

# Health Care Improvement Act of 2020

*By Senator Mark R. Warner*

## Section 1 – Short Title

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### Title I – Reducing Health Care Costs and Protecting Americans with Pre-Existing Conditions

**Sec. 101. Improving affordability by expanding premium assistance for consumers.** This section amends the ACA’s Advance Premium Tax Credits to eliminate the existing premium subsidy cliff to ensure all marketplace enrollees are eligible for assistance. Premiums would be capped on a sliding scale starting at 0% of household income for families making 150% of the federal poverty line, increasing to a maximum of 8.5% of household income for all families earning more than 400% of the federal poverty line.

**Sec. 102. Expanding affordability for working families to fix the family glitch.** This section ensures employee premium costs for a family plan are calculated based upon what’s affordable for the entire family. Under current law, costs are calculated solely based on what’s affordable for the employee, placing affordable coverage out of reach for some families.

**Sec. 103. Establishing a State Health Insurance Affordability and Innovation Fund.** This section establishes a \$10 billion State Health Insurance Affordability and Innovation Fund to support state run reinsurance programs, implement streamlined enrollment processes such as auto-enrollment, invest in data sharing and feasibility studies to increase health care enrollment, and otherwise lower out-of-pocket health care costs for consumers. The Congressional Budget Office has previously estimated a robust reinsurance program similar to this proposal could reduce premiums by as much as 20%.

**Sec. 104. Rescinding the short-term limited duration insurance regulation.** This provision would reverse the Administration’s harmful rulemaking expanding the sale of, marketing of, and ability to enroll in deceptively marketed “junk-plans” that are not required to provide comprehensive coverage and can discriminate against American’s with pre-existing conditions.

**Sec. 105. Revoking the Administrations section 1332 guidance.** The provision would reverse the Administration’s harmful guidance allowing states to use the ACA’s section 1332 program to increase health care costs and discriminate against American’s with pre-existing conditions. Senator Warner has previously led legislation in the Senate to overturn this regulation. Importantly, this provisions preserves states’ rights to use the 1332 waiver program to implement innovative programs that reduce costs and expand access to care.

**Sec. 106. Promoting consumer outreach and education.** This section restores funding of \$100,000,000 to the ACA navigator program to ensure individuals have the education and guidance they need to enroll in affordable health care coverage.

## **Title II – Encouraging Medicaid Expansion and Strengthening the Medicaid Program**

**Sec. 201. Incentivizing Medicaid Expansion.** This provision would provide an enhanced federal match to states that choose to expand their Medicaid program and ensure states that expanded late – like Virginia – get their fair share of federal payments. Experts estimate an additional 3 million Americans would have health care coverage if every state were to expand its Medicaid program.

**Sec. 202. Reducing the Administrative Payment to Non-expansion States.** This provision would reduce Medicaid administrative payments for states that do not expand their Medicaid program. This would provide an added incentive for states to expand their Medicaid programs without jeopardizing patient care.

**Sec. 203. 12-Months of Postpartum Medicaid Eligibility.** This provision would allow states to offer mothers up to 12 months of postpartum Medicaid eligibility. This provision would significantly improve maternal health outcomes by ensuring mothers have access to vital health care services during the immediate months after giving birth.

**Sec. 204. Supporting State Medicaid Programs through Economic Downturns.** This provision increases the Medicaid Federal Medical Assistance Percentage (FMAP) for states and U.S. territories that experience economic downturns (i.e., high unemployment). This provision would automatically connect the FMAP to state unemployment levels, so that federal aid would track with a state's economy. A state's FMAP would be calculated based on Local Area Unemployment Statistics collected by the Bureau of Labor Statistics and modified based on prospective and retrospective analysis.

**Sec. 205. Increasing Coverage by Improving Medicaid and CHIP Auto-enrollment.** This provision will significantly simplify Medicaid enrollment by permanently authorizing the successful Medicaid Express Lane Eligibility program and expanding it to include adults. In addition, this provision will codify a current practice used by certain states through which individuals can consent to enrollment by using Medicaid when they access care. Lastly, this section would commission a report making recommendations to Congress and the Secretary of the Department of Health and Human Services on what legislative, financial, and regulatory changes are needed to further ensure states can fully implement Medicaid and CHIP auto-enrollment. There are over 7 million Americans currently eligible for cost-free Medicaid coverage, but not enrolled due a variety of factors including unnecessary paperwork and confusing enrollment steps.

## **Title III – Establishment of a Public Health Care Option**

**Sec. 301. Establishment.** This provision requires the Secretary of Health and Human Services to establish a low-cost public health care option.

**Sec. 302. Availability of Plan.** This section ensures that individuals qualified to enroll in an existing ACA exchange plan and not otherwise eligible for employer sponsored health care coverage or traditional Medicare are permitted to enroll in the newly established public health care option.

**Sec. 303. Plan Affordability.** This section requires the Secretary of Health and Human Services to ensure health care premiums and out-of-pocket costs in such a plan are not more costly than comparable options on the ACA exchange.

**Sec. 304. Participating Providers.** Under this section, the Secretary may require providers enrolled in Medicare and Medicaid to accept patients enrolled in the public health care option.

**Sec. 305. Payment Rates.** This section requires the Secretary to establish competitive provider payment rates using the best information publically available and data otherwise available to the Secretary. The Secretary shall give consideration to existing provider payment rates for commercial insurance plans and provider costs to deliver care, including the increased provider costs to deliver care in rural and medically underserved areas.

**Sec. 306. No Effect on Medicare Benefits or Medicare Trust Funds.** This provision clarifies that such a plan shall have no impact on the Medicare Trust Fund or benefits for Medicare beneficiaries.

#### **Title IV – Fair Medicare Payments to Rural Providers**

**Sec. 401. Ensuring Fairness in Medicare Hospital Payments.** This section sets a national rural floor for the area wage index (AWI) Medicare uses to reimburse providers. This payment formula is currently skewed and negatively impacts payment rates to Virginia’s providers – particularly those in rural areas. This provision would protect access to health care services in Virginia’s rural communities.

#### **Title V – Commonsense Competition and Access to Health Insurance**

**Sec. 501. Providing Small Business Health Insurance across State Lines.** This section amends the ACA to ensure small group market plans can be offered across state lines.

**Sec. 502. Reports and Models.** This section commissions a study by the National Association of Insurance Commissioners on barriers to selling insurance plans across states lines, an assessment on how to establish such plans and establishes a model to sell plans across state lines while ensuring strong consumer protections.

#### **Title VI – Empowering Medicare Seniors to Negotiate Prescription Drug Prices**

**Sec. 601. Authority to Negotiate Fair Prices for Medicare Prescription Drugs.** This section removes restrictions in current law that prohibit the Secretary of Health and Human Services from negotiating Medicare prescription drug costs.

#### **Title VII Commonsense Reporting for Employers**

**Sec. 701. Voluntary Prospective Reporting System.** This provision establishes a prospective reporting system employers may use to ensure compliance with the ACA's employer mandate.

**Sec. 702. Protection of Dependent Privacy.** This provision streamlines the personal information employers and health insurers' use to identify employees to the Internal Revenue Service. This provision will increase reporting accuracy.

**Sec. 703. Electronic Statements.** This section reduces paperwork burden on business owners by allowing them to electronically transmit reporting documents to their employees.

**Sec. 704. GAO Studies.** This provision commissions a Government Accountability Office (GAO) study to examine the effectiveness of the ACA's employer reporting system from 2015-2018.

**Sec. 705. Tax Compliance.** This section clarifies that employers opting to report under the new system will be deemed tax compliant.

### **Title VIII Ban on Surprise Medical Billing**

**Sec. 801. Ban on Balance Billing for Certain Out-of-Network Procedures.** This provision places a federal ban on balance billing patients for out-of-network emergency services. The provision also places a ban on balance billing patients for out-of-network services performed at an in-network facility when there is a reasonable expectation the services are in-network. It ensures that the federal ban on surprise billing does not otherwise negate state laws to ban surprise billing.