115TH CONGRESS
1ST SESSION

S. 1835

To provide support to States to establish invisible high-risk pool or reinsurance programs.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 19, 2017

Ms. COLLINS (for herself and Mr. NELSON) introduced the following bill; which was read twice and referred to the Committee on Finance

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A BILL

To provide support to States to establish invisible high-risk pool or reinsurance programs.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Lower Premiums Through Reinsurance Act of 2017".

SEC. 2. INVISIBLE HIGH-RISK POOL AND REINSURANCE PROGRAMS.

Section 1332 of the Patient Protection and Affordable Care Act (42 U.S.C. 18052) is amended—

(1) by adding at the end the following:

"(f) HIGH-RISK POOLS AND REINSURANCE PROGRAMS.—

"(1) IN GENERAL.—

"(A) APPLICATION.—Any State may apply to the Secretary for approval to use the funding described in subparagraph (B) to support an invisible high-risk pool or reinsurance program that is described in paragraph (2). The Secretary shall approve a State application under this subparagraph with respect to any program that—

"(i) meets the requirements of subparagraph (A), (B), (C), or (D) of paragraph (2); and

"(ii) meets the requirements of subparagraphs (A) through (D) of subsection (b)(1).

"(B) FUNDING.—If a State application under subparagraph (A) is approved, the State may fund such invisible high-risk pool or reinsurance program using one or both of the following:

"(i) Amounts received through a grant described in subparagraph (C).

"(ii) With respect to a State that has received a waiver under this section, all of, or a portion of, the payments made to the State as described in subsection (a)(3), consistent with the information the State provides under subsection (a)(1)(B)(iii).

"(C) FEDERAL FUNDING FOR INVISIBLE HIGH-RISK POOL AND REINSURANCE PROGRAMS.—There are authorized to be appropriated, and there are appropriated, to the Secretary, out of monies in the Treasury not otherwise obligated, $2,250,000,000 for each of fiscal years 2018 and 2019, to remain available until expended, for purposes of awarding grants to States to support the establishment or maintenance of invisible high-risk pool and reinsurance programs that meet the requirements of paragraph (2). Any funds provided under this subparagraph shall not be considered in determining under subparagraph (A)(ii) whether the State plan increases the Federal deficit.

"(2) PROGRAM DESIGN.—An invisible high-risk pool or reinsurance program described in this paragraph is a program that meets one of the following requirements:

"(A) An invisible high-risk pool under which health insurance issuers, with respect to designated high-risk individuals enrolled in health insurance coverage offered in the individual market, cede risk to the pool, without affecting the premium paid by the designated individuals or their terms of coverage. With respect to such pool, the State, or an entity operating the pool on behalf of the State, shall establish—

"(i) the premium amount the ceding insurer shall pay to the reinsurance pool;

"(ii) the applicable attachment points or coinsurance percentages if the ceding insurer retains any portion of the risk under ceded policies; and

"(iii) the mechanism by which high-risk individuals are designated for cession to the pool, which may include a risk of designated high-cost health conditions.

"(B) A reinsurance program that assumes a portion of the risk for high-cost claims within the State in a manner substantially similar to the reinsurance program that operated in the State in accordance with section 1341.

"(C) A new reinsurance program established by the State.

"(D) A program based on another State's reinsurance program—

"(i) described in subparagraph (A), (B), or (C), for which an application has been approved under this subsection; or

"(ii) which was implemented prior to September 1, 2017, and which the Secretary determines meets the requirements of subparagraph (A).

"(3) EXPEDITED APPROVAL.—

"(A) IN GENERAL.—The Secretary shall provide an expedited approval process for an application under paragraph (1)(A)—

"(i) with respect to an invisible high-risk pool or reinsurance program described in subparagraph (A), (B), or (D) of paragraph (2); or

"(ii) that uses a template form designed by the Administrator of the Centers for Medicare & Medicaid Services, in consultation with the Secretary of the Treasury, for an application based on a program that is the same or substantially the same as a program implemented in accordance with an application previously approved under this subsection.

"(B) TIMEFRAME.—The Secretary shall make a determination on an application eligible for expedited review under subparagraph (A) not later than 90 days after receipt of such application.

"(C) STANDARD OF REVIEW.—Nothing in this paragraph shall be construed as affecting the requirements under clauses (i) and (ii) of paragraph (1)(A) with respect to an application approved in accordance with the process under subparagraph (A).

"(4) SINGLE-RISK POOL.—An invisible high-risk pool or reinsurance program established in accordance with this subsection shall not be considered a separate risk pool for purposes of section 1312(c)."; and

(2) in subsection (a)—

(A) in paragraph (1)(B)—

(i) in clause (i), by striking "; and" and inserting a semicolon; and

(ii) by adding at the end the following:

"(iii) in the case of a State applying under subsection (f) to use any portion of the payments made to the State under paragraph (3) to support an invisible high-risk pool or reinsurance program, consistent with subsection (f), such information about such program as the Secretary may require, and the portion of such payments under paragraph (3) such State intends to use for such program; and";

(B) in paragraph (3)—

(i) by inserting "full amount of" before "premium tax credits"; and

(ii) by inserting before the period of the first sentence the following: ", or, in the case of such a State whose invisible high-risk pool or reinsurance program is approved under subsection (f)(1) and that has submitted the information described in paragraph (1)(B)(iii), supporting such invisible high-risk pool or reinsurance program"; and

(C) in paragraph (6)(A), by inserting "and with respect to applications under subsection (f)" before the semicolon.

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