

112TH CONGRESS
1ST SESSION

H. R. 984

To amend title I of the Patient Protection and Affordable Care Act to provide for a process for waiver of requirements of that title where the requirement is asserted to otherwise result in a significant decrease in access to coverage or significant increase in premiums or other costs.

IN THE HOUSE OF REPRESENTATIVES

MARCH 9, 2011

Mr. ROGERS of Michigan (for himself, Mr. BOREN, Mr. FLEMING, Mr. ROSKAM, Mr. TIBERI, Mrs. BACHMANN, Mr. FLORES, Mr. HARRIS, Mr. BURGESS, Mrs. MCMORRIS RODGERS, Mrs. BLACKBURN, and Mr. BENISHEK) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committees on Ways and Means and Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend title I of the Patient Protection and Affordable Care Act to provide for a process for waiver of requirements of that title where the requirement is asserted to otherwise result in a significant decrease in access to coverage or significant increase in premiums or other costs.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Health Care Waiver
3 Fairness Act of 2011”.

4 **SEC. 2. PPACA WAIVER PROCESS.**

5 (a) IN GENERAL.—Title I of the Patient Protection
6 and Affordable Care Act (Public Law 111–148) is amend-
7 ed by adding at the end the following new subtitle:

8 **“Subtitle G—Waiver Process**

9 **“SEC. 1601. ESTABLISHMENT OF WAIVER PROCESS.**

10 “(a) IN GENERAL.—The applicable authorities (as
11 defined in subsection (c)) shall collectively establish a
12 process (in this section referred to as the ‘waiver process’)
13 under which the administrator of a health plan, an em-
14 ployer, an individual, or other entity may seek to waive
15 the application of a requirement under this title with re-
16 spect to such plan, employer, individual, or entity. Among
17 the requirements under this title, such process shall apply
18 to the following:

19 “(1) Section 5000A of the Internal Revenue
20 Code of 1986 (relating to requirement to maintain
21 minimum essential coverage), as inserted by section
22 1501(b).

23 “(2) Section 6055 of the Internal Revenue Code
24 of 1986 (relating to reporting of health insurance
25 coverage), as inserted by section 1502(a).

1 “(3) Section 18A of the Fair Labor Standards
2 Act of 1938 (42 U.S.C. 218a, relating to automatic
3 enrollment for employees of large employers), as in-
4 serted by section 1511.

5 “(4) Section 18B of the Fair Labor Standards
6 Act of 1938 (42 U.S.C. 218b, relating to notice to
7 employees), as inserted by section 1512.

8 “(5) Section 4980H of the Internal Revenue
9 Code of 1986 (relating to shared responsibility for
10 employers regarding health coverage), as inserted by
11 section 1513(a).

12 “(6) Section 6056 of the Internal Revenue Code
13 of 1986 (relating to certain employers required to
14 report on health insurance coverage), as inserted by
15 section 1514(a).

16 “(7) Section 10108 (relating to free choice
17 vouchers).

18 “(8) Regulations regarding the treatment of
19 group health plans or health insurance coverage as
20 a grandfathered health plan (as defined in section
21 1251(e)).

22 “(9) Section 2718(b) of the Public Health Serv-
23 ice Act (relating to medical loss ratios), as inserted
24 by section 1001.

25 “(b) WAIVER PROCESS.—

1 “(1) IN GENERAL.—The applicable authorities
2 shall establish the waiver process consistent with the
3 following:

4 “(A) NOTICE AND GUIDANCE.—Public no-
5 tice and guidance shall be provided regarding
6 the process for submission of waiver requests.

7 “(B) STANDARD.—A waiver request with
8 respect to the application of a requirement to a
9 plan, employer, individual, or entity shall be ac-
10 companied by a statement that—

11 “(i) identifies the specific requirement
12 (or requirements) to be waived; and

13 “(ii) describes how the imposition of
14 each specific requirement for which a waiv-
15 er is requested on the plan, employer, indi-
16 vidual, or entity would result in a signifi-
17 cant decrease in access to coverage or a
18 significant increase in premiums or other
19 costs for such plan, employer, individual,
20 or entity.

21 “(C) DEEMED APPROVAL.—A waiver re-
22 quest filed that is accompanied by such a state-
23 ment shall be deemed to be approved.

24 “(D) PUBLICATION OF DATA.—The appli-
25 cable authorities shall regularly publish data re-

1 garding the waiver requests received for the dif-
2 ferent requirements.

3 “(2) TREATMENT OF APPROVED WAIVERS.—In
4 the case of approval under the waiver process of a
5 waiver request with respect to a requirement of this
6 title and an entity, notwithstanding any other provi-
7 sion of law, such requirement shall not apply to such
8 entity on and after the date of approval of the re-
9 quest.

10 “(3) RELATION TO OTHER EXEMPTIONS AND
11 EXCEPTIONS.—Nothing in this section shall be con-
12 strued as superceding other provisions of this title
13 insofar as they provide for exceptions, exemptions,
14 or other special treatment with respect to require-
15 ments under this title.

16 “(c) APPLICABLE AUTHORITY.—In this section, the
17 term ‘applicable authority’ means—

18 “(1) except as otherwise provided in this sub-
19 section, the Secretary of Health and Human Serv-
20 ices;

21 “(2) the Secretary of Labor with respect to the
22 provisions of this title, including amendments made
23 by this title, that are administered by such Sec-
24 retary; and

1 “(3) the Secretary of the Treasury with respect
2 to the provisions of this title, including amendments
3 made by this title, that are administered by such
4 Secretary, including sections of the Internal Revenue
5 Code of 1986 specified in subsection (a).

6 “(d) REFERENCES TO REQUIREMENTS UNDER THIS
7 TITLE.—In this section, a reference to a requirement
8 under this title include such a requirement under an
9 amendment made by this title, including as amended by
10 title X of this Act or by the provisions of the Health Care
11 and Education Reconciliation Act of 2010 (Public Law
12 111–152).

13 “(e) PUBLIC AWARENESS CAMPAIGN.—Of the
14 amounts available in the Prevention and Public Health
15 Fund established under section 4002, notwithstanding any
16 other provision of law, \$50,000,000 shall be available to
17 and expended by the Secretary of Health and Human
18 Services to conduct, in coordination with other applicable
19 authorities, a public awareness campaign of the waiver
20 process. Amounts made available under this subsection
21 shall remain available until expended.”.

22 (b) CLERICAL AMENDMENT.—The table of contents
23 of such Act is amended by adding at the end of the items
24 relating to title I the following:

“Subtitle G—Waiver Process

“Sec. 1601. Establishment of waiver process.”

