

PROVIDING FOR CONSIDERATION OF THE BILL (H.R. 2192) TO AMEND THE PUBLIC HEALTH SERVICE ACT TO ELIMINATE THE NON-APPLICATION OF CERTAIN STATE WAIVER PROVISIONS TO MEMBERS OF CONGRESS AND CONGRESSIONAL STAFF, AND PROVIDING FOR FURTHER CONSIDERATION OF THE BILL (H.R. 1628) TO PROVIDE FOR RECONCILIATION PURSUANT TO TITLE II OF THE CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 2017

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MAY 3, 2017.—Referred to the House Calendar and ordered to be printed

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Mr. COLLINS of Georgia, from the Committee on Rules,  
submitted the following

## R E P O R T

[To accompany H. Res. 308]

The Committee on Rules, having had under consideration House Resolution 308, by record vote of 8 to 3, report the same to the House with the recommendation that the resolution be adopted.

### SUMMARY OF PROVISIONS OF THE RESOLUTION

The resolution provides for consideration of H.R. 2192, to amend the Public Health Service Act to eliminate the non-application of certain State waiver provisions to Members of Congress and congressional staff, under a closed rule. The resolution provides one hour of debate equally divided and controlled by the chair and ranking minority member of the Committee on Energy and Commerce. The resolution waives all points of order against consideration of the bill. The resolution provides that the bill shall be considered as read. The resolution waives all points of order against provisions in the bill. The resolution provides one motion to recommit.

Section 2 of the resolution provides for further consideration of H.R. 1628, the American Health Care Act of 2017. The resolution provides that the further amendments printed in this report shall be considered as adopted.

### EXPLANATION OF WAIVERS

Although the resolution waives all points of order against consideration of H.R. 2192, the Committee is not aware of any points of order. The waiver is prophylactic in nature.

Although the resolution waives all points of order against provisions in H.R. 2192, the Committee is not aware of any points of order. The waiver is prophylactic in nature.

COMMITTEE VOTES

The results of each record vote on an amendment or motion to report, together with the names of those voting for and against, are printed below:

*Rules Committee record vote No. 54*

Motion by Mr. Hastings to make in order and provide the appropriate waivers for every amendment submitted to H.R. 1628 to the Rules Committee and provide 10 minutes of debate on each amendment. Defeated: 3–8

Majority Members	Vote	Minority Members	Vote
Mr. Cole .....	Nay	Ms. Slaughter .....	.....
Mr. Woodall .....	Nay	Mr. McGovern .....	Yea
Mr. Burgess .....	Nay	Mr. Hastings of Florida .....	Yea
Mr. Collins .....	Nay	Mr. Polis .....	Yea
Mr. Byrne .....	Nay		
Mr. Newhouse .....	.....		
Mr. Buck .....	Nay		
Ms. Cheney .....	Nay		
Mr. Sessions, Chairman .....	Nay		

*Rules Committee record vote No. 55*

Motion by Mr. Cole to report the rule. Adopted: 8–3

Majority Members	Vote	Minority Members	Vote
Mr. Cole .....	Yea	Ms. Slaughter .....	.....
Mr. Woodall .....	Yea	Mr. McGovern .....	Nay
Mr. Burgess .....	Yea	Mr. Hastings of Florida .....	Nay
Mr. Collins .....	Yea	Mr. Polis .....	Nay
Mr. Byrne .....	Yea		
Mr. Newhouse .....	.....		
Mr. Buck .....	Yea		
Ms. Cheney .....	Yea		
Mr. Sessions, Chairman .....	Yea		

SUMMARY OF THE FURTHER AMENDMENTS TO H.R. 1628 CONSIDERED AS ADOPTED

1. Palmer (AL), Schweikert (AZ): Creates a \$15 billion risk sharing program to help states lower premiums for health coverage offered in the individual market.

2. MacArthur (NJ): Allows states to waive essential health benefits, age rating, and community rating. Health insurers would not be allowed to deny coverage, discriminate based on gender or limit access based on preexisting conditions. States must explain how the waiver will reduce average premiums for patients, increase enrollment for residents, stabilize the state's health insurance market, stabilize premiums for individuals living with preexisting conditions, or increase patients' health care plan options.

3. Upton (MI), Long (MO), Young, David (IA), Valadao (CA), Knight (CA), Denham (CA), McMorris Rodgers (WA), McSally (AZ): Increases the Patient and State Stability Fund by \$8 billion from 2018 to 2023 to States with an approved community rating waiver,

as established by the MacArthur Amendment, for providing assistance to reduce premiums or other out-of-pocket costs to individuals who may be subject to an increase in their monthly premium rates as a result of the States waiver. The amendment also resolves two minor technical drafting amendments, including the correction of an inaccurate cross-reference and to ensure proper labeling of subsections.

TEXT OF FURTHER AMENDMENTS TO H.R. 1628 CONSIDERED AS  
ADOPTED

In the section 2204(c)(2)(B) proposed to be added to the Social Security Act by section 132, strike “to carry out the purpose described in section 2202(2) in such States by providing payments to appropriate entities described in such section with respect to claims that exceed \$1,000,000” and insert “to carry out the Federal Invisible Risk Sharing Program in such States under section 2205”.

In title XXII of the Social Security Act, as added by section 132, add at the end the following:

**“SEC. 2205. FEDERAL INVISIBLE RISK SHARING PROGRAM.**

“(a) IN GENERAL.—There is established within the Patient and State Stability Fund a Federal Invisible Risk Sharing Program (in this section referred to as the ‘Program’), to be administered by the Secretary of Health and Human Services, acting through the Administrator of the Centers for Medicare & Medicaid Services (in this section referred to as the ‘Administrator’), to provide payments to health insurance issuers with respect to claims for eligible individuals for the purpose of lowering premiums for health insurance coverage offered in the individual market.

“(b) FUNDING.—

“(1) APPROPRIATION.—For the purpose of providing funding for the Program there is appropriated, out of any money in the Treasury not otherwise appropriated, \$15,000,000,000 for the period beginning on January 1, 2018, and ending on December 31, 2026.

“(2) USE OF UNALLOCATED FUNDS.—Funds provided under section 2204(c)(2)(B) to carry out this section are in addition to the amount appropriated under paragraph (1).

“(c) OPERATION OF PROGRAM.—

“(1) IN GENERAL.—The Administrator shall establish, after consultation with health care consumers, health insurance issuers, State insurance commissioners, and other stakeholders and after taking into consideration high cost health conditions and other health trends that generate high cost, parameters for the operation of the Program consistent with this section and consistent with the same limitation on payment with respect to health insurance coverage that applies to payment with respect health benefits coverage under section 2105(c)(7).

“(2) DEADLINE FOR INITIAL OPERATION.—Not later than 60 days after the date of the enactment of this title, the Administrator shall establish sufficient parameters to specify how the Program will operate for plan year 2018.

“(3) STATE OPERATION OF PROGRAM.—The Administrator shall establish a process for a State to operate the Program in such State beginning with plan year 2020.

“(d) DETAILS OF PROGRAM.—The parameters for the Program shall include the following:

“(1) ELIGIBLE INDIVIDUALS.—A definition for eligible individuals.

“(2) HEALTH STATUS STATEMENTS.—The development and use of health status statements with respect to such individuals.

“(3) STANDARDS FOR QUALIFICATION.—

“(A) AUTOMATIC QUALIFICATION.—The identification of health conditions that automatically qualify individuals as eligible individuals at the time of application for health insurance coverage.

“(B) VOLUNTARY QUALIFICATION.—A process under which health insurance issuers may voluntarily qualify individuals, who do not automatically qualify under subparagraph (A), as eligible individuals at the time of application for such coverage.

“(4) PERCENTAGE OF INSURANCE PREMIUMS TO BE APPLIED.—The percentage of the premiums paid, to health insurance issuers for health insurance coverage by eligible individuals, that shall be collected and deposited to the credit (and available for the use) of the Program.

“(5) ATTACHMENT DOLLAR AMOUNT AND PAYMENT PROPORTION.—The dollar amount of claims for eligible individuals after which the Program will provide payments to health insurance issuers and the proportion of such claims above such dollar amount that the Program will pay.”.

Strike section 136 and insert the following:

**SEC. 136. PERMITTING STATES TO WAIVE CERTAIN ACA REQUIREMENTS TO ENCOURAGE FAIR HEALTH INSURANCE PREMIUMS.**

(a) IN GENERAL.—Section 2701 of the Public Health Service Act (42 U.S.C. 300gg) is amended by adding at the end the following new subsection:

“(b) PERMISSIBLE STATE WAIVER TO ENCOURAGE FAIR HEALTH INSURANCE PREMIUMS.—

“(1) IN GENERAL.—A State may submit an application to the Secretary for one or more of the following purposes:

“(A) In the case of plan years beginning on or after January 1, 2018, to apply, subject to paragraph (5), under subsection (a)(1)(A)(iii), instead of the ratio specified in such subsection, a higher ratio specified by the State (consistent with section 2707(c)).

“(B) In the case of plan years beginning on or after January 1, 2020, for health insurance coverage offered in the individual or small group market in such State, to apply, subject to paragraph (5), instead of the essential health benefits specified under subsection (b) of section 1302 of the Patient Protection and Affordable Care Act, essential health benefits as specified by the State.

“(C) In the case of a State that has in place a program that carries out the purpose described in paragraph (1) or (2) of section 2202(a) of the Social Security Act or participates in the program established under section 2205 of such Act, for health insurance offered in the individual

market in such State, with respect to an individual who is an applicable policyholder of such coverage with respect to an enforcement period (as defined in section 2710A(b)) applicable to enrollments for a plan year beginning with plan year 2019 (or, in the case of enrollments during a special enrollment period, beginning with plan year 2018), to—

“(i) subject to paragraph (5), not apply any increase to the monthly premium rate that would otherwise apply under section 2710A to such individual for such coverage; and

“(ii) instead, subject to paragraph (5)—

“(I) apply subsection (a)(1) as if health status were included as a factor described in subparagraph (A) of such subsection; and

“(II) not apply section 2705(b).

“(2) DEFAULT APPROVAL.—An application submitted under paragraph (1) is approved unless the Secretary notifies the State submitting the application, not later than 60 days after the date of the submission of such application, that the application has been denied for not being in compliance with any requirement of paragraph (3) and of the reason for such denial.

“(3) REQUIREMENTS.—The requirements of this paragraph, with respect to an application submitted under paragraph (1), are the following:

“(A) The application is submitted at such time, and in such manner, as the Secretary may require.

“(B) The application specifies how the approval of such application will provide for one or more of the following:

“(i) Reducing average premiums for health insurance coverage in the State.

“(ii) Increasing enrollment in health insurance coverage in the State.

“(iii) Stabilizing the market for health insurance coverage in the State.

“(iv) Stabilizing premiums for individuals with pre-existing conditions.

“(v) Increasing the choice of health plans in the State.

“(C) The application specifies the period for which the waiver is to be effective, consistent with paragraph (4).

“(D) In the case of an application for purposes of paragraph (1)(A), the application specifies the higher ratio to be applied pursuant to such paragraph.

“(E) In the case of an application for purposes of paragraph (1)(B), the application specifies the essential health benefits to be applied pursuant to such paragraph.

“(F) In the case of an application for purposes of paragraph (1)(C), the application demonstrates that the State has in place a program that carries out the purpose described in paragraph (1) or (2) of section 2202(a) of the Social Security Act or participates in the program established under section 2205 of such Act.

“(4) TERM OF WAIVER.—

“(A) IN GENERAL.—No waiver for a State under this subsection may extend over a period of longer than 10 years

unless the State requests continuation of such waiver, and such request shall be deemed granted unless the Secretary, within 90 days after the date of its submission to the Secretary, either denies such request in writing or informs the State in writing with respect to any additional information which is needed in order to make a final determination with respect to the request.

“(B) SPECIAL RULE.—A waiver applied for by a State under paragraph (1)(C) may only be effective for a period during which the State—

“(i) has in place a program that carries out the purpose described in paragraph (1) or (2) of section 2202(a) of the Social Security Act; or

“(ii) participates in the program established under section 2205 of such Act.

“(5) NON-APPLICATION RULES.—

“(A) SPECIFIED NON-APPLICATION PROVISIONS.—In no case may a waiver for purposes of paragraph (1) apply with respect to any of the following provisions:

“(i) Section 1301 of the Patient Protection and Affordable Care Act, to the extent that such section applies to qualified health plans offered through the CO-OP program under section 1322 of such Act or multi-State plans under section 1334 of such Act.

“(ii) Sections 1312(d)(3)(D), 1331, 1332, 1333, and 1334 of such Act.

“(B) HOLD HARMLESS.—Any standard or requirement adopted by a State pursuant to the terms of a waiver approved under this subsection shall be deemed to comply with section 1252 of the Patient Protection and Affordable Care Act and subsection (a) of section 1324 of such Act, insofar as such standard or requirement relates to a Federal or State law described in subsection (b)(2) of such section (relating to rating).”

(b) APPLICATION TO ESSENTIAL HEALTH BENEFITS.—Section 1302(a)(1) of the Patient Protection and Affordable Care Act (42 U.S.C. 18022(a)(1)) is amended by inserting “(or, in the case of health insurance coverage offered in the individual or small group market in a State for which there is an applicable waiver in effect under section 2701(b) of the Public Health Service Act for a plan year, the essential health benefits applicable under such waiver)” after “subsection (b)”.

**SEC. 137. CONSTRUCTIONS.**

(a) NO GENDER RATING.—Nothing in this Act shall be construed as permitting health insurance issuers to discriminate in rates for health insurance coverage by gender.

(b) NO LIMITING ACCESS TO COVERAGE FOR INDIVIDUALS WITH PREEXISTING CONDITIONS.—Nothing in this Act shall be construed as permitting health insurance issuers to limit access to health coverage for individuals with preexisting conditions.

In the section 2710A(a)(1) proposed to be added to the Public Health Service Act by section 133, strike “Notwithstanding section 2701, subject” and insert “Subject”.

In the amendment proposed to be inserted into section 2701(a)(1)(A)(iii) of the Public Health Service Act by section 135, insert after “or such other ratio for adults (consistent with section 2707(c)) as the State involved may provide” the following: “(or, in the case of a State with a waiver under subsection (b) in effect for such a plan year, the ratio applied for such plan year in accordance with such waiver)”.

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In the section 2202(a) proposed to be added to the Social Security Act by section 132, strike “Subject to subsection (b)” and insert “Subject to subsections (b) and (c)”.

Add at the end of the section 2202 proposed to be added to the Social Security Act by section 132, the following:

“(c) REQUIRED USE OF ADDITIONAL INCREASE TO CERTAIN WAIVER STATES TO PROVIDE FINANCIAL HARDSHIP ASSISTANCE.—A State shall use the additional allocation provided to the State from the funds appropriated under the last sentence of section 2204(a) only in accordance with such last sentence.

Insert at the end of the section 2204(a) proposed to be added to the Social Security Act by section 132, the following:

“The amount otherwise appropriated under this subsection shall be increased by \$8,000,000,000 for the period beginning with 2018 and ending with 2023, to be allocated to States with a waiver in effect under section 2701(b) of the Public Health Service Act with respect to the purpose described in paragraph (1)(C) of such section, in accordance with an allocation methodology specified by the Secretary that takes into account the relative allocation of other amounts appropriated under this subsection among such States, and to be used by (and made available under subsection (d), for any year during such period that such waiver is in effect, to) such States for the purpose of providing assistance to reduce premiums or other out-of-pocket costs of individuals who are subject to an increase in the monthly premium rate for health insurance coverage as a result of such waiver.

In the section 2202(b) proposed to be added to the Social Security Act by section 132, strike “section 2204(b)” and insert “section 2204(a)”.

In section 214(b), strike “Section 1412 of the Patient Protection and Affordable Care Act is amended by adding at the end the following new subsection:” and insert “Section 1412(f) of the Patient Protection and Affordable Care Act, as added by section 202, is amended to read as follows:”