
19          Medicare beneficiaries.

20          (b) PREMIUMS AND FINANCING.—

21                  (1) ESTABLISHMENT OF PREMIUMS.—

22                          (A) IN GENERAL.—The Secretary shall es-  
23                          tablish geographically adjusted premium rates  
24                          for the public health insurance option—

1 (i) in a manner that complies with the  
2 premium rules under paragraph (3); and

3 (ii) at a level sufficient to fully finance  
4 the costs of—

5 (I) health benefits provided by  
6 the public health insurance option;  
7 and

8 (II) administrative costs related  
9 to operating the public health insur-  
10 ance option.

11 (B) CONTINGENCY MARGIN.—In estab-  
12 lishing premium rates under subparagraph (A),  
13 the Secretary shall include an appropriate  
14 amount for a contingency margin.

15 (2) ACCOUNT.—

16 (A) ESTABLISHMENT.—There is estab-  
17 lished in the Treasury of the United States an  
18 account for the receipts and disbursements at-  
19 tributable to the operation of the public health  
20 insurance option, including the start-up funding  
21 under subparagraph (B). Section 1854(g) of  
22 the Social Security Act shall apply to receipts  
23 described in the previous sentence in the same  
24 manner as such section applies to payments or  
25 premiums described in such section.

1 (B) START-UP FUNDING.—

2 (i) IN GENERAL.—In order to provide  
3 for the establishment of the public health  
4 insurance option there is hereby appro-  
5 priated to the Secretary, out of any funds  
6 in the Treasury not otherwise appro-  
7 priated, \$2,000,000,000. In order to pro-  
8 vide for initial claims reserves before the  
9 collection of premiums, there is hereby ap-  
10 propriated to the Secretary, out of any  
11 funds in the Treasury not otherwise appro-  
12 priated, such sums as necessary to cover  
13 90 days worth of claims reserves based on  
14 projected enrollment.

15 (ii) AMORTIZATION OF START-UP  
16 FUNDING.—The Secretary shall provide for  
17 the repayment of the startup funding pro-  
18 vided under clause (i) to the Treasury in  
19 an amortized manner over the 10-year pe-  
20 riod beginning with 2014.

21 (iii) LIMITATION ON FUNDING.—  
22 Nothing in this subsection shall be con-  
23 strued as authorizing any additional appro-  
24 priations to the account, other than such  
25 amounts as are otherwise provided with re-

1                   spect to other health benefits plans partici-  
2                   pating under the Exchange involved.

3                   (3) INSURANCE RATING RULES.—The premium  
4                   rate charged for the public health insurance option  
5                   may not vary except as provided under section 2701  
6                   of the Public Health Service Act.

7                   (c) PAYMENT RATES FOR ITEMS AND SERVICES.—

8                   (1) RATES ESTABLISHED BY SECRETARY.—

9                   (A) IN GENERAL.—The Secretary shall es-  
10                  tablish payment rates for the public health in-  
11                  surance option for services and health care pro-  
12                  viders consistent with this subsection and may  
13                  change such payment rates in accordance with  
14                  subsection (d).

15                  (B) INITIAL PAYMENT RULES.—

16                  (i) IN GENERAL.—During 2014,  
17                  2015, and 2016, the Secretary shall set  
18                  the payment rates under this subsection  
19                  for services and providers described in sub-  
20                  paragraph (A) equal to the payment rates  
21                  for equivalent services and providers under  
22                  parts A and B of Medicare, subject to  
23                  clause (ii), paragraphs (2)(A) and (4), and  
24                  subsection (d).

25                  (ii) EXCEPTIONS.—

1 (I) PRACTITIONERS' SERVICES.—

2 Payment rates for practitioners' serv-  
3 ices otherwise established under the  
4 fee schedule under section 1848 of the  
5 Social Security Act shall be applied  
6 without regard to the provisions under  
7 subsection (f) of such section and the  
8 update under subsection (d)(4) under  
9 such section for a year as applied  
10 under this paragraph shall be not less  
11 than 1 percent.

12 (II) ADJUSTMENTS.—The Sec-  
13 retary may determine the extent to  
14 which Medicare adjustments applica-  
15 ble to base payment rates under parts  
16 A and B of Medicare for graduate  
17 medical education and dispropor-  
18 tionate share hospitals shall apply  
19 under this section.

20 (C) FOR NEW SERVICES.—The Secretary  
21 shall modify payment rates described in sub-  
22 paragraph (B) in order to accommodate pay-  
23 ments for services, such as well-child visits, that  
24 are not otherwise covered under Medicare.



1           (D)    PRESCRIPTION    DRUGS.—Payment  
2           rates under this subsection for prescription  
3           drugs that are not paid for under part A or  
4           part B of Medicare shall be at rates negotiated  
5           by the Secretary.

6           (2)    INCENTIVES    FOR    PARTICIPATING    PRO-  
7           VIDERS.—

8           (A)    INITIAL INCENTIVE PERIOD.—

9                   (i)    IN GENERAL.—The Secretary shall  
10                  provide, in the case of services described in  
11                  clause (ii) furnished during 2014, 2015,  
12                  and 2016, for payment rates that are 5  
13                  percent greater than the rates established  
14                  under paragraph (1).

15                   (ii)   SERVICES DESCRIBED.—The serv-  
16                  ices described in this clause are items and  
17                  professional services, under the public  
18                  health insurance option by a physician or  
19                  other health care practitioner who partici-  
20                  pates in both Medicare and the public  
21                  health insurance option.

22                   (iii)   SPECIAL RULES.—A pediatrician  
23                  and any other health care practitioner who  
24                  is a type of practitioner that does not typi-  
25                  cally participate in Medicare (as deter-

1           mined by the Secretary) shall also be eligi-  
2           ble for the increased payment rates under  
3           clause (i).

4           (B) SUBSEQUENT PERIODS.—Beginning  
5           with 2017 and for subsequent years, the Sec-  
6           retary shall continue to use an administrative  
7           process to set such rates in order to promote  
8           payment accuracy, to ensure adequate bene-  
9           ficiary access to providers, and to promote af-  
10          fordability and the efficient delivery of medical  
11          care consistent with subsection (a)(1). Such  
12          rates shall not be set at levels expected to in-  
13          crease average medical costs per enrollee cov-  
14          ered under the public health insurance option  
15          beyond what would be expected if the process  
16          under paragraph (1)(B) and subparagraph (A)  
17          were continued, as certified by the Office of the  
18          Actuary of the Centers for Medicare & Medicaid  
19          Services.

20          (C) ESTABLISHMENT OF A PROVIDER NET-  
21          WORK.—Health care providers participating  
22          under Medicare are participating providers in  
23          the public health insurance option unless they  
24          opt out in a process established by the Sec-  
25          retary.

1           (3) ADMINISTRATIVE PROCESS FOR SETTING  
2 RATES.—Chapter 5 of title 5, United States Code  
3 shall apply to the process for the initial establish-  
4 ment of payment rates under this subsection but not  
5 to the specific methodology for establishing such  
6 rates or the calculation of such rates.

7           (4) CONSTRUCTION.—Nothing in this section  
8 shall be construed as limiting the Secretary’s author-  
9 ity to correct for payments that are excessive or defi-  
10 cient, taking into account the provisions of sub-  
11 section (a)(1) and any appropriate adjustments  
12 based on the demographic characteristics of enrollees  
13 covered under the public health insurance option,  
14 but in no case shall the correction of payments  
15 under this paragraph result in a level of expendi-  
16 tures per enrollee that exceeds the level of expendi-  
17 tures that would have occurred under paragraphs  
18 (1)(B) and (2)(A), as certified by the Office of the  
19 Actuary of the Centers for Medicare & Medicaid  
20 Services.

21           (5) CONSTRUCTION.—Nothing in this section  
22 shall be construed as affecting the authority of the  
23 Secretary to establish payment rates, including pay-  
24 ments to provide for the more efficient delivery of

1 services, such as the initiatives provided for under  
2 subsection (d).

3 (6) LIMITATIONS ON REVIEW.—There shall be  
4 no administrative or judicial review of a payment  
5 rate or methodology established under this sub-  
6 section or under subsection (d).

7 (d) MODERNIZED PAYMENT INITIATIVES AND DE-  
8 LIVERY SYSTEM REFORM.—

9 (1) IN GENERAL.—For plan years beginning  
10 with 2014, the Secretary may utilize innovative pay-  
11 ment mechanisms and policies to determine pay-  
12 ments for items and services under the public health  
13 insurance option. The payment mechanisms and  
14 policies under this subsection may include patient-  
15 centered medical home and other care management  
16 payments, accountable care organizations, value-  
17 based purchasing, bundling of services, differential  
18 payment rates, performance or utilization based pay-  
19 ments, partial capitation, and direct contracting with  
20 providers. Payment rates under such payment mech-  
21 anisms and policies shall not be set at levels ex-  
22 pected to increase average medical costs per enrollee  
23 covered under the public health insurance option be-  
24 yond what would be expected if the process under  
25 paragraphs (1)(B) and (2)(A) of subsection (c) were

1 continued, as certified by the Office of the Actuary  
2 of the Centers for Medicare & Medicaid Services.

3 (2) REQUIREMENTS FOR INNOVATIVE PAY-  
4 MENTS.—The Secretary shall design and implement  
5 the payment mechanisms and policies under this  
6 subsection in a manner that—

7 (A) seeks to—

8 (i) improve health outcomes;

9 (ii) reduce health disparities (includ-  
10 ing racial, ethnic, and other disparities);

11 (iii) provide efficient and affordable  
12 care;

13 (iv) address geographic variation in  
14 the provision of health services; or

15 (v) prevent or manage chronic illness;

16 and

17 (B) promotes care that is integrated, pa-  
18 tient-centered, high quality, and efficient.

19 (3) ENCOURAGING THE USE OF HIGH VALUE  
20 SERVICES.—To the extent allowed by the benefit  
21 standards applied to all health benefits plans partici-  
22 pating under the Exchange involved, the public  
23 health insurance option may modify cost sharing and  
24 payment rates to encourage the use of services that  
25 promote health and value.

1           (4) NON-UNIFORMITY PERMITTED.—Nothing in  
2 this section or subtitle D of title I of the Patient  
3 Protection and Affordable Care Act shall prevent the  
4 Secretary from varying payments based on different  
5 payment structure models (such as accountable care  
6 organizations and medical homes) under the public  
7 health insurance option for different geographic  
8 areas.

9           (e) PROVIDER PARTICIPATION.—

10           (1) IN GENERAL.—The Secretary shall establish  
11 conditions of participation for health care providers  
12 under the public health insurance option.

13           (2) LICENSURE OR CERTIFICATION.—The Sec-  
14 retary shall not allow a health care provider to par-  
15 ticipate in the public health insurance option unless  
16 such provider is appropriately licensed or certified  
17 under State law.

18           (3) PAYMENT TERMS FOR PROVIDERS.—

19           (A) PHYSICIANS.—The Secretary shall pro-  
20 vide for the annual participation of physicians  
21 under the public health insurance option, for  
22 which payment may be made for services fur-  
23 nished during the year, in one of 2 classes:

24           (i) PREFERRED PHYSICIANS.—Those  
25 physicians who agree to accept the pay-

1           ment rate established under this section  
2           (without regard to cost-sharing) as the  
3           payment in full.

4                   (ii) PARTICIPATING, NON-PREFERRED  
5           PHYSICIANS.—Those physicians who agree  
6           not to impose charges (in relation to the  
7           payment rate described in subsection (c)  
8           for such physicians) that exceed the ratio  
9           permitted under section 1848(g)(2)(C) of  
10          the Social Security Act.

11                   (B) OTHER PROVIDERS.—The Secretary  
12          shall provide for the participation (on an annual  
13          or other basis specified by the Secretary) of  
14          health care providers (other than physicians)  
15          under the public health insurance option under  
16          which payment shall only be available if the  
17          provider agrees to accept the payment rate es-  
18          tablished under subsection (c) (without regard  
19          to cost-sharing) as the payment in full.

20                   (4) EXCLUSION OF CERTAIN PROVIDERS.—The  
21          Secretary shall exclude from participation under the  
22          public health insurance option a health care provider  
23          that is excluded from participation in a Federal  
24          health care program (as defined in section 1128B(f)  
25          of the Social Security Act).

1           (f) APPLICATION OF FRAUD AND ABUSE PROVI-  
2           SIONS.—Provisions of law (other than criminal law provi-  
3           sions) identified by the Secretary by regulation, in con-  
4           sultation with the Inspector General of the Department  
5           of Health and Human Services, that impose sanctions  
6           with respect to waste, fraud, and abuse under Medicare,  
7           such as the False Claims Act (31 U.S.C. 3729 et seq.),  
8           shall also apply to the public health insurance option.

9           (g) MEDICARE DEFINED.—For purposes of this sec-  
10          tion, the term “Medicare” means the health insurance  
11          programs under title XVIII of the Social Security Act.

