

AMENDMENT
OFFERED BY MR. GRIJALVA OF ARIZONA
(Based on text of H.R. 3962)

In section 323 (relating to payment rates for items and services), strike subsections (a) through (c) and insert the following:

1 (a) **RATES ESTABLISHED BY SECRETARY.—**

2 (1) **IN GENERAL.—**The Secretary shall establish
3 payment rates for the public health insurance option
4 for services and health care providers consistent with
5 this section and may change such payment rates in
6 accordance with section 324.

7 (2) **INITIAL PAYMENT RULES.—**

8 (A) **IN GENERAL.—**Except as provided in
9 subparagraph (B) and subsection (b)(1), during
10 Y1, Y2, and Y3, the Secretary shall base the
11 payment rates under this section for services
12 and providers described in paragraph (1) on the
13 payment rates for similar services and providers
14 under parts A and B of Medicare.

15 (B) **EXCEPTIONS.—**

16 (i) **PRACTITIONERS' SERVICES.—**Pay-
17 ment rates for practitioners' services other-

1 wise established under the fee schedule
2 under section 1848 of the Social Security
3 Act shall be applied without regard to the
4 provisions under subsection (f) of such sec-
5 tion, and the update under subsection
6 (d)(4) under such section for a year as ap-
7 plied under this paragraph shall be not less
8 than 1 percent.

9 (ii) ADJUSTMENTS.—The Secretary
10 may determine the extent to which Medi-
11 care adjustments applicable to base pay-
12 ment rates under parts A and B of Medi-
13 care shall apply under this subtitle.

14 (3) FOR NEW SERVICES.—The Secretary shall
15 modify payment rates described in paragraph (2) in
16 order to accommodate payments for services, such as
17 well-child visits, that are not otherwise covered
18 under Medicare.

19 (4) PRESCRIPTION DRUGS.—Payment rates
20 under this section for prescription drugs that are not
21 paid for under part A or part B of Medicare shall
22 be at rates negotiated by the Secretary.

23 (b) INCENTIVES FOR PARTICIPATING PROVIDERS.—

24 (1) INITIAL INCENTIVE PERIOD.—

1 (A) IN GENERAL.—The Secretary shall
2 provide, in the case of services described in sub-
3 paragraph (B) furnished during Y1, Y2, and
4 Y3, for payment rates that are 5 percent great-
5 er than the rates established under subsection
6 (a).

7 (B) SERVICES DESCRIBED.—The services
8 described in this subparagraph are items and
9 professional services, under the public health in-
10 surance option, provided by a physician or other
11 health care practitioner who participates in
12 both Medicare and the public health insurance
13 option.

14 (C) SPECIAL RULES.—A pediatrician and
15 any other health care practitioner who is a type
16 of practitioner that does not typically partici-
17 pate in Medicare (as determined by the Sec-
18 retary) shall also be eligible for the increased
19 payment rates under subparagraph (A).

20 (2) SUBSEQUENT PERIODS.—Beginning with
21 Y4 and for subsequent years, the Secretary shall
22 continue to use an administrative process to set
23 rates for services described in paragraph (1)(B) in
24 order to promote payment accuracy, to ensure ade-
25 quate beneficiary access to providers, and to pro-

1 mote affordability and the efficient delivery of med-
2 ical care consistent with section 321(a). Such rates
3 shall not be set at levels expected to increase overall
4 medical costs under the option beyond what would
5 be expected if the process under subsection (a)(2)
6 and paragraph (1) of this subsection were continued.

7 (c) ESTABLISHMENT OF A PROVIDER NETWORK.—

8 (1) IN GENERAL.—Health care providers (in-
9 cluding physicians and hospitals) participating in
10 Medicare are participating providers in the public
11 health insurance option unless they opt out in a
12 process established by the Secretary consistent with
13 this subsection.

14 (2) REQUIREMENTS FOR OPT-OUT PROCESS.—

15 Under the process established under paragraph
16 (1)—

17 (A) providers described in such paragraph
18 shall be provided at least a 1-year period prior
19 to the first day of Y1 to opt out of participating
20 in the public health insurance option;

21 (B) no provider shall be subject to a pen-
22 alty for not participating in the public health
23 insurance option;

24 (C) the Secretary shall include information
25 on how providers participating in Medicare who

1 chose to opt out of participating in the public
2 health insurance option may opt back in; and

3 (D) there shall be an annual enrollment
4 period in which providers may decide whether
5 to participate in the public health insurance op-
6 tion.

7 (3) RULEMAKING.—Not later than 18 months
8 before the first day of Y1, the Secretary shall pro-
9 mulgate rules (pursuant to notice and comment) for
10 the process described in paragraph (1).

11 (d) ADMINISTRATIVE PROCESS FOR SETTING
12 RATES.—Chapter 5 of title 5, United States Code, shall
13 apply to the process for the initial establishment of pay-
14 ment rates under this section, but not to the specific meth-
15 odology for establishing such rates or the calculation of
16 such rates.

17 (e) CONSTRUCTION.—Nothing in this subtitle shall be
18 construed as limiting the Secretary's authority to correct
19 for payments that are excessive or deficient, taking into
20 account the provisions of section 321(a) and the amounts
21 paid for similar health care providers and services under
22 other Exchange-participating health benefits plans.

23 (f) CONSTRUCTION.—Nothing in this subtitle shall be
24 construed as affecting the authority of the Secretary to
25 establish payment rates, including payments to provide for

1 the more efficient delivery of services, such as the initia-
2 tives provided for under section 324.

3 (g) LIMITATIONS ON REVIEW.—There shall be no ad-
4 ministrative or judicial review of a payment rate or meth-
5 odology established under this section or under section
6 324.

