

Calendar No. 90

116TH CONGRESS
1ST SESSION**H. R. 986**

IN THE SENATE OF THE UNITED STATES

MAY 14, 2019

Received; read the first time

MAY 15, 2019

Read the second time and placed on the calendar

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.

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 Americans
5 with Preexisting Conditions Act of 2019”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

8 (1) On October 24, 2018, the administration
9 published new guidance to carry out section 1332 of

1 the Patient Protection and Affordable Care Act (42
2 U.S.C. 18052) entitled “State Relief and Empower-
3 ment Waivers” (83 Fed. Reg. 53575).

4 (2) The new guidance encourages States to pro-
5 vide health insurance coverage through insurance
6 plans that may discriminate against individuals with
7 preexisting health conditions, including the one in
8 four Americans living with a disability.

9 (3) The implementation and enforcement of the
10 new guidance weakens protections for the millions of
11 Americans living with preexisting health conditions
12 and jeopardizes Americans’ access to quality, afford-
13 able health insurance coverage.

14 **SEC. 3. PROVIDING THAT CERTAIN GUIDANCE RELATED TO**
15 **WAIVERS FOR STATE INNOVATION UNDER**
16 **THE PATIENT PROTECTION AND AFFORD-**
17 **ABLE CARE ACT SHALL HAVE NO FORCE OR**
18 **EFFECT.**

19 Beginning April 1, 2019, the Secretary of Health and
20 Human Services and the Secretary of the Treasury may
21 not take any action to implement, enforce, or otherwise
22 give effect to the guidance entitled “State Relief and Em-
23 powerment Waivers” (83 Fed. Reg. 53575 (October 24,
24 2018)), including any such action that would result in in-
25 dividuals losing health insurance coverage that includes

1 the essential health benefits package (as defined in sub-
2 section (a) of section 1302 of the Patient Protection and
3 Affordable Care Act (42 U.S.C. 18022(a)) without regard
4 to any waiver of any provision of such package under a
5 waiver under such section 1332), including the maternity
6 and newborn care essential health benefit described in sub-
7 section (b)(1)(D) of such section, including any such ac-
8 tion that would result in a decrease in the number of such
9 individuals enrolled in coverage that is at least as com-
10 prehensive as the coverage defined in section 1302(a) of
11 the Patient Protection and Affordable Care Act (42
12 U.S.C. 18022(a)) compared to the number of such individ-
13 uals who would have been so enrolled in such coverage
14 had such action not been taken, including any such action
15 that would, with respect to individuals with substance use
16 disorders, including opioid use disorders, reduce the avail-
17 ability or affordability of coverage that is at least as com-
18 prehensive as the coverage defined in section 1302(a) of
19 the Patient Protection and Affordable Care Act (42
20 U.S.C. 18022(a)) compared to the availability or afford-
21 ability, respectively, of such coverage had such action not
22 been taken, including any such action that would result,
23 with respect to vulnerable populations (including low-in-
24 come individuals, elderly individuals, and individuals with
25 serious health issues or who have a greater risk of devel-

1 oping serious health issues), in a decrease in the avail-
2 ability of coverage that is at least as comprehensive as
3 the coverage defined in section 1302(a) of the Patient Pro-
4 tection and Affordable Care Act (42 U.S.C. 18022(a))
5 with coverage and cost sharing protections required under
6 section 1332(b)(1)(B) of such Act (42 U.S.C.
7 18052(b)(1)(B)), including any such action that would,
8 with respect to individuals with preexisting conditions, re-
9 duce the affordability of coverage that is at least as com-
10 prehensive as the coverage defined in section 1302(a) of
11 the Patient Protection and Affordable Care Act (42
12 U.S.C. 18022(a)) compared to the affordability of such
13 coverage had such action not been taken, including any
14 such action that would result in higher health insurance
15 premiums for individuals enrolled in health insurance cov-
16 erage that is at least as comprehensive as the coverage
17 defined in section 1302(b) of such Act (42 U.S.C.
18 18022(b)), and the Secretaries may not promulgate any
19 substantially similar guidance or rule. Nothing in the pre-
20 vious sentence shall be construed to affect the approval
21 of waivers under section 1332 of the Patient Protection
22 and Affordable Care Act (42 U.S.C. 18052) that establish
23 reinsurance programs that are consistent with the require-
24 ments under subsection (b)(1) of such section (42 U.S.C.
25 18052(b)(1)), lower health insurance premiums, and pro-

1 tect health insurance coverage for people with preexisting
2 conditions.

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

7 Not later than 1 year after the date of the enactment
8 of this Act, the Comptroller General of the United States
9 shall submit to Congress a report on the number of indi-
10 viduals expected to lose access to health insurance cov-
11 erage (as defined in section 2791 of the Public Health
12 Service Act (42 U.S.C. 300gg-91)) if section 2 were not
13 enacted and waivers under section 1332 of the Patient
14 Protection and Affordable Care Act (42 U.S.C. 18052)
15 were approved under the guidance described in such sec-
16 tion 2. Such report shall include an analysis of the ex-
17 pected effect such waivers approved under such guidance
18 would have on mental health care treatment.

Passed the House of Representatives May 9, 2019.

Attest:

CHERYL L. JOHNSON,

Clerk.

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