

113<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 4496

To establish universal access programs to improve high risk pools and reinsurance markets to ensure coverage for individuals with pre-existing conditions, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 28, 2014

Mr. GARDNER introduced the following bill; which was referred to the  
Committee on Energy and Commerce

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## A BILL

To establish universal access programs to improve high risk pools and reinsurance markets to ensure coverage for individuals with pre-existing conditions, 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 “Covering People With  
5        Pre-Existing Conditions Act of 2014”.

1 **SEC. 2. ESTABLISHING UNIVERSAL ACCESS PROGRAMS TO**  
2 **IMPROVE HIGH RISK POOLS AND REINSUR-**  
3 **ANCE MARKETS FOR INDIVIDUALS WITH PRE-**  
4 **EXISTING CONDITIONS.**

5 (a) STATE REQUIREMENT.—

6 (1) IN GENERAL.—Not later than January 1,  
7 2015, each State shall—

8 (A) subject to paragraph (3), operate—

9 (i) a qualified State reinsurance pro-  
10 gram described in subsection (b); or

11 (ii) qualifying State high risk pool de-  
12 scribed in subsection (c)(1); and

13 (B) subject to paragraph (3), apply to the  
14 operation of such a program from State funds  
15 an amount equivalent to the portion of State  
16 funds derived from State premium assessments  
17 (as defined by the Secretary) that are not oth-  
18 erwise used on State health care programs.

19 (2) RELATION TO CURRENT QUALIFIED HIGH  
20 RISK POOL PROGRAM.—

21 (A) STATES NOT OPERATING A QUALIFIED  
22 HIGH RISK POOL.—In the case of a State that  
23 is not operating a current section 2745 quali-  
24 fied high risk pool as of the date of the enact-  
25 ment of this Act—

1 (i) the State may only meet the re-  
2 quirement of paragraph (1) through the  
3 operation of a qualified State reinsurance  
4 program described in subsection (b); and

5 (ii) the State's operation of such a re-  
6 insurance program shall be treated, for  
7 purposes of section 2745 of the Public  
8 Health Service Act, as the operation of a  
9 qualified high risk pool described in such  
10 section.

11 (B) STATE OPERATING A QUALIFIED HIGH  
12 RISK POOL.—In the case of a State that is op-  
13 erating a current section 2745 qualified high  
14 risk pool as of the date of the enactment of this  
15 Act—

16 (i) as of January 1, 2015, such a pool  
17 shall not be treated as a qualified high risk  
18 pool under section 2745 of the Public  
19 Health Service Act unless the pool is a  
20 qualifying State high risk pool described in  
21 subsection (c)(1); and

22 (ii) the State may use premium as-  
23 sessment funds described in paragraph  
24 (1)(B) to transition from operation of such  
25 a pool to operation of a qualified State re-

1 insurance program described in subsection  
2 (b).

3 (3) APPLICATION OF FUNDS.—If the program  
4 or pool operated under paragraph (1)(A) is in strong  
5 fiscal health, as determined in accordance with  
6 standards established by the National Association of  
7 Insurance Commissioners and as approved by the  
8 State Insurance Commissioner involved, the require-  
9 ment of paragraph (1)(B) shall be deemed to be  
10 met.

11 (b) QUALIFIED STATE REINSURANCE PROGRAM.—

12 (1) IN GENERAL.—For purposes of this section,  
13 a “qualified State reinsurance program” means a  
14 program operated by a State program that provides  
15 reinsurance for health insurance coverage offered in  
16 the small group market in accordance with the  
17 model for such a program established (as of the date  
18 of the enactment of this Act).

19 (2) FORM OF PROGRAM.—A qualified State re-  
20 insurance program may provide reinsurance—

21 (A) on a prospective or retrospective basis;

22 and

23 (B) on a basis that protects health insur-  
24 ance issuers against the annual aggregate

1 spending of their enrollees as well as purchase  
2 protection against individual catastrophic costs.

3 (3) SATISFACTION OF HIPAA REQUIREMENT.—

4 A qualified State reinsurance program shall be  
5 deemed, for purposes of section 2745 of the Public  
6 Health Service Act, to be a qualified high risk pool  
7 under such section.

8 (c) QUALIFYING STATE HIGH RISK POOL.—

9 (1) IN GENERAL.—A qualifying State high risk  
10 pool described in this subsection means a current  
11 section 2745 qualified high risk pool that meets the  
12 following requirements:

13 (A) The pool must provide at least two  
14 coverage options, one of which must be a high  
15 deductible health plan coupled with a health  
16 savings account.

17 (B) The pool must be funded with a stable  
18 funding source.

19 (C) The pool must eliminate any waiting  
20 lists so that all eligible residents who are seek-  
21 ing coverage through the pool should be allowed  
22 to receive coverage through the pool.

23 (D) The pool must allow for coverage of  
24 individuals who, but for the 24-month disability  
25 waiting period under section 226(b) of the So-

1           cial Security Act, would be eligible for Medicare  
2           during the period of such waiting period.

3           (E) The pool must limit the pool premiums  
4           to no more than 150 percent of the average  
5           premium for applicable standard risk rates in  
6           that State.

7           (F) The pool must conduct education and  
8           outreach initiatives so that residents and bro-  
9           kers understand that the pool is available to eli-  
10          gible residents.

11          (G) The pool must provide coverage for  
12          preventive services and disease management for  
13          chronic diseases.

14          (2) VERIFICATION OF CITIZENSHIP OR ALIEN  
15          QUALIFICATION.—

16                (A) IN GENERAL.—Notwithstanding any  
17                other provision of law, only citizens and nation-  
18                als of the United States shall be eligible to par-  
19                ticipate in a qualifying State high risk pool that  
20                receives funds under section 2745 of the Public  
21                Health Service Act or this section.

22                (B) CONDITION OF PARTICIPATION.—As a  
23                condition of a State receiving such funds, the  
24                Secretary shall require the State to certify, to  
25                the satisfaction of the Secretary, that such

1 State requires all applicants for coverage in the  
2 qualifying State high risk pool to provide satis-  
3 factory documentation of citizenship or nation-  
4 ality in a manner consistent with section  
5 1903(x) of the Social Security Act.

6 (C) RECORDS.—The Secretary shall keep  
7 sufficient records such that a determination of  
8 citizenship or nationality only has to be made  
9 once for any individual under this paragraph.

10 (3) RELATION TO SECTION 2745.—As of Janu-  
11 ary 1, 2015, a pool shall not qualify as qualified  
12 high risk pool under section 2745 of the Public  
13 Health Service Act unless the pool is a qualifying  
14 State high risk pool described in paragraph (1).

15 (d) WAIVERS.—In order to accommodate new and in-  
16 novative programs, the Secretary may waive such require-  
17 ments of this section for qualified State reinsurance pro-  
18 grams and for qualifying State high risk pools as the Sec-  
19 retary deems appropriate.

20 (e) FUNDING.—In addition to any other amounts ap-  
21 propriated, there is appropriated to carry out section 2745  
22 of the Public Health Service Act (including through a pro-  
23 gram or pool described in subsection (a)(1))—

24 (1) \$15,000,000,000 for the period of fiscal  
25 years 2015 through 2024; and

1           (2) an additional \$10,000,000,000 for the pe-  
2           riod of fiscal years 2020 through 2024.

3           (f) DEFINITIONS.—In this section:

4           (1) HEALTH INSURANCE COVERAGE; HEALTH  
5           INSURANCE ISSUER.—The terms “health insurance  
6           coverage” and “health insurance issuer” have the  
7           meanings given such terms in section 2791 of the  
8           Public Health Service Act.

9           (2) CURRENT SECTION 2745 QUALIFIED HIGH  
10          RISK POOL.—The term “current section 2745 quali-  
11          fied high risk pool” has the meaning given the term  
12          “qualified high risk pool” under section 2745(g) of  
13          the Public Health Service Act as in effect as of the  
14          date of the enactment of this Act.

15          (3) SECRETARY.—The term “Secretary” means  
16          the Secretary of Health and Human Services.

17          (4) STANDARD RISK RATE.—The term “stand-  
18          ard risk rate” means a rate that—

19                (A) is determined under the State high  
20                risk pool by considering the premium rates  
21                charged by other health insurance issuers offer-  
22                ing health insurance coverage to individuals in  
23                the insurance market served;

24                (B) is established using reasonable actu-  
25                arial techniques; and



1                   (C) reflects anticipated claims experience  
2                   and expenses for the coverage involved.

3                   (5) STATE.—The term “State” means any of  
4                   the 50 States or the District of Columbia.

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