

116TH CONGRESS
2D SESSION

H. R. 6136

To amend the Public Health Service Act to provide protections for consumers against excessive, unjustified, or unfairly discriminatory increases in premium rates.

IN THE HOUSE OF REPRESENTATIVES

MARCH 9, 2020

Ms. SCHAKOWSKY introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To amend the Public Health Service Act to provide protections for consumers against excessive, unjustified, or unfairly discriminatory increases in premium rates.

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 “Protecting Consumers
5 from Unreasonable Rates Act of 2020”.

1 **SEC. 2. PROTECTION OF CONSUMERS FROM EXCESSIVE,**
2 **UNJUSTIFIED, OR UNFAIRLY DISCRIMINA-**
3 **TORY RATES.**

4 (a) PROTECTION FROM EXCESSIVE, UNJUSTIFIED,
5 OR UNFAIRLY DISCRIMINATORY RATES.—The first sec-
6 tion 2794 of the Public Health Service Act (42 U.S.C.
7 300gg–94), as added by section 1003 of the Patient Pro-
8 tection and Affordable Care Act (Public Law 111–148),
9 is amended by adding at the end the following new sub-
10 section:

11 “(e) PROTECTION FROM EXCESSIVE, UNJUSTIFIED,
12 OR UNFAIRLY DISCRIMINATORY RATES.—

13 “(1) AUTHORITY OF STATES.—Nothing in this
14 section shall be construed to prohibit a State from
15 imposing requirements (including requirements re-
16 lating to rate review standards and procedures and
17 information reporting) on health insurance issuers
18 with respect to rates that are in addition to the re-
19 quirements of this section and are more protective of
20 consumers than such requirements.

21 “(2) CONSULTATION IN RATE REVIEW PROC-
22 ESS.—In carrying out this section, the Secretary
23 shall consult with the National Association of Insur-
24 ance Commissioners and consumer groups.

25 “(3) DETERMINATION OF WHO CONDUCTS RE-
26 VIEWS FOR EACH STATE.—The Secretary shall de-

1 termine, after the date of enactment of this section
2 and periodically thereafter, the following:

3 “(A) In which markets in each State the
4 State insurance commissioner or relevant State
5 regulator shall undertake the corrective actions
6 under paragraph (4), based on the Secretary’s
7 determination that the State regulator is ade-
8 quately undertaking and utilizing such actions
9 in that market.

10 “(B) In which markets in each State the
11 Secretary shall undertake the corrective actions
12 under paragraph (4), in cooperation with the
13 relevant State insurance commissioner or State
14 regulator, based on the Secretary’s determina-
15 tion that the State is not adequately under-
16 taking and utilizing such actions in that mar-
17 ket.

18 “(4) CORRECTIVE ACTION FOR EXCESSIVE, UN-
19 JUSTIFIED, OR UNFAIRLY DISCRIMINATORY
20 RATES.—In accordance with the process established
21 under this section, the Secretary or the relevant
22 State insurance commissioner or State regulator
23 shall take corrective actions to ensure that any ex-
24 cessive, unjustified, or unfairly discriminatory rates

1 are corrected prior to implementation, or as soon as
 2 possible thereafter, through mechanisms such as—

3 “(A) denying rates;

4 “(B) modifying rates; or

5 “(C) requiring rebates to consumers.

6 “(5) NONCOMPLIANCE.—Failure to comply with
 7 any corrective action taken by the Secretary under
 8 this subsection may result in the application of civil
 9 monetary penalties under section 2723 and, if the
 10 Secretary determines appropriate, make the plan in-
 11 volved ineligible for classification as a qualified
 12 health plan.”.

13 (b) CLARIFICATION OF REGULATORY AUTHORITY.—
 14 Such section is further amended—

15 (1) in subsection (a)—

16 (A) in the heading, by striking “PRE-
 17 MIUM” and inserting “RATE”;

18 (B) in paragraph (1), by striking “unrea-
 19 sonable increases in premiums” and inserting
 20 “potentially excessive, unjustified, or unfairly
 21 discriminatory rates, including premiums,”; and

22 (C) in paragraph (2)—

23 (i) by striking “an unreasonable pre-
 24 mium increase” and inserting “a poten-

1 tially excessive, unjustified, or unfairly dis-
 2 criminatory rate”;

3 (ii) by striking “the increase” and in-
 4 serting “the rate”; and

5 (iii) by striking “such increases” and
 6 inserting “such rates”; and

7 (2) in subsection (b)—

8 (A) by striking “premium increases” each
 9 place it appears and inserting “rates”; and

10 (B) in paragraph (2)(B), by striking “pre-
 11 mium” and inserting “rate”.

12 (c) CONFORMING AMENDMENTS.—Title XXVII of
 13 the Public Health Service Act (42 U.S.C. 300gg et seq.)
 14 is amended—

15 (1) in section 2723 (42 U.S.C. 300gg–22), as
 16 redesignated by the Patient Protection and Afford-
 17 able Care Act—

18 (A) in subsection (a)—

19 (i) in paragraph (1), by inserting
 20 “and section 2794” after “this part”; and

21 (ii) in paragraph (2), by inserting “or
 22 section 2794” after “this part”; and

23 (B) in subsection (b)—

24 (i) in paragraph (1), by inserting
 25 “and section 2794” after “this part”; and

1 (ii) in paragraph (2)—

2 (I) in subparagraph (A), by in-
 3 serting “or section 2794 that is” after
 4 “this part”; and

5 (II) in subparagraph (C)(ii), by
 6 inserting “or section 2794” after
 7 “this part”; and

8 (2) in section 2761 (42 U.S.C. 300gg–61)—

9 (A) in subsection (a)—

10 (i) in paragraph (1), by inserting
 11 “and section 2794” after “this part”; and

12 (ii) in paragraph (2)—

13 (I) by inserting “or section
 14 2794” after “set forth in this part”;
 15 and

16 (II) by inserting “and section
 17 2794” after “the requirements of this
 18 part”; and

19 (B) in subsection (b)—

20 (i) by inserting “and section 2794”
 21 after “this part”; and

22 (ii) by inserting “and section 2794”
 23 after “part A”.

24 (d) APPLICABILITY TO GRANDFATHERED PLANS.—

25 Section 1251(a)(4)(A) of the Patient Protection and Af-

1 affordable Care Act (Public Law 111–148), as added by sec-
2 tion 2301 of the Health Care and Education Reconcili-
3 ation Act of 2010 (Public Law 111–152), is amended by
4 adding at the end the following:

5 “(v) Section 2794 (relating to reason-
6 ableness of rates with respect to health in-
7 surance coverage).”.

8 (e) AUTHORIZATION OF APPROPRIATIONS.—There
9 are authorized to be appropriated to carry out this Act,
10 such sums as may be necessary.

11 (f) EFFECTIVE DATE.—The amendments made by
12 this section shall take effect on the date of enactment of
13 this Act and shall be implemented with respect to health
14 plans beginning not later than January 1, 2021.

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