

115TH CONGRESS
1ST SESSION

H. R. 1319

To amend title XXVII of the Public Health Service Act to permit cooperative governing of public entity health benefits through local governments in secondary States.

IN THE HOUSE OF REPRESENTATIVES

MARCH 2, 2017

Mr. MARCHANT (for himself, Mr. THORNBERRY, and Mr. CRAWFORD) introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To amend title XXVII of the Public Health Service Act to permit cooperative governing of public entity health benefits through local governments in secondary States.

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 “Local and Municipal
5 Health Care Choice Act of 2017”.

6 **SEC. 2. COOPERATIVE GOVERNING OF PUBLIC ENTITY**
7 **GROUP HEALTH COVERAGE.**

8 Title XXVII of the Public Health Service Act (42
9 U.S.C. 300gg et seq.) is amended—

1 (1) by redesignating the section 2794 (42
2 U.S.C. 300gg–95) relating to uniform fraud and
3 abuse referral format as section 2795; and

4 (2) by adding at the end the following new sec-
5 tion:

6 **“SEC. 2796. AUTHORITY TO OFFER PUBLIC ENTITY GROUP**
7 **HEALTH COVERAGE TO LOCAL GOVERN-**
8 **MENTS IN A SECONDARY STATE.**

9 “(a) IN GENERAL.—A local government in a sec-
10 ondary State (as defined in subsection (h)(7)) may provide
11 group health coverage to its officers, employees, or retirees
12 (and their dependents) through a local government em-
13 ployee health benefits pool or program authorized under
14 the laws of a primary State, subject to the provisions of
15 this section.

16 “(b) ELIGIBILITY FOR MULTISTATE ACTIVITY.—A
17 local government employee health benefits pool or program
18 shall be eligible to offer group health coverage to officials,
19 employees, and retirees (and their dependents) of a local
20 government located in a secondary State through an
21 interlocal agreement with such local government, or as ap-
22 proved by an applicable State authority in such secondary
23 State, unless—

24 “(1) in the case of a pool or program that pri-
25 marily serves municipal officers, employees, or retir-

1 ees (and their dependents), an objection is made to
2 the offering of such coverage by the municipal
3 league or association located in the secondary State
4 within 90 days of the date on which the authority
5 is granted or an interlocal agreement is executed; or

6 “(2) in the case of a pool or program that pri-
7 marily serves county officers, employees, retirees
8 (and their dependents), an objection is made to the
9 offering of such coverage by the county association
10 located in the secondary State within 90 days of the
11 date on which the authority is granted or an
12 interlocal agreement is executed.

13 “(c) APPLICATION OF COVERED LAWS OF PRIMARY
14 STATE.—The covered laws (as defined in subsection
15 (h)(2)) of the primary State shall apply to group health
16 coverage offered by a local government employee health
17 benefits pool or program in the primary State and in any
18 secondary State, but only if the coverage and the pool or
19 program comply with the conditions of this section with
20 respect to the offering of coverage in any secondary State.

21 “(d) LIMITED APPLICATION OF SECONDARY STATE
22 LAWS.—

23 “(1) IN GENERAL.—Except as provided in this
24 section, a local government employee health benefits
25 pool or program that offers group health coverage in

1 a secondary State to the officers, employees, or retir-
2 ees (and their dependents) of a local government lo-
3 cated in such secondary State, is exempt from any
4 covered laws of the secondary State (and any rules,
5 regulations, agreements, or orders sought or issued
6 by such State under or related to such covered
7 laws).

8 “(2) SECONDARY STATE AUTHORITY.—A sec-
9 ondary State may require a local government em-
10 ployee health benefits pool or program to do any or
11 all of the following:

12 “(A) REGISTRATION.—To register with an
13 applicable State authority in such State with
14 jurisdiction over local government employee
15 health benefits pools or programs and designate
16 such authority as its agent solely for the pur-
17 pose of receiving service of legal documents or
18 process.

19 “(B) DOCUMENTATION.—To file with an
20 applicable State authority in such State—

21 “(i) a written intent to do business in
22 that State;

23 “(ii) copies of the membership or
24 interlocal agreements entered into between
25 the local government employee health bene-

fits pool or program and a local government of that State; and

“(iii) copies of annual audited financial statements of the local government employee health benefits pool or program filed with the primary State.

“(C) COMPLIANCE WITH INJUNCTIONS.—

To comply with an injunction issued by a court of competent jurisdiction, upon a petition by an applicable State authority in such State alleging that the pool or program is in hazardous financial condition.

“(D) COMPLIANCE WITH STATE FRAUD AND ABUSE LAWS.—To comply with any State law regarding fraud and abuse, except that if the State seeks an injunction regarding the conduct described in this subparagraph, such injunction must be obtained from a court of competent jurisdiction.

“(E) COMPLIANCE WITH STATE UNFAIR CLAIMS SETTLEMENT PRACTICES LAWS.—To comply with any State law regarding unfair claims settlement practices.

“(3) LIMITATIONS ON SECONDARY STATE AUTHORITY.—If a local government employee health

benefits pool or program offers group health insurance coverage to officials, employees, and retirees (and their dependents) of a local government located in a secondary State pursuant to subsection (b), such secondary State may not do any of the following:

“(A) COUNTERSIGNED BY LOCAL AGENT OR BROKER.—Require any group health coverage issued by the pool or program to be countersigned by an insurance agent or broker residing in that secondary State.

“(B) SUBMIT TO DUPLICATIVE FINANCIAL EXAMINATIONS.—Require the pool or program to submit to an examination of its financial condition by an applicable State authority in such State, unless—

“(i) an applicable State authority of the primary State has not done an examination within the period recommended by the National Association of Insurance Commissioners; and

“(ii) any such examination by the secondary State is conducted in accordance with the examiners’ handbook of the National Association of Insurance Commis-

1 sioners and is coordinated to avoid unjusti-
 2 fied duplication and unjustified repetition.

3 “(C) DISCRIMINATE AGAINST POOL OR
 4 PROGRAM.—Otherwise discriminate against the
 5 pool or program issuing group health coverage
 6 in both the primary State and in any secondary
 7 State.

8 “(e) DISCLOSURE REQUIREMENT.—Prior to pro-
 9 viding group health coverage to the officers, employees,
 10 or retirees (and their dependents) of a local government
 11 located in a secondary State, a local government employee
 12 health benefits pool or program shall provide notice to
 13 such individuals that the health coverage is governed by
 14 the covered laws and regulations of the primary State, as
 15 well as by any applicable Federal laws and regulations.

16 “(f) STATUS OF GROUP HEALTH COVERAGE IN SEC-
 17 ONDARY STATE.—A local government employee health
 18 benefits pool or program that is not regulated as an in-
 19 surer in its primary State, and whose group health plans
 20 are not regulated as insurance in its primary State, shall
 21 not be subject to the jurisdiction of a State insurance reg-
 22 ulatory agency in any secondary State.

23 “(g) DESIGNATION OF PRIMARY STATE.—

24 “(1) DESIGNATION OF A SINGLE STATE.—A
 25 local government employee health benefits pool or

1 program may only designate one State as its pri-
2 mary State with respect to all such coverage it offers
3 under this section.

4 “(2) INITIAL OPERATIONS IN PRIMARY
5 STATE.—Such pool or program may not offer group
6 health coverage in a secondary State until it is
7 deemed to be doing business in the primary State.

8 “(h) DEFINITIONS.—In this section:

9 “(1) APPLICABLE STATE AUTHORITY.—The
10 term ‘applicable State authority’ means, with respect
11 to a local government employee health benefits pool
12 or program in a State, any official or officials des-
13 ignated by the State to administer the requirements
14 of this section for the State with respect to such
15 pool or program, including the official or officials
16 with authority to approve interlocal agreements
17 under applicable State law, but shall not include any
18 State insurance regulatory agency.

19 “(2) COVERED LAWS.—

20 “(A) IN GENERAL.—The term ‘covered
21 laws’ means the laws, rules, regulations, agree-
22 ments, and orders pertaining to any of the fol-
23 lowing:

1 “(i) Group health coverage issued by
2 a local government employee health bene-
3 fits pool or program.

4 “(ii) The offer, sale, rating (including
5 medical underwriting), renewal, and
6 issuance of group health coverage to local
7 government officials, employees, and retir-
8 ees or their dependents.

9 “(iii) The management, operations,
10 and investment activities of a local govern-
11 ment employee health benefits pool or pro-
12 gram.

13 “(iv) Loss control and claims adminis-
14 tration for a local government employee
15 health benefits pool or program with re-
16 spect to liability for which the pool or pro-
17 gram provides coverage.

18 “(v) The payment, on a nondiscrim-
19 inatory basis, of applicable premium and
20 other taxes (including high risk pool as-
21 sessments) which are levied on health in-
22 surance issuers, brokers, or policyholders
23 under the laws of the State.

24 “(B) EXCEPTION.—Such term does not in-
25 clude any law, rule, regulation, agreement, or

1 order governing the use of care or cost manage-
2 ment techniques, including any requirement re-
3 lated to provider contracting, network access or
4 adequacy, health care data collection, or quality
5 assurance.

6 “(3) GROUP HEALTH COVERAGE.—The term
7 ‘group health coverage’ means medical care expense
8 reimbursement provided under a group health plan.

9 “(4) LOCAL GOVERNMENT.—The term ‘local
10 government’ means a county, municipality, special
11 district, school district, junior college district, hous-
12 ing authority, or other political subdivision or public
13 entity defined under State law.

14 “(5) LOCAL GOVERNMENT EMPLOYEE HEALTH
15 BENEFITS POOL OR PROGRAM.—The term ‘local gov-
16 ernment employee health benefits pool or program’
17 means a risk pool authorized or permitted by State
18 statute or otherwise regulated by a State agency
19 under which—

20 “(A) a local government or group of local
21 governments, directly or through a pool, provide
22 health care benefits primarily for local govern-
23 ment officials, employees, and retirees and their
24 dependents; and

1 “(B) such pool may provide health care
2 benefits from the assets of the pool or its mem-
3 ber local governments through any combination
4 of self-funded arrangements or fully insured
5 products,

6 and includes any other State authorized program de-
7 signed to provide health benefits to local government
8 officials, employees, and retirees and their depend-
9 ents.

10 “(6) PRIMARY STATE.—The term ‘primary
11 State’ means, with respect to group health coverage
12 offered by a local government employee health bene-
13 fits pool or program, the State designated by the
14 pool or program as the State whose covered laws
15 shall govern the pool or program in the issuance of
16 such coverage under this part.

17 “(7) SECONDARY STATE.—The term ‘secondary
18 State’ means, with respect to group health coverage
19 offered by a local government employee health bene-
20 fits pool or program, any State that is not the pri-
21 mary State.”.

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