

AMENDMENT TO H.R. _____
OFFERED BY MS. WOOLSEY OF CALIFORNIA
[Amendment to ACA-rep__002]

Add at the end the following:

1 **SEC. 3. PRESERVING AVAILABLE COVERAGE CHOICES FOR**
2 **ALL AMERICANS.**

3 Section 2 (repealing the Patient Protection and Af-
4 fordable Care Act (Public Law 111-148)) shall not take
5 effect unless and until—

6 (1) the Director of the Office of Management
7 and Budget, in consultation with the Director of the
8 Congressional Budget Office, certifies to the Con-
9 gress that the repeals effected by such section will
10 not prevent the availability of affordable health cov-
11 erage choices for all Americans in such a manner as
12 established under subtitle D of title I of the Patient
13 Protection and Affordable Care Act (Public Law
14 111-148), as amended by the Health Care and Edu-
15 cation Reconciliation Act of 2010 (Public Law 111-
16 148); and

17 (2) the provisions of section 4 are enacted.

1 **SEC. 4. PUBLIC HEALTH INSURANCE OPTION.**

2 (a) ESTABLISHMENT AND ADMINISTRATION OF A
3 PUBLIC HEALTH INSURANCE OPTION.—

4 (1) ESTABLISHMENT.—For years beginning
5 with 2014, the Secretary of Health and Human
6 Services (in this subtitle referred to as the “Sec-
7 retary”) shall provide for the offering through Ex-
8 changes established under this title of a health bene-
9 fits plan (in this Act referred to as the “public
10 health insurance option”) that ensures choice, com-
11 petition, and stability of affordable, high-quality cov-
12 erage throughout the United States in accordance
13 with this section. In designing the option, the Sec-
14 retary’s primary responsibility is to create a low-cost
15 plan without compromising quality or access to care.

16 (2) OFFERING THROUGH EXCHANGES.—

17 (A) EXCLUSIVE TO EXCHANGES.—The
18 public health insurance option shall only be
19 made available through Exchanges established
20 under this title.

21 (B) ENSURING A LEVEL PLAYING FIELD.—
22 Consistent with this section, the public health
23 insurance option shall comply with require-
24 ments that are applicable under this title to
25 health benefits plans offered through such Ex-
26 changes, including requirements related to ben-

1 efits, benefit levels, provider networks, notices,
2 consumer protections, and cost sharing.

3 (C) PROVISION OF BENEFIT LEVELS.—The
4 public health insurance option—

5 (i) shall offer bronze, silver, and gold
6 plans; and

7 (ii) may offer platinum plans.

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

22 (4) OMBUDSMAN.—The Secretary shall estab-
23 lish an office of the ombudsman for the public
24 health insurance option which shall have duties with
25 respect to the public health insurance option similar

1 to the duties of the Medicare Beneficiary Ombuds-
2 man under section 1808(c)(2) of the Social Security
3 Act. In addition, such office shall work with States
4 to ensure that information and notice is provided
5 that the public health insurance option is one of the
6 health plans available through an Exchange.

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

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

24 (b) PREMIUMS AND FINANCING.—

25 (1) ESTABLISHMENT OF PREMIUMS.—

1 (A) IN GENERAL.—The Secretary shall es-
2 tablish geographically adjusted premium rates
3 for the public health insurance option—

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

6 (ii) at a level sufficient to fully finance
7 the costs of—

8 (I) health benefits provided by
9 the public health insurance option;
10 and

11 (II) administrative costs related
12 to operating the public health insur-
13 ance option.

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

18 (2) ACCOUNT.—

19 (A) ESTABLISHMENT.—There is estab-
20 lished in the Treasury of the United States an
21 account for the receipts and disbursements at-
22 tributable to the operation of the public health
23 insurance option, including the start-up funding
24 under subparagraph (B). Section 1854(g) of
25 the Social Security Act shall apply to receipts

1 described in the previous sentence in the same
2 manner as such section applies to payments or
3 premiums described in such section.

4 (B) START-UP FUNDING.—

5 (i) IN GENERAL.—In order to provide
6 for the establishment of the public health
7 insurance option there is hereby appro-
8 priated to the Secretary, out of any funds
9 in the Treasury not otherwise appro-
10 priated, \$2,000,000,000. In order to pro-
11 vide for initial claims reserves before the
12 collection of premiums, there is hereby ap-
13 propriated to the Secretary, out of any
14 funds in the Treasury not otherwise appro-
15 priated, such sums as necessary to cover
16 90 days worth of claims reserves based on
17 projected enrollment.

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

24 (iii) LIMITATION ON FUNDING.—
25 Nothing in this subsection shall be con-

1 strued as authorizing any additional appro-
2 priations to the account, other than such
3 amounts as are otherwise provided with re-
4 spect to other health benefits plans partici-
5 pating under the Exchange involved.

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

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

11 (1) RATES ESTABLISHED BY SECRETARY.—

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

18 (B) INITIAL PAYMENT RULES.—

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

1 clause (ii), paragraphs (2)(A) and (4), and
2 subsection (d).

3 (ii) EXCEPTIONS.—

4 (I) PRACTITIONERS' SERVICES.—

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

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

23 (C) FOR NEW SERVICES.—The Secretary
24 shall modify payment rates described in sub-
25 paragraph (B) in order to accommodate pay-

1 ments for services, such as well-child visits, that
2 are not otherwise covered under Medicare.

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

8 (2) INCENTIVES FOR PARTICIPATING PRO-
9 VIDERS.—

10 (A) INITIAL INCENTIVE PERIOD.—

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

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

24 (iii) SPECIAL RULES.—A pediatrician
25 and any other health care practitioner who

1 is a type of practitioner that does not typi-
2 cally participate in Medicare (as deter-
3 mined by the Secretary) shall also be eligi-
4 ble for the increased payment rates under
5 clause (i).

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

22 (C) ESTABLISHMENT OF A PROVIDER NET-
23 WORK.—Health care providers participating
24 under Medicare are participating providers in
25 the public health insurance option unless they

1 opt out in a process established by the Sec-
2 retary.

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

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

23 (5) CONSTRUCTION.—Nothing in this section
24 shall be construed as affecting the authority of the
25 Secretary to establish payment rates, including pay-

1 ments to provide for the more efficient delivery of
2 services, such as the initiatives provided for under
3 subsection (d).

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

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

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

1 paragraphs (1)(B) and (2)(A) of subsection (c) were
2 continued, as certified by the Office of the Actuary
3 of the Centers for Medicare & Medicaid Services.

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

8 (A) seeks to—

9 (i) improve health outcomes;

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

12 (iii) provide efficient and affordable
13 care;

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

16 (v) prevent or manage chronic illness;

17 and

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

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

1 payment rates to encourage the use of services that
2 promote health and value.

3 (4) NON-UNIFORMITY PERMITTED.—Nothing in
4 this subtitle shall prevent the Secretary from varying
5 payments based on different payment structure mod-
6 els (such as accountable care organizations and med-
7 ical homes) under the public health insurance option
8 for different geographic 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.

