AN ACT

To provide that certain guidance related to waivers for State innovation under the Patient Protection and Affordable Care Act shall have no force or effect.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the “Protecting Americans with Preexisting Conditions Act of 2019”.

SEC. 2. FINDINGS.

Congress finds the following:

(1) On October 24, 2018, the administration

published new guidance to carry out section 1332 of

(2) The new guidance encourages States to provide health insurance coverage through insurance plans that may discriminate against individuals with preexisting health conditions, including the one in four Americans living with a disability.

(3) The implementation and enforcement of the new guidance weakens protections for the millions of Americans living with preexisting health conditions and jeopardizes Americans’ access to quality, affordable health insurance coverage.

SEC. 3. PROVIDING THAT CERTAIN GUIDANCE RELATED TO WAIVERS FOR STATE INNOVATION UNDER THE PATIENT PROTECTION AND AFFORDABLE CARE ACT SHALL HAVE NO FORCE OR EFFECT.

Beginning April 1, 2019, the Secretary of Health and Human Services and the Secretary of the Treasury may not take any action to implement, enforce, or otherwise give effect to the guidance entitled “State Relief and Empowerment Waivers” (83 Fed. Reg. 53575 (October 24, 2018)), including any such action that would result in individuals losing health insurance coverage that includes
the essential health benefits package (as defined in subsection (a) of section 1302 of the Patient Protection and Affordable Care Act (42 U.S.C. 18022(a)) without regard to any waiver of any provision of such package under a waiver under such section 1332), including the maternity and newborn care essential health benefit described in subsection (b)(1)(D) of such section, including any such action that would result in a decrease in the number of such individuals enrolled in coverage that is at least as comprehensive as the coverage defined in section 1302(a) of the Patient Protection and Affordable Care Act (42 U.S.C. 18022(a)) compared to the number of such individuals who would have been so enrolled in such coverage had such action not been taken, including any such action that would, with respect to individuals with substance use disorders, including opioid use disorders, reduce the availability or affordability of coverage that is at least as comprehensive as the coverage defined in section 1302(a) of the Patient Protection and Affordable Care Act (42 U.S.C. 18022(a)) compared to the availability or affordability, respectively, of such coverage had such action not been taken, including any such action that would result, with respect to vulnerable populations (including low-income individuals, elderly individuals, and individuals with serious health issues or who have a greater risk of devel-
oping serious health issues), in a decrease in the availability of coverage that is at least as comprehensive as the coverage defined in section 1302(a) of the Patient Protection and Affordable Care Act (42 U.S.C. 18022(a)) with coverage and cost sharing protections required under section 1332(b)(1)(B) of such Act (42 U.S.C. 18052(b)(1)(B)), including any such action that would, with respect to individuals with preexisting conditions, reduce the affordability of coverage that is at least as comprehensive as the coverage defined in section 1302(a) of the Patient Protection and Affordable Care Act (42 U.S.C. 18022(a)) compared to the affordability of such coverage had such action not been taken, including any such action that would result in higher health insurance premiums for individuals enrolled in health insurance coverage that is at least as comprehensive as the coverage defined in section 1302(b) of such Act (42 U.S.C. 18022(b)), and the Secretaries may not promulgate any substantially similar guidance or rule. Nothing in the previous sentence shall be construed to affect the approval of waivers under section 1332 of the Patient Protection and Affordable Care Act (42 U.S.C. 18052) that establish reinsurance programs that are consistent with the requirements under subsection (b)(1) of such section (42 U.S.C. 18052(b)(1)), lower health insurance premiums, and pro-
protect health insurance coverage for people with preexisting conditions.

SEC. 4. GAO REPORT ON AFFECT OF STATE INNOVATION WAIVERS ON COVERAGE OF INDIVIDUALS AND ON MENTAL HEALTH HEALTH CARE TREATMENT.

Not later than 1 year after the date of the enactment of this Act, the Comptroller General of the United States shall submit to Congress a report on the number of individuals expected to lose access to health insurance coverage (as defined in section 2791 of the Public Health Service Act (42 U.S.C. 300gg–91)) if section 2 were not enacted and waivers under section 1332 of the Patient Protection and Affordable Care Act (42 U.S.C. 18052) were approved under the guidance described in such section 2. Such report shall include an analysis of the expected effect such waivers approved under such guidance would have on mental health care treatment.

Passed the House of Representatives May 9, 2019.

Attest: CHERYL L. JOHNSON, Clerk.
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MAY 15, 2019

Read the second time and placed on the calendar