

113TH CONGRESS
2D SESSION

H. R. 4414

To clarify the treatment under the Patient Protection and Affordable Care Act of health plans in which expatriates are the primary enrollees, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 7, 2014

Mr. CARNEY (for himself, Mr. NUNES, Mr. MEEHAN, Mr. RENACCI, Mr. DENT, Mr. LARSON of Connecticut, Mr. FATTAH, Mr. COSTA, Mr. GERLACH, Mr. TIBERI, Mr. KIND, Mr. FITZPATRICK, Ms. ESTY, Mr. MATHE-SON, Mrs. KIRKPATRICK, Mr. MURPHY of Florida, Mr. VALADAO, Mr. MCCARTHY of California, Mr. BARROW of Georgia, Mr. BARBER, and Ms. HANABUSA) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committees on Energy and Commerce, Education and the Workforce, the Judiciary, Natural Resources, and House Administration, 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 clarify the treatment under the Patient Protection and Affordable Care Act of health plans in which expatriates are the primary enrollees, and for other purposes.

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 “Expatriate Health Cov-
5 erage Clarification Act of 2014”.

1 **SEC. 2. TREATMENT OF EXPATRIATE HEALTH PLANS**
2 **UNDER ACA.**

3 (a) IN GENERAL.—Subject to subsection (b), the pro-
4 visions of (including any amendment made by) the Patient
5 Protection and Affordable Care Act (Public Law 111–
6 148) and of title I and subtitle B of title II of the Health
7 Care and Education Reconciliation Act of 2011 (Public
8 Law 111–152) shall not apply with respect to—

- 9 (1) expatriate health plans;
- 10 (2) employers with respect to any such plans
11 for which such employers are acting as plan spon-
12 sors; or
- 13 (3) expatriate health insurance issuers with re-
14 spect to coverage offered by such issuers under such
15 plans.

16 (b) MINIMUM ESSENTIAL COVERAGE AND ELIGIBLE
17 EMPLOYER-SPONSORED PLAN.—For purposes of section
18 5000A(f) of the Internal Revenue Code of 1986, and any
19 other section of the Internal Revenue Code of 1986 that
20 incorporates the definition of minimum essential coverage
21 provided under such section 5000A(f) by reference, cov-
22 erage under an expatriate health plan shall be deemed to
23 be minimum essential coverage under an eligible employ-
24 sponsored plan as defined in paragraph (2) of such sec-
25 tion.

1 (c) QUALIFIED EXPATRIATES AND DEPENDENTS
2 NOT UNITED STATES HEALTH RISK.—

3 (1) IN GENERAL.—For purposes of section
4 9010 of the Patient Protection and Affordable Care
5 Act (26 U.S.C. 4001 note prec.), for calendar years
6 after 2014, a qualified expatriate (and any depend-
7 ent of such individual) enrolled in an expatriate
8 health plan shall not be considered a United States
9 health risk.

10 (2) SPECIAL RULE FOR 2014.—The fee under
11 section 9010 of such Act for calendar year 2014
12 with respect to any expatriate health insurance
13 issuer shall be the amount which bears the same
14 ratio to the fee amount determined by the Secretary
15 of the Treasury with respect to such issuer under
16 such section for such year (determined without re-
17 gard to this paragraph) as—

18 (A) the amount of premiums taken into ac-
19 count under such section with respect to such
20 issuer for such year, less the amount of pre-
21 miums for expatriate health plans taken into
22 account under such section with respect to such
23 issuer for such year, bears to

1 (B) the amount of premiums taken into ac-
2 count under such section with respect to such
3 issuer for such year.

4 (d) DEFINITIONS.—In this section:

5 (1) EXPATRIATE HEALTH INSURANCE
6 ISSUER.—The term “expatriate health insurance
7 issuer” means a health insurance issuer that issues
8 expatriate health plans.

9 (2) EXPATRIATE HEALTH PLAN.—The term
10 “expatriate health plan” means a group health plan,
11 health insurance coverage offered in connection with
12 a group health plan, or health insurance coverage of-
13 fered to a group of individuals described in para-
14 graph (3)(B) (which may include dependents of such
15 individuals) that meets each of the following stand-
16 ards:

17 (A) Substantially all of the primary enroll-
18 ees in such plan or coverage are qualified expa-
19 triates, with respect to such plan or coverage.
20 In applying the previous sentence, an individual
21 shall not be taken into account as a primary en-
22 rollee if the individual is not a national of the
23 United States and resides in the country of
24 which the individual is a citizen.

1 (B) Substantially all of the benefits pro-
2 vided under the plan or coverage are not ex-
3 cepted benefits described in section 9832(c) of
4 the Internal Revenue Code of 1986.

5 (C) The plan or coverage provides benefits
6 for items and services, in excess of emergency
7 care, furnished by health care providers—

8 (i) in the case of individuals described
9 in paragraph (3)(A), in the country or
10 countries in which the individual is present
11 in connection with the individual's employ-
12 ment, and such other country or countries
13 as the Secretary of Health and Human
14 Services, in consultation with the Secretary
15 of the Treasury and the Secretary of
16 Labor, may designate; or

17 (ii) in the case of individuals described
18 in paragraph (3)(B), in the country or
19 countries as the Secretary of Health and
20 Human Services, in consultation with the
21 Secretary of the Treasury and the Sec-
22 retary of Labor, may designate.

23 (D) In the case of an expatriate health
24 plan that is a group health plan offered by a
25 plan sponsor that also offers a domestic group

1 health plan, the plan sponsor reasonably be-
2 lieves that the benefits provided by the expa-
3 triate health plan are actuarially similar to, or
4 better than, the benefits provided under a do-
5 mestic group health plan offered by that plan
6 sponsor.

7 (E) If the plan or coverage provides de-
8 pendent coverage of children, the plan or cov-
9 erage makes such dependent coverage available
10 for adult children until the adult child turns 26
11 years of age, unless such individual is the child
12 of a child receiving dependent coverage.

13 (F) The plan or coverage is issued by an
14 expatriate health plan issuer, or administered
15 by an administrator, that maintains, with re-
16 spect to such plan or coverage—

17 (i) network provider agreements with
18 health care providers that are outside of
19 the United States; and

20 (ii) call centers in more than one
21 country and accepts calls from customers
22 in multiple languages.

23 (3) QUALIFIED EXPATRIATE.—The term “quali-
24 fied expatriate” means any of the following individ-
25 uals:

1 (A) WORKERS.—An individual who is a
2 participant in a group health plan, who is a na-
3 tional of the United States, lawful permanent
4 resident, or nonimmigrant for whom there is a
5 good faith expectation by the plan sponsor of
6 the plan that, in connection with the individ-
7 ual’s employment, the individual is abroad for a
8 total of not less than 90 days during any period
9 of 12 consecutive months of enrollment in the
10 group health plan, or travels abroad on not less
11 than 15 occasions during such a 12-month pe-
12 riod.

13 (B) OTHER INDIVIDUALS ABROAD.—An in-
14 dividual, such as a student or religious mis-
15 sionary, who is abroad, and who is a member
16 of a group determined appropriate by the Sec-
17 retary of Health and Human Services, in con-
18 sultation with the Secretary of the Treasury
19 and the Secretary of Labor.

20 (4) DOMESTIC GROUP HEALTH PLAN.—The
21 term “domestic group health plan” means a group
22 health plan that is offered in the United States and
23 in which substantially all of the primary enrollees
24 are not qualified expatriates, with respect to such
25 plan, and substantially all of the benefits provided

1 under the plan are not excepted benefits described in
2 section 9832(e) of the Internal Revenue Code of
3 1986.

4 (5) ABROAD.—

5 (A) UNITED STATES NATIONALS.—

6 (i) IN GENERAL.—Except as provided
7 in clause (ii), for purposes of applying
8 paragraph (3) to a national of the United
9 States, the term “abroad” means outside
10 the 50 States, the District of Columbia,
11 and Puerto Rico.

12 (ii) SPECIAL RULE.—For purposes of
13 applying paragraph (3) to a national of the
14 United States who resides in the United
15 States Virgin Islands, the Commonwealth
16 of the Northern Mariana Islands, Amer-
17 ican Samoa, or Guam, the term “abroad”
18 means outside of the 50 States, the Dis-
19 trict of Columbia, Puerto Rico, and such
20 territory or possession.

21 (B) FOREIGN CITIZENS.—For purposes of
22 applying paragraph (3) to an individual who is
23 not a national of the United States, the term
24 “abroad” means outside of the country of which
25 that individual is a citizen.

1 (6) UNITED STATES.—The term “United
2 States” means the 50 States, the District of Colum-
3 bia, Puerto Rico, the United States Virgin Islands,
4 the Commonwealth of the Northern Mariana Is-
5 lands, American Samoa, and Guam.

6 (7) MISCELLANEOUS TERMS.—

7 (A) GROUP HEALTH PLAN; HEALTH IN-
8 SURANCE COVERAGE; HEALTH INSURANCE
9 ISSUER; PLAN SPONSOR.—The terms “group
10 health plan”, “health insurance coverage”,
11 “health insurance issuer”, and “plan sponsor”
12 have the meanings given those terms in section
13 2791 of the Public Health Service Act (42
14 U.S.C. 300gg–91), except that in applying such
15 terms under this section the term “health in-
16 surance issuer” includes a foreign corporation
17 which is predominantly engaged in an insurance
18 business and which would be subject to tax
19 under subchapter L of chapter 1 of the Internal
20 Revenue Code of 1986 if it were a domestic cor-
21 poration.

22 (B) FOREIGN STATE; NATIONAL OF THE
23 UNITED STATES; NONIMMIGRANT; RESIDE; LAW-
24 FUL PERMANENT RESIDENT.—The terms “na-
25 tional of the United States”, and “non-

1 immigrant” have the meaning given such terms
2 in section 101(a) of the Immigration and Na-
3 tionality Act (8 U.S.C. 1101(a)), the term “re-
4 side” means having a residence (within the
5 meaning of such term in such section), and the
6 term “lawful permanent resident” means an
7 alien lawfully admitted for permanent residence
8 (as defined in such section).

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