

117TH CONGRESS
1ST SESSION

H. R. 1890

To amend the Patient Protection and Affordable Care Act to require Exchanges to establish network adequacy standards for qualified health plans and 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 12, 2021

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

A BILL

To amend the Patient Protection and Affordable Care Act to require Exchanges to establish network adequacy standards for qualified health plans and 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 “Health Insurance Con-
5 sumer Protection Act”.

1 **TITLE I—NO MORE NARROW**
2 **NETWORKS**

3 **SEC. 101. SHORT TITLE.**

4 This title may be cited as the “No More Narrow Net-
5 works Act of 2021”.

6 **SEC. 102. REQUIRING EXCHANGES TO ESTABLISH NET-**
7 **WORK ADEQUACY STANDARDS FOR QUALI-**
8 **FIED HEALTH PLANS.**

9 (a) IN GENERAL.—Section 1311(d) of the Patient
10 Protection and Affordable Care Act (42 U.S.C. 18031(d))
11 is amended by adding at the end the following new para-
12 graph:

13 “(8) NETWORK ADEQUACY STANDARDS.—

14 “(A) CERTAIN EXCHANGES.—In the case
15 of an Exchange operated by the Secretary pur-
16 suant section 1321(c)(1) or an Exchange de-
17 scribed in section 155.200(f) of title 42, Code
18 of Federal Regulations (or a successor regula-
19 tion), the Exchange shall require each qualified
20 health plan offered through such Exchange to
21 meet such quantitative network adequacy stand-
22 ards as the Secretary may prescribe for pur-
23 poses of this subparagraph.

24 “(B) STATE EXCHANGES.—In the case of
25 an Exchange not described in subparagraph

1 (A), the Exchange shall establish quantitative
 2 network adequacy standards with respect to
 3 qualified health plans offered through such Ex-
 4 change and require such plans to meet such
 5 standards.”.

6 (b) EFFECTIVE DATE.—The amendment made by
 7 this section shall apply with respect to plan years begin-
 8 ning on or after January 1, 2023.

9 **TITLE II—PROTECTING CON-**
 10 **SUMERS FROM UNREASON-**
 11 **ABLE RATES**

12 **SEC. 201. SHORT TITLE.**

13 This title may be cited as the “Protecting Consumers
 14 from Unreasonable Rates Act”.

15 **SEC. 202. PROTECTION OF CONSUMERS FROM EXCESSIVE,**
 16 **UNJUSTIFIED, OR UNFAIRLY DISCRIMINA-**
 17 **TORY RATES.**

18 (a) PROTECTION FROM EXCESSIVE, UNJUSTIFIED,
 19 OR UNFAIRLY DISCRIMINATORY RATES.—The first sec-
 20 tion 2794 of the Public Health Service Act (42 U.S.C.
 21 300gg–94), as added by section 1003 of the Patient Pro-
 22 tection and Affordable Care Act (Public Law 111–148),
 23 is amended by adding at the end the following new sub-
 24 section:

1 “(e) PROTECTION FROM EXCESSIVE, UNJUSTIFIED,
2 OR UNFAIRLY DISCRIMINATORY RATES.—

3 “(1) AUTHORITY OF STATES.—Nothing in this
4 section shall be construed to prohibit a State from
5 imposing requirements (including requirements re-
6 lating to rate review standards and procedures and
7 information reporting) on health insurance issuers
8 with respect to rates that are in addition to the re-
9 quirements of this section and are more protective of
10 consumers than such requirements.

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

15 “(3) DETERMINATION OF WHO CONDUCTS RE-
16 VIEWS FOR EACH STATE.—The Secretary shall de-
17 termine, after the date of enactment of this section
18 and periodically thereafter, the following:

19 “(A) In which markets in each State the
20 State insurance commissioner or relevant State
21 regulator shall undertake the corrective actions
22 under paragraph (4), based on the Secretary’s
23 determination that the State regulator is ade-
24 quately undertaking and utilizing such actions
25 in that market.

1 “(B) In which markets in each State the
2 Secretary shall undertake the corrective actions
3 under paragraph (4), in cooperation with the
4 relevant State insurance commissioner or State
5 regulator, based on the Secretary’s determina-
6 tion that the State is not adequately under-
7 taking and utilizing such actions in that mar-
8 ket.

9 “(4) CORRECTIVE ACTION FOR EXCESSIVE, UN-
10 JUSTIFIED, OR UNFAIRLY DISCRIMINATORY
11 RATES.—In accordance with the process established
12 under this section, the Secretary or the relevant
13 State insurance commissioner or State regulator
14 shall take corrective actions to ensure that any ex-
15 cessive, unjustified, or unfairly discriminatory rates
16 are corrected prior to implementation, or as soon as
17 possible thereafter, through mechanisms such as—

18 “(A) denying rates;

19 “(B) modifying rates; or

20 “(C) requiring rebates to consumers.

21 “(5) NONCOMPLIANCE.—Failure to comply with
22 any corrective action taken by the Secretary under
23 this subsection may result in the application of civil
24 monetary penalties under section 2723 and, if the
25 Secretary determines appropriate, make the plan in-

1 volved ineligible for classification as a qualified
2 health plan.”.

3 (b) CLARIFICATION OF REGULATORY AUTHORITY.—

4 Such section is further amended—

5 (1) in subsection (a)—

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

8 (B) in paragraph (1), by striking “unrea-
9 sonable increases in premiums” and inserting
10 “potentially excessive, unjustified, or unfairly
11 discriminatory rates, including premiums,”; and

12 (C) in paragraph (2)—

13 (i) by striking “an unreasonable pre-
14 mium increase” and inserting “a poten-
15 tially excessive, unjustified, or unfairly dis-
16 criminatory rate”;

17 (ii) by striking “the increase” and in-
18 serting “the rate”; and

19 (iii) by striking “such increases” and
20 inserting “such rates”; and

21 (2) in subsection (b)—

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

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

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

4 (1) in section 2723 (42 U.S.C. 300gg–22)—

5 (A) in subsection (a)—

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

8 (ii) in paragraph (2), by inserting “,
9 section 2794,” after “this part”; and

10 (B) in subsection (b)—

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

13 (ii) in paragraph (2)—

14 (I) in subparagraph (A), by in-
15 serting “, section 2794,” after “this
16 part”; and

17 (II) in subparagraph (C)(ii), by
18 inserting “, section 2794,” after “this
19 part”; and

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

21 (A) in subsection (a)—

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

24 (ii) in paragraph (2)—

1 (I) by inserting “or section
2 2794” after “set forth in this part”;
3 and

4 (II) by inserting “and section
5 2794” after “the requirements of this
6 part”; and

7 (B) in subsection (b)—

8 (i) by inserting “and section 2794”
9 after “this part”; and

10 (ii) by inserting “and section 2794”
11 after “part A”.

12 (d) APPLICABILITY TO GRANDFATHERED PLANS.—
13 Section 1251(a)(4)(A) of the Patient Protection and Af-
14 fordable Care Act (Public Law 111–148), as added by sec-
15 tion 2301 of the Health Care and Education Reconcili-
16 ation Act of 2010 (Public Law 111–152), is amended by
17 adding at the end the following:

18 “(v) Section 2794 (relating to reason-
19 ableness of rates with respect to health in-
20 surance coverage).”.

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

24 (f) EFFECTIVE DATE.—The amendments made by
25 this section shall take effect on the date of enactment of

- 1 this Act and shall be implemented with respect to health
- 2 plans beginning not later than January 1, 2023.

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