

114TH CONGRESS
2D SESSION

H. R. 5284

To eliminate the individual and employer health coverage mandates under the Patient Protection and Affordable Care Act, to expand beyond that Act the choices in obtaining and financing affordable health insurance coverage, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 19, 2016

Mr. SESSIONS introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committees on Ways and Means and Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To eliminate the individual and employer health coverage mandates under the Patient Protection and Affordable Care Act, to expand beyond that Act the choices in obtaining and financing affordable health insurance coverage, and for other purposes.

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

1 **SECTION 1. SHORT TITLE; PURPOSES; TABLE OF CON-**
 2 **TENTS.**

3 (a) **SHORT TITLE.**—This Act may be cited as the
 4 “World’s Greatest Healthcare Plan Act of 2016”.

5 (b) **PURPOSES.**—The purposes of this Act are as fol-
 6 lows:

7 (1) **ELIMINATION OF INDIVIDUAL AND EM-**
 8 **PLOYER MANDATES UNDER ACA.**—To eliminate man-
 9 dates on individuals and employers, and other tax
 10 requirements, imposed under Patient Protection and
 11 Affordable Care Act.

12 (2) **PROVIDING STATES WITH ALTERNATIVE,**
 13 **AFFORDABLE COVERAGE OPTIONS.**—To provide
 14 greater flexibility in providing States with options in
 15 making affordable health insurance coverage avail-
 16 able by eliminating certain mandates under PPACA,
 17 while retaining essential consumer protections, by
 18 promoting health savings accounts to pay for such
 19 coverage and long-term care coverage, while permit-
 20 ting States to continue coverage as provided under
 21 PPACA.

22 (c) **TABLE OF CONTENTS.**—The table of contents of
 23 this Act is as follows:

Sec. 1. Short title; purposes; table of contents.

Sec. 2. Definitions.

TITLE I—REVISIONS OF PPACA

Subtitle A—Elimination of Individual and Employer Mandates

- Sec. 101. Repeal of individual health insurance mandate.
 Sec. 102. Repeal of employer health insurance mandate.
 Sec. 103. Clarifying employer’s ability to reimburse employee premiums for purchase of individual health insurance coverage.

Subtitle B—Limitation on Application of PPACA Plan Requirements

- Sec. 121. Limiting application of requirements to consumer protections.
 Sec. 122. Offering of basic health insurance; protection of assets from liability or attachment or seizure.

Subtitle C—Universal Health Insurance Tax Benefit

- Sec. 131. Universal health insurance tax benefit.
 Sec. 132. Application of portion of unused tax credits by States for indigent health care.
 Sec. 133. Medicaid option of enrollment under private plan and contribution to an HSA.

TITLE II—IMPROVING HEALTH SAVINGS ACCOUNTS TO PROMOTE ACCOUNTABILITY

- Sec. 201. Transition to non-deductible HSAs.
 Sec. 202. Elimination of medical expense deduction.
 Sec. 203. Treatment of HSA after death of account beneficiary.
 Sec. 204. Treatment of concierge medicine.

TITLE III—STATE FLEXIBILITY IN REGULATION OF HEALTH INSURANCE COVERAGE

- Sec. 301. State flexibility in regulation of health insurance coverage.

TITLE IV—MEDICAID PAYMENT REFORM

- Sec. 401. Medicaid payment reform.

TITLE V—INCREASING PRICE TRANSPARENCY AND FREEDOM OF PRACTICE

- Sec. 501. Ensuring access to emergency services without excessive charges for out-of-network services.
 Sec. 502. Publishing of cash price for care paid through health savings accounts.
 Sec. 503. Liberating the local practice of health care.

1 **SEC. 2. DEFINITIONS.**

2 Except as otherwise provided, in this Act:

- 3 (1) **BASIC HEALTH INSURANCE.**—The term
 4 “basic health insurance” is defined in section
 5 122(a).

1 (2) DEFAULT HEALTH INSURANCE COV-
2 ERAGE.—The term “default health insurance cov-
3 erage” is defined in section 121(b)(4)(B).

4 (3) EXCHANGE.—The term “Exchange” means
5 an Exchange established under title I of PPACA.

6 (4) HEALTH INSURANCE COVERAGE; GROUP
7 HEALTH PLAN, ETC.—The terms defined in section
8 2791 of the Public Health Service Act, including
9 “health insurance coverage”, “group health plan”,
10 and “individual market”, shall apply.

11 (5) LIMITED BENEFIT INSURANCE.—The term
12 “limited benefit insurance” is defined in section
13 122(b).

14 (6) PPACA.—The term “PPACA” means the
15 Patient Protection and Affordable Care Act (Public
16 Law 111–148).

17 (7) SECRETARY.—The term “Secretary” means
18 the Secretary of Health and Human Services.

19 (8) STATE.—The term “State” includes the
20 District of Columbia, Puerto Rico, the United States
21 Virgin Islands, American Samoa, Guam, and the
22 Northern Mariana Islands.

1 **TITLE I—REVISIONS OF PPACA**
2 **Subtitle A—Elimination of**
3 **Individual and Employer Mandates**

4 **SEC. 101. REPEAL OF INDIVIDUAL HEALTH INSURANCE**
5 **MANDATE.**

6 Section 5000A of the Internal Revenue Code of 1986
7 is amended by adding at the end the following new sub-
8 section:

9 “(h) **TERMINATION.**—This section shall not apply
10 with respect to any month beginning more than 30 days
11 after the date of the enactment of the World’s Greatest
12 Healthcare Plan Act of 2016.”.

13 **SEC. 102. REPEAL OF EMPLOYER HEALTH INSURANCE MAN-**
14 **DATE.**

15 (a) **IN GENERAL.**—Chapter 43 of the Internal Rev-
16 enue Code of 1986 is amended—

17 (1) by striking section 4980H; and

18 (2) by striking the item relating to section
19 4980H from the table of sections for such chapter.

20 (b) **REPEAL OF RELATED REPORTING REQUIRE-**
21 **MENTS.**—Subpart D of part III of subchapter A of chap-
22 ter 61 of such Code is amended by striking section 6056
23 and by striking the item relating to section 6056 in the
24 table of sections for such subpart.

25 (c) **CONFORMING AMENDMENTS.**—

1 (1) Section 6724(d)(1)(B) of such Code is
2 amended—

3 (A) by inserting “or” at the end of clause
4 (xxiii);

5 (B) by striking “, or” at the end of clause
6 (xxiv) and inserting a period; and

7 (C) by striking clause (xxv).

8 (2) Section 6724(d)(2) of such Code is amend-
9 ed by inserting “or” at the end of subparagraph
10 (FF), by striking “, or” at the end of subparagraph
11 (GG) and inserting a period, and by striking sub-
12 paragraph (HH).

13 (3) Section 1513 of the Patient Protection and
14 Affordable Care Act is amended by striking sub-
15 section (c).

16 (d) EFFECTIVE DATES.—

17 (1) IN GENERAL.—Except as otherwise pro-
18 vided in this subsection, the amendments made by
19 this section shall apply to months and other periods
20 beginning more than 30 days after the date of the
21 enactment of this Act.

22 (2) REPEAL OF STUDY AND REPORT.—The
23 amendment made by subsection (c)(3) shall take ef-
24 fect on the date of the enactment of this Act.

1 **SEC. 103. CLARIFYING EMPLOYER'S ABILITY TO REIM-**
2 **BURSE EMPLOYEE PREMIUMS FOR PUR-**
3 **CHASE OF INDIVIDUAL HEALTH INSURANCE**
4 **COVERAGE.**

5 An employer health care arrangement, such as a
6 health or medical reimbursement arrangement (HRA) or
7 other employment plans, under which an employer reim-
8 burses an employee for the premiums for the purchase of
9 individual health insurance coverage does not constitute
10 a group health plan for any purposes, including for pur-
11 poses of applying any of the following:

12 (1) The Public Health Service Act (including
13 sections 2711 and 2714 of such Act, 42 U.S.C.
14 300gg-11, 300gg-14).

15 (2) The Patient Protection and Affordable Care
16 Act.

17 (3) The Internal Revenue Code of 1986.

18 (4) The Employee Retirement Income Security
19 Act of 1974.

20 (5) The HIPAA privacy regulations (as defined
21 in section 1180(b)(3) of the Social Security Act, 42
22 U.S.C. 1320d-9(b)(3)).

23 (6) The Health Insurance Portability and Ac-
24 countability Act of 1996.

25 (7) COBRA continuation coverage under title
26 XXII of the Public Health Service Act, section

1 4980B of the Internal Revenue Code of 1986, or
2 title VI of the Employee Retirement Income Security
3 Act of 1974.

4 **Subtitle B—Limitation on Applica-**
5 **tion of PPACA Plan Require-**
6 **ments**

7 **SEC. 121. LIMITING APPLICATION OF REQUIREMENTS TO**
8 **CONSUMER PROTECTIONS.**

9 (a) REMOVAL OF PPACA PLAN REQUIREMENTS,
10 OTHER THAN CERTAIN CONSUMER PROTECTIONS.—

11 (1) IN GENERAL.—Notwithstanding any other
12 provision of law, with respect to group health plans
13 and health insurance coverage whether or not of-
14 fered through an Exchange, except as provided in
15 paragraphs (2) and (3), the provisions of title
16 XXVII of the Public Health Service Act as in effect
17 before the date of the enactment of PPACA shall
18 apply instead of the provisions of such title as in ef-
19 fect after such date.

20 (2) PPACA CONSUMER PROTECTIONS CON-
21 TINUING TO BE APPLIED.—The following sections of
22 the Public Health Service Act, that were added or
23 amended by subtitles A and C of title I of PPACA,
24 shall continue to apply to group health plans and to

1 health insurance coverage offered in the individual
2 and group market:

3 (A) NO LIFETIME OR ANNUAL LIMITS.—
4 Section 2711 (relating to no lifetime or annual
5 limits), except in the case of limited benefit in-
6 surance (as defined in section 122(b)).

7 (B) DEPENDENT COVERAGE THROUGH
8 AGE 26.—Section 2714 (relating to extension of
9 dependent coverage).

10 (C) MODIFIED GUARANTEED AVAIL-
11 ABILITY.—Section 2702 (relating to guaranteed
12 availability of coverage), subject to paragraph
13 (3) and subsection (c).

14 (D) GUARANTEED RENEWABILITY.—Sec-
15 tion 2703 (relating to guaranteed renewability
16 of coverage).

17 (E) PROHIBITING PRE-EXISTING CONDI-
18 TION EXCLUSIONS.—Section 2704 (relating to
19 prohibition on preexisting conditions).

20 (F) PROHIBITING DISCRIMINATION BASED
21 ON HEALTH STATUS.—Section 2705 (relating to
22 prohibiting discrimination against individual
23 participants and beneficiaries based on health
24 status), subject to subsection (c).

1 (G) NON-DISCRIMINATION IN HEALTH
2 CARE.—Section 2706 (relating to non-discrimi-
3 nation in health care).

4 (3) APPLICATION OF A LATE ENROLLMENT
5 PENALTY FOR THOSE WITHOUT CONTINUOUS COV-
6 ERAGE.—

7 (A) IN GENERAL.—In the case of an indi-
8 vidual who seeks to enroll in health insurance
9 coverage and who, as of the effective date of
10 such enrollment, does not have a continuous pe-
11 riod of at least 12 months of creditable cov-
12 erage, there shall be imposed a late enrollment
13 penalty in the form of an increase in the
14 monthly premiums for coverage of under the
15 plan of 20 percent of the monthly premium oth-
16 erwise determined for each consecutive full 12-
17 month period (ending before such effective
18 date) in which the individual was not enrolled
19 in creditable coverage. Such increase shall apply
20 during a period, to be specified under regula-
21 tions of the Secretary but in no case longer
22 than 3 times the length of the most recent pe-
23 riod in which the individual did not have contin-
24 uous coverage.

1 (B) STATE WAIVER.—A State may apply
2 to the Secretary for a waiver of the provisions
3 of subparagraph (A) and the application of al-
4 ternative provisions providing incentives for
5 State residents to enroll in creditable coverage
6 and maintain continuous creditable coverage.
7 The Secretary shall approve such waiver if the
8 Secretary determines that the alternative provi-
9 sions provide similar or greater incentives for
10 such enrollment than the incentives otherwise
11 applicable.

12 (4) COORDINATING IMPLEMENTATION OF PRE-
13 PPACA PHSA PROVISIONS WITH PPACA CONSUMER
14 PROTECTIONS.—

15 (A) IN GENERAL.—In applying this sub-
16 section, the provisions described in paragraph
17 (2) shall be treated as if they were included in
18 title XXVII of the Public Health Service Act,
19 as in effect before the date of enactment of
20 PPACA, and, with respect to group health
21 plans and health insurance coverage offered in
22 connection with such plans, in part 7 of subtitle
23 B of title I of the Employee Retirement and In-
24 come Security Act of 1974, and, with respect to

1 group health plans, in chapter 100 of the Inter-
2 nal Revenue Code of 1986 as follows:

3 (i) LIFETIME LIMITS; DEPENDENT
4 COVERAGE.—The provisions described in
5 paragraphs (2)(A) and (2)(B) shall be
6 treated as included—

7 (I) with respect to group health
8 plans (and health insurance coverage
9 offered with respect to such plans),
10 under subpart 2 of part A of title
11 XXVII of the Public Health Service
12 Act and subpart B of part 7 of sub-
13 title B of title I of the Employee Re-
14 tirement and Income Security Act of
15 1974;

16 (II) also with respect to group
17 health plans, under subchapter B of
18 chapter 100 of the Internal Revenue
19 Code of 1986; and

20 (III) with respect to individual
21 health insurance coverage, under sub-
22 part 2 of part B of title XXVII of the
23 Public Health Service Act.

24 (ii) REMAINING PROVISIONS.—The
25 provision described in paragraph (2) (other

1 than in subparagraph (A) or (B) of such
2 paragraph) shall be treated as included—

3 (I) with respect to group health
4 plans (and health insurance coverage
5 offered with respect to such plans),
6 under subpart 1 of part A of title
7 XXVII of the Public Health Service
8 Act and subpart A of part 7 of sub-
9 title B of title I of the Employee Re-
10 tirement and Income Security Act of
11 1974;

12 (II) also with respect to group
13 health plans, under subchapter A of
14 chapter 100 of the Internal Revenue
15 Code of 1986; and

16 (III) with respect to individual
17 health insurance coverage, under sub-
18 part 1 of part B of title XXVII of the
19 Public Health Service Act.

20 (B) CONFLICTING PROVISIONS.—In the
21 case described in paragraph (1) where there is
22 a conflict between a provision described in para-
23 graph (2) and a provision of law described in
24 paragraph (1), the provision described in para-
25 graph (2) shall control and the Secretary, in

1 consultation with the Secretary of the Treasury
2 and the Secretary of Labor, shall establish such
3 rules as may be necessary to carry out this sub-
4 paragraph.

5 (5) CONFORMING AMENDMENTS.—

6 (A) ERISA.—Section 715 of the Employee
7 Retirement Income Security Act of 1974 (29
8 U.S.C. 1185d) is amended—

9 (i) in subsection (a), by striking “sub-
10 section (b)” and inserting “subsections (b)
11 and (c)”; and

12 (ii) by adding at the end the following
13 new subsection:

14 “(c) ADDITIONAL EXCEPTION.—Pursuant to section
15 121 of the World’s Greatest Healthcare Plan Act of 2016,
16 the provisions of part A of title XXVII of the Public
17 Health Service Act referred to in subsection (a), other
18 than those provisions specified in section 121(a)(2) of the
19 World’s Greatest Healthcare Plan Act of 2016, shall not
20 apply to plans and coverage described in subsection (a),
21 whether or not the plans or coverage are offered through
22 an Exchange established under the Patient Protection and
23 Affordable Care Act.”.

24 (B) IRC.—Section 9815 of the Internal
25 Revenue Code of 1986 is amended—

1 (i) in subsection (a), by striking “sub-
2 section (b)” and inserting “subsections (b)
3 and (c)”;

4 (ii) by adding at the end the following
5 new subsection:

6 “(c) ADDITIONAL EXCEPTION.—Pursuant to section
7 121 of the World’s Greatest Healthcare Plan Act of 2016,
8 the provisions of part A of title XXVII of the Public
9 Health Service Act referred to in subsection (a), other
10 than those provisions specified in section 121(a)(2) of the
11 World’s Greatest Healthcare Plan Act of 2016, shall not
12 apply to plans described in subsection (a).”.

13 (b) STATE FLEXIBILITY IN ENSURING ORDERLY
14 HEALTH INSURANCE MARKET OUTSIDE OF AN EX-
15 CHANGE.—

16 (1) IN GENERAL.—With respect to health insur-
17 ance coverage offered in a State, the State may, in
18 consultation with the Secretary, take such steps,
19 such as limiting the availability of general open en-
20 rollment periods, imposing delays in the effectiveness
21 for coverage, permitting differentials in premiums
22 based on age and other factors, as the State deter-
23 mines necessary in order to ensure an orderly mar-
24 ket for health insurance coverage in the State that
25 is not offered through an Exchange. Such steps may

1 include the establishment of such initial open enroll-
2 ment period during which qualified residents may
3 enroll in health insurance coverage without the im-
4 position of any underwriting as the State determines
5 to be appropriate in ensuring initial access to such
6 coverage.

7 (2) FLEXIBILITY IN IMPOSING ADDITIONAL RE-
8 QUIREMENTS.—Nothing in this section shall be con-
9 strued as preventing a State from continuing to
10 apply, to health insurance coverage issued in the
11 State, requirements under the provisions of title
12 XXVII of the Public Health Service Act (as amend-
13 ed by subtitles A and C of title I of PPACA) that
14 are not continued under subsection (a).

15 (3) STATE FLEXIBILITY WITH RESPECT TO EX-
16 CHANGES.—A State may waive such provisions of
17 part II of subtitle D of title I of PPACA, in relation
18 to the establishment of an Exchange in such State,
19 as the State determines appropriate in order for the
20 State to implement and administer a market-based
21 system for the availability of health insurance cov-
22 erage throughout the State.

23 (4) STATE DEFAULT ENROLLMENT OPTION.—

24 (A) ENROLLMENT, SUBJECT TO INDI-
25 VIDUAL OPT-OUT.—Subject to subparagraph

1 (D), a State may elect to provide for the enroll-
2 ment of residents of the State who are unin-
3 sured in default health insurance coverage (as
4 defined in subparagraph (B)) and establishing a
5 Roth HSA for such residents who do not have
6 a Roth HSA unless the resident has affirma-
7 tively elected not to be so enrolled and not to
8 have such an account. respectively. If a State
9 makes such an election, the State shall permit
10 eligible residents to enroll in such coverage on
11 a continuous basis.

12 (B) DEFAULT HEALTH INSURANCE COV-
13 ERAGE DEFINED.—In this paragraph, the term
14 “default health insurance coverage” means,
15 with respect to a State, health insurance cov-
16 erage that—

17 (i) is a high deductible health plan
18 (within the meaning of section 223(c)(2) of
19 the Internal Revenue Code of 1986) with
20 prescription drug coverage limited to ge-
21 neric drugs for a limited number of chronic
22 conditions (commonly referred to as tier I
23 pharmacy benefit);

24 (ii) meets such requirements as may
25 apply to qualify for the payment of plan

1 premiums from a health savings account
2 under section 223 of such Code (such as
3 age-related premiums and limitation on
4 imposition of preexisting condition exclu-
5 sions);

6 (iii) has a provider network for cov-
7 ered benefits that is adequate (as deter-
8 mined consistent with guidelines issued by
9 the Secretary) to ensure access to health
10 benefits under such plan;

11 (iv) provides for coverage of childhood
12 immunizations without cost sharing re-
13 quirements to the extent such immuniza-
14 tions have in effect a recommendation
15 from the Advisory Committee on Immuni-
16 zation Practices of the Centers for Disease
17 Control and Prevention with respect to the
18 individual involved; and

19 (v) meets such other requirements as
20 the State may specify.

21 (C) ROTH HSA.—In this paragraph, the
22 term “Roth HSA” shall have the meaning given
23 such term by section 530A(c) of the Internal
24 Revenue Code of 1986.

1 (D) SIMPLE PROCESS FOR INDIVIDUALS TO
2 OPT-OUT.—As a condition of a State providing
3 for the enrollment function described in sub-
4 paragraph (A), the State must establish an
5 easy-to-use and transparent means by which in-
6 dividuals may elect not to be enrolled in default
7 health insurance coverage or to have a Roth
8 HSA established on the individual’s behalf, or
9 both.

10 (c) INAPPLICABILITY OF REQUIRED ESSENTIAL
11 HEALTH BENEFITS.—

12 (1) IN GENERAL.—Notwithstanding any other
13 provision of law, no health benefits plan shall be re-
14 quired by reason of Federal law to comply with the
15 requirements of sections 1301(a)(1)(B) and 1302 of
16 PPACA (42 U.S.C. 18021(a)(1)(B), 18022).

17 (2) STATE FLEXIBILITY.—Nothing in this sub-
18 section shall be construed as preventing a State
19 from applying, at its option with respect to health
20 insurance coverage offered through an Exchange or
21 otherwise in the State, the requirements referred to
22 in paragraph (1).

23 (d) EFFECTIVE DATE; TRANSITION.—

1 (1) IN GENERAL.—Subsections (a), (b), and (c)
2 shall apply to plan years beginning after the date of
3 the enactment of this Act.

4 (2) SUNSETTING REQUIRED CONTRIBUTION FOR
5 ACA REINSURANCE PROGRAM.—No contribution shall
6 be required under section 1341 of PPACA (42
7 U.S.C. 18061) from any group health plan or health
8 insurance issuer for portions of plans years occur-
9 ring in months beginning more than 30 days after
10 the date of the enactment of this Act.

11 (e) SECRETARIAL GUIDANCE.—The Secretary of
12 Health and Human Services, in coordination with the Sec-
13 retary of Labor and the Secretary of the Treasury, shall
14 provide such guidance as may be necessary for the coordi-
15 nated implementation of this section on a timely basis.

16 (f) TRANSFERRING HEALTH PLAN RECORDS UPON
17 CHANGING PLANS.—

18 (1) IN GENERAL.—In the case of an individual
19 who is covered under health insurance coverage or as
20 a beneficiary or participant in a group health plan
21 (as such terms are defined in section 2791 of the
22 Public Health Service Act), if such coverage is ended
23 and the individual obtains other health insurance
24 coverage, group health plan coverage, or other cred-
25 itable coverage (as defined for purposes of title

1 XXVII of such Act), the issuer of the prior coverage
2 or administrator of the prior plan shall forward in-
3 formation respecting such prior coverage to the
4 issuer of the new coverage or administrator of the
5 new plan or coverage, as the case may be, subject
6 to such rules as the Secretary establishes regarding
7 the right of the beneficiary or participant to object
8 to such forwarding of information.

9 (2) TREATMENT AS PLAN REQUIREMENT
10 UNDER PHSA, ERISA, IRC.—The requirement of
11 paragraph (1) shall apply as if it were a section
12 under part A of title XXVII of the Public Health
13 Service Act, including for purposes of applying sec-
14 tion 715 of the Employee Retirement Income Secu-
15 rity Act of 1976 (29 U.S.C. 1185d) and section
16 9815 of the Internal Revenue Code of 1986.

17 (g) APPLICATION OF RISK ADJUSTMENT.—

18 (1) IN GENERAL.—Any issuer that offers health
19 insurance coverage in the individual market in any
20 of the 50 States or the District of Columbia shall
21 participate in a risk adjustment mechanism under
22 this subsection with respect to any health insurance
23 coverage it so offers in such market, whether or not
24 such coverage is offered through an Exchange.

1 (2) FORM AND DESIGN OF RISK ADJUSTMENT
2 MECHANISM.—The Secretary shall, in consultation
3 with the National Association of Insurance Commis-
4 sioners and other interested parties, develop a mech-
5 anism to permit the adjustment of risk among
6 health insurance coverage offered in the individual
7 market throughout the 50 States and the District of
8 Columbia. Such mechanism shall be designed to ef-
9 fect the same type of risk adjustment among such
10 coverage that is applicable to risk adjustment of
11 payments among Medicare Advantage organizations
12 under part C of title XVIII of the Social Security
13 Act.

14 (3) TRANSITION FOR NEW COVERAGE.—The
15 mechanism developed under paragraph (2) shall pro-
16 vide for transitional protection, over a 3-year period,
17 in the case of health insurance coverage that has not
18 been previously marketed.

19 (4) DEVELOPMENT OF FURTHER RISK ADJUST-
20 MENT MECHANISM.—The Secretary shall request the
21 National Association of Insurance Commissioners to
22 develop a permanent model for adjustment of risk
23 among health insurance issuers with respect to
24 health insurance coverage offered in the individual
25 market, with the intention that such a model would

1 substitute for the mechanism developed under para-
2 graph (2).

3 (5) TREATMENT AS PLAN REQUIREMENT
4 UNDER PHSA, ERISA, IRC.—The requirement of
5 paragraph (1) shall apply as if it were a section
6 under part A of title XXVII of the Public Health
7 Service Act, including for purposes of applying sec-
8 tion 715 of the Employee Retirement Income Secu-
9 rity Act of 1976 (29 U.S.C. 1185d) and section
10 9815 of the Internal Revenue Code of 1986.

11 **SEC. 122. OFFERING OF BASIC HEALTH INSURANCE; PRO-**
12 **TECTION OF ASSETS FROM LIABILITY OR AT-**
13 **TACHMENT OR SEIZURE.**

14 (a) REQUIREMENT FOR EXCHANGES.—

15 (1) IN GENERAL.—No tax credit shall be allow-
16 able under section 36B or 36C of the Internal Rev-
17 enue Code of 1986 for residents of a State unless
18 any Exchange established in the State provides for
19 the offering of basic health insurance in all areas of
20 the State.

21 (2) BASIC HEALTH INSURANCE DEFINED.—In
22 this subsection, the term “basic health insurance”
23 means, with respect to a State, such health insur-
24 ance coverage as the State may specify and includes

1 limited benefit insurance (as defined in subsection
2 (b)).

3 (b) LIMITED BENEFIT INSURANCE DEFINED.—

4 (1) IN GENERAL.—In this title, the term “lim-
5 ited benefit insurance” means individual health in-
6 surance coverage that, with respect to a plan year,
7 imposes (consistent with paragraph (2)) an annual
8 limit on the amounts that may be payable under the
9 coverage with respect to expenses incurred for items
10 and services furnished in that plan year.

11 (2) SPECIFICATION OF ANNUAL LIMIT; VARI-
12 ATION IN LIMIT FOR INDIVIDUAL AND FAMILY COV-
13 ERAGE.—The Secretary shall specify, from year to
14 year, the annual limit (or range of annual limits)
15 that may be applied under paragraph (1). Such a
16 limit may distinguish between coverage that is only
17 provided for an individual and coverage that is pro-
18 vided also for family members of the individual.

19 (c) PROTECTION OF CERTAIN ASSETS IN CASE OF
20 INDIVIDUALS COVERED UNDER LIMITED BENEFIT IN-
21 SURANCE.—

22 (1) IN GENERAL.—Notwithstanding any other
23 provision of law, if an individual is covered under
24 limited benefit insurance for a plan year and bene-
25 fits under such insurance have reached the annual

1 limit under such insurance for items and services
2 furnished in the plan year, the individual is not lia-
3 ble for debt incurred and arising from the provision
4 of subsequently furnished items and services during
5 the plan year, regardless of whether benefits are oth-
6 erwise covered for such items and services under
7 such policy, insofar as the liability attributable to
8 such items and services exceeds—

9 (A) the bankruptcy valuation of the indi-
10 vidual's property at the time the debt is in-
11 curred; reduced by

12 (B) such annual limit of benefits under the
13 limited benefit insurance for the plan year.

14 Property in the amount so protected from liability
15 shall be exempt and immune from attachment or sei-
16 zure with respect to any judgment related to such
17 debt.

18 (2) BANKRUPTCY VALUATION DEFINED.—In
19 this subsection, the term “bankruptcy valuation”
20 means, with respect to property of an individual as
21 of a date, the value of the property as of such date
22 as determined as if the individual were a debtor in
23 a bankruptcy case that could have been filed under
24 title 11 of the United States Code and the property
25 could not be exempt under section 522 of such title.

1 (3) NO REQUIREMENT FOR PROVIDERS TO FUR-
2 NISH SUBSEQUENT SERVICES WITHOUT ENSURING
3 PAYMENT.—Except as may be explicitly provided in
4 other law (such as under section 1867 of the Social
5 Security Act, popularly known as EMTALA), a
6 health care provider is not required to furnish any
7 items or services to an individual who has exhausted
8 benefits under limited benefit insurance for a plan
9 year without the individual (or another person on
10 the individual’s behalf) providing for such advance
11 or guarantee of payment for such items and services
12 as may be arranged between the health care provider
13 and the individual.

14 **Subtitle C—Universal Health**
15 **Insurance Tax Benefit**

16 **SEC. 131. UNIVERSAL HEALTH INSURANCE TAX BENEFIT.**

17 (a) IN GENERAL.—Subpart C of part IV of sub-
18 chapter A of chapter 1 of the Internal Revenue Code of
19 1986 is amended by inserting after section 36B the fol-
20 lowing new section:

21 **“SEC. 36C. UNIVERSAL HEALTH INSURANCE TAX CREDIT.**

22 “(a) IN GENERAL.—In the case of an individual who
23 is a qualified resident, there shall be allowed as a credit
24 against the tax imposed by this subtitle for any taxable

1 year an amount equal to the universal health credit
2 amount of the taxpayer for the taxable year.

3 “(b) UNIVERSAL HEALTH CREDIT AMOUNT.—For
4 purposes of this section—

5 “(1) IN GENERAL.—The term ‘universal health
6 credit amount’ means the sum of the amounts deter-
7 mined under paragraph (2) with respect to all
8 months of the taxpayer for the taxable year.

9 “(2) MONTHLY CREDIT AMOUNT.—

10 “(A) IN GENERAL.—Subject to paragraph
11 (4), the amount determined under this para-
12 graph with respect to any month shall be an
13 amount equal to the sum of—

14 “(i) $\frac{1}{12}$ of \$2,500 in the case of any
15 month the first day of which the taxpayer
16 is a qualified resident and is covered by
17 creditable coverage (twice such amount in
18 the case of a joint return if both spouses
19 are so covered by creditable coverage and
20 are qualified residents), plus

21 “(ii) $\frac{1}{12}$ of an amount equal to
22 \$1,500 multiplied by the number of quali-
23 fying children (within the meaning of sec-
24 tion 152) who are qualified residents
25 and—

1 “(I) for whom the taxpayer is al-
2 lowed a deduction under section 151
3 for the taxable year in which such
4 month ends, and

5 “(II) who are covered by cred-
6 itable coverage on the first day of
7 such month.

8 “(B) CARRYFORWARD OF MONTHLY CRED-
9 IT AMOUNT IN CASE CREDIT AMOUNT EXCEEDS
10 HSA CONTRIBUTIONS AND PREMIUM PAY-
11 MENTS.—In the case of any month for which
12 the credit amount determined with respect to
13 the taxpayer under subparagraph (A) exceeds
14 the limitation amount determined with respect
15 to the taxpayer for such month under para-
16 graph (3), such excess may be carried forward
17 to any subsequent month during the taxable
18 year for purposes of determining the credit
19 amount for such month under this paragraph.

20 “(3) MONTHLY LIMITATION.—

21 “(A) IN GENERAL.—The amount deter-
22 mined under paragraph (2) for any month of
23 the taxpayer shall not exceed the sum of—

1 “(i) the amounts contributed to a
2 health savings account of the taxpayer for
3 such month, plus

4 “(ii) the premiums paid by the tax-
5 payer for creditable coverage.

6 “(B) CARRYFORWARD OF MONTHLY LIM-
7 TATION IN CASE HSA CONTRIBUTIONS AND PRE-
8 MIUM PAYMENTS EXCEED MONTHLY CREDIT
9 AMOUNT.—In the case of any month for which
10 the amount determined with respect to the tax-
11 payer under subparagraph (A) exceeds the cred-
12 it amount determined with respect to the tax-
13 payer for such month under paragraph (2),
14 such excess may be carried forward to any sub-
15 sequent month during the taxable year for pur-
16 poses of determining the limitation under sub-
17 paragraph (A).

18 “(4) ADJUSTMENT FOR LIMITED BENEFIT IN-
19 SURANCE.—In the case of a taxpayer whose only
20 health insurance coverage for a month is limited
21 benefit insurance (as defined in section 123(b) of the
22 World’s Greatest Healthcare Plan Act of 2016), the
23 amount determined under paragraph (2) shall be de-
24 creased by such proportion as the Secretary, in con-
25 sultation with the Secretary of Health and Human

1 Services, determines appropriate, taking into ac-
2 count the ratio of the actuarial value of such limited
3 benefit insurance to the average actuarial value of
4 health insurance coverage that is not limited benefit
5 insurance.

6 “(5) ADJUSTMENT FOR GEOGRAPHIC AREA AND
7 AGE OF COVERED INDIVIDUAL.—The amount deter-
8 mined under paragraph (2) shall be adjusted, in a
9 manner specified by the Secretary, in consultation
10 with and based on data collected by the Secretary of
11 Health and Human Services, to take into account,
12 for a taxpayer or other covered individual of an age
13 and residing in an area, the ratio of the average cost
14 of typical individual health insurance coverage for an
15 individual of such age and residing in such area to
16 the national average cost of such typical health in-
17 surance coverage. Such adjustment shall be made in
18 a manner so that the application of this paragraph
19 is estimated not to change the aggregate amount of
20 the credits allowable under this section for taxable
21 years ending in a year.

22 “(c) COORDINATION WITH EMPLOYER-PROVIDED
23 HEALTH INSURANCE TAX SUBSIDY.—

24 “(1) CREDIT LIMITED BY EMPLOYER-PROVIDED
25 HEALTH INSURANCE TAX SUBSIDY.—The credit al-

1 lowed under this section for any taxable year shall
2 not exceed an amount equal to the excess (if any)
3 of—

4 “(A) the maximum credit which would be
5 allowed for all months of the taxpayer during
6 the taxable year (determined under subsection
7 (b)(2) and without regard to this subsection,
8 the limitation under subsection (b)(3), and any
9 reduction under subsection (d)(1)), over

10 “(B) the taxpayer’s employer-provided
11 health insurance tax subsidy for the taxable
12 year.

13 “(2) RECAPTURE OF EXCESS EMPLOYER-PRO-
14 VIDED HEALTH INSURANCE TAX SUBSIDY.—In the
15 case of any taxpayer with respect to whom for any
16 taxable year the amount described in subparagraph
17 (B) of paragraph (1) exceeds the amount described
18 in subparagraph (A) of such paragraph, the credit
19 allowed under this section shall be treated as zero
20 and the tax imposed by this chapter for the taxable
21 year shall be increased by the amount of such ex-
22 cess.

23 “(3) EMPLOYER-PROVIDED HEALTH INSURANCE
24 TAX SUBSIDY.—For purposes of this subsection—

1 “(A) IN GENERAL.—The term ‘employer-
2 provided health insurance tax subsidy’ means,
3 with respect to any taxpayer for a taxable year,
4 the sum of—

5 “(i) the Federal income tax subsidy of
6 the taxpayer for the taxable year, plus

7 “(ii) the Federal payroll tax subsidy
8 of the taxpayer for the taxable year.

9 “(B) FEDERAL INCOME TAX SUBSIDY.—
10 The term ‘Federal income tax subsidy’ means,
11 with respect to any taxpayer for the taxable
12 year, the excess (if any) of—

13 “(i) the amount of tax that would
14 have been imposed by this chapter for the
15 taxable year had such tax been determined
16 without regard to this section and by in-
17 cluding amounts otherwise excluded from
18 gross income which were paid by or on be-
19 half of the taxpayer for employer-provided
20 insurance that constitutes medical care,
21 over

22 “(ii) the amount of tax imposed by
23 this chapter for the taxable year (deter-
24 mined without regard to this section).

1 “(C) FEDERAL PAYROLL TAX SUBSIDY.—

2 The term ‘Federal payroll tax subsidy’ means,
3 with respect to any taxpayer for the taxable
4 year, the excess (if any) of—

5 “(i) the sum of—

6 “(I) the amount of tax that
7 would have been imposed by chapter
8 21 with respect to any wages of the
9 taxpayer paid during the taxable year
10 had such tax been determined by in-
11 cluding amounts otherwise excluded
12 from wages which were paid by or on
13 behalf of the taxpayer during the tax-
14 able year for employer-provided insur-
15 ance that constitutes medical care,
16 plus

17 “(II) the amount of tax that
18 would have been imposed by chapter 2
19 on any self-employment income of the
20 taxpayer for such taxable year had
21 self-employment income been deter-
22 mined without regard to any deduc-
23 tion from gross income for amounts
24 paid for insurance which constitutes
25 medical care for the taxpayer, the tax-

1 payer's spouse, and any qualifying
2 children (within the meaning of sec-
3 tion 152) for whom the taxpayer is al-
4 lowed a deduction under section 151
5 for the taxable year, over

6 “(ii) the amount of tax imposed with
7 respect to the taxpayer during such taxable
8 year under chapter 21 and for such taxable
9 year under chapter 2.

10 “(4) NO CREDIT OR RECAPTURE FOR INSUR-
11 ANCE PROVIDED BY EMPLOYER ELECTING EXCLU-
12 SION REGIME.—In the case of an individual who for
13 any month is covered by insurance that constitutes
14 medical care and that is provided by an employer
15 with respect to which an election is in effect for such
16 month under section 131(b) of the World's Greatest
17 Healthcare Plan Act of 2016—

18 “(A) the monthly credit amount deter-
19 mined under subsection (b)(2) for such month
20 with respect to such individual shall be zero,
21 and

22 “(B) such month shall not be taken into
23 account for purposes of determining any recap-
24 ture under paragraph (2) with respect to such
25 individual.

1 “(d) RECONCILIATION OF CREDIT AND ADVANCE
2 CREDIT.—

3 “(1) IN GENERAL.—The amount of the credit
4 allowed under this section for any taxable year (after
5 the application of subsections (b) and (c)) shall be
6 reduced (but not below zero) by the amount of any
7 advance payment of such credit under subsection
8 (e)(1).

9 “(2) EXCESS ADVANCE PAYMENTS.—

10 “(A) IN GENERAL.—If the advance pay-
11 ments to a taxpayer under subsection (e)(1) for
12 a taxable year exceed the credit allowed by this
13 section (determined without regard to para-
14 graph (1)), the tax imposed by this chapter for
15 the taxable year shall be increased by the
16 amount of such excess.

17 “(B) LIMITATION ON INCREASE.—In the
18 case of a taxpayer whose household income is
19 less than 400 percent of the poverty line for the
20 size of the family involved for the taxable year,
21 the amount of the increase under subparagraph
22 (A) shall in no event exceed the applicable dol-
23 lar amount determined in accordance with the
24 following table (one-half of such amount in the

1 case of a taxpayer whose tax is determined
2 under section 1(c) for the taxable year):

**“If the household income (ex- The applicable dollar amount
pressed as a percent of is:
poverty line) is:**

Less than 200%	\$600
At least 200% but less than 300%	\$1,500
At least 300% but less than 400%	\$2,500.

3 “(e) SPECIAL RULES.—For purposes of this sec-
4 tion—

5 “(1) ADVANCE PAYMENT PROGRAM.—

6 “(A) IN GENERAL.—The Secretary of the
7 Treasury, in consultation with the Secretary of
8 Health and Human Services, shall establish a
9 program—

10 “(i) to make advance determinations
11 with respect to the eligibility of individuals
12 for the credit allowed under this section,
13 and

14 “(ii) to make advance payments of the
15 credit allowed under this section, at the
16 election of any such individual so eligible,
17 directly to the health savings account of
18 any such individual, or, as a subsidy to the
19 cost of health insurance coverage provided
20 to any such individual, to the health insur-
21 ance issuer providing such coverage or the

1 person that administers the plan benefits
2 with respect to such coverage.

3 “(B) PROGRAM REQUIREMENTS.—Such
4 program shall be established under rules similar
5 to the rules of section 1412 of the Patient Pro-
6 tection and Affordable Care Act, as in effect on
7 the day before the date of the enactment of this
8 section, except that advance determinations and
9 advance payments shall be made on request of
10 the individual with respect to whom the deter-
11 mination is to be made.

12 “(2) INFORMATION REQUIREMENTS.—

13 “(A) IN GENERAL.—Each person providing
14 health insurance coverage which constitutes
15 medical care, and each trustee of a health sav-
16 ings account, shall provide the following infor-
17 mation to the Secretary and to the taxpayer
18 with respect to such coverage or such account:

19 “(i) The total premium for the cov-
20 erage without regard to the credit under
21 this section.

22 “(ii) The aggregate amount of any ad-
23 vance payment of such credit made with
24 respect to such coverage or to such ac-
25 count.

1 “(iii) The name, address, age, and
2 TIN of the primary insured or account
3 holder (as the case may be) and the name,
4 age, and TIN of each other individual ob-
5 taining coverage under such policy of in-
6 surance.

7 “(iv) Any information provided to
8 such person necessary to determine eligi-
9 bility for, and the amount of, such credit.

10 “(v) Information necessary to deter-
11 mine whether a taxpayer has received ex-
12 cess advance payments.

13 “(B) EXCEPTION.—Subparagraph (A)
14 shall not apply to any coverage with respect to
15 which reporting under section 6051 is required.

16 “(3) INDEXING.—

17 “(A) IN GENERAL.—In the case of any cal-
18 endar year beginning after 2016, each of the
19 dollar amounts in subsection (b)(2) and in the
20 table contained under subsection (d)(2)(B) shall
21 be equal to such dollar amount multiplied by
22 the ratio of—

23 “(i) the current dollar gross domestic
24 product (as determined based on the third
25 estimate of the Bureau of Economic Anal-

1 ysis of the Department of Commerce for
2 the second quarter of the previous year), to
3 “(ii) the current dollar gross domestic
4 product (as so determined) for the second
5 quarter of 2015.

6 “(B) ROUNDING.—If the amount of any
7 change under subparagraph (A) is not a mul-
8 tiple of \$50, such change shall be rounded to
9 the next lowest multiple of \$50.

10 “(f) DEFINITIONS.—For purposes of this section—

11 “(1) CREDITABLE COVERAGE.—The term ‘cred-
12 itable coverage’ has the meaning given such term for
13 purposes of title XXVII of the Public Health Service
14 Act.

15 “(2) QUALIFIED RESIDENT.—The term ‘quali-
16 fied resident’ means an individual who is a citizen or
17 national of the United States or otherwise lawfully
18 residing in the United States under color of law.”.

19 (b) ELECTION BY EMPLOYER TO MAKE EXCISE TAX
20 APPLICABLE AND TO BE GOVERNED SOLELY BY EXCLU-
21 SION REGIME.—

22 (1) IN GENERAL.—If an eligible employer
23 makes the election under this subsection (at such
24 time and in such form and manner as the Secretary
25 shall prescribe) the tax imposed by section 4980I of

1 the Internal Revenue Code of 1986 shall apply to
2 any excess benefit with respect to employer-spon-
3 sored health coverage provided by such employer and
4 the credit and recapture under section 36C of such
5 Code shall not apply with respect to individuals cov-
6 ered by such coverage. Such election, once made,
7 may be revoked only with the consent of the Sec-
8 retary.

9 (2) ELIGIBLE EMPLOYER.—For purposes of
10 this subsection, the term “eligible employer” means
11 an employer in existence before the date of the en-
12 actment of this Act.

13 (3) CONTROLLED GROUPS.—For purposes of
14 this subsection, all persons treated as a single em-
15 ployer under subsection (a) or (b) of section 52 of
16 the Internal Revenue Code of 1986 or subsection
17 (m) or (o) of section 414 of such Code shall be
18 treated as a single covered entity.

19 (4) REGULATIONS.—The Secretary of the
20 Treasury shall prescribe such regulations as may be
21 necessary to prevent the avoidance of the purposes
22 of this subsection.

23 (c) EXCISE TAX ON HIGH COST EMPLOYER-SPON-
24 SORED HEALTH INSURANCE ONLY TO APPLY TO EM-
25 PLOYERS MAKING ELECTION.—Section 4980I(d)(1)(B) of

1 such Code (relating to exceptions) is amended by striking
2 “or” at the end of clause (ii), by striking the period at
3 the end of clause (iii) and inserting “, or”, and by adding
4 at the end the following new clause:

5 “(iv) any group health plan made
6 available by an employer which does not
7 have in effect an election under section
8 131(b) of the World’s Greatest Healthcare
9 Plan Act of 2016.”.

10 (d) DISQUALIFICATION FROM EXCHANGE PLAN SUB-
11 SIDIES FOR INDIVIDUAL ONCE THEY ELECT TAX BENE-
12 FITS.—Section 36B(c)(1) of such Code is amended by
13 adding at the end the following new subparagraph:

14 “(E) DENIAL OF CREDIT FOR THOSE
15 ELECTING UNIVERSAL CREDIT.—In the case of
16 an individual who is allowed a credit under sec-
17 tion 36C for any taxable year, no credit shall be
18 allowed under this section to such individual for
19 such taxable year or any subsequent taxable
20 year.”.

21 (e) GUIDANCE.—The Secretary of the Treasury shall
22 issue such guidance as is necessary—

23 (1) to assist employees and employers in adjust-
24 ing Federal income tax withholding to take into ac-
25 count the universal health insurance tax credit under

1 section 36C of the Internal Revenue Code of 1986
2 (and any advance payment thereof), and

3 (2) to require employers to report to each em-
4 ployee with respect to periods not longer than quar-
5 terly the employer-provided health insurance tax
6 subsidy (as defined in section 36C(c)(3) of such
7 Code) with respect to such employee for such period.

8 (f) CLERICAL AMENDMENT.—The table of sections
9 for subpart C of part IV of subchapter A of chapter 1
10 of the Internal Revenue Code of 1986 is amended by in-
11 serting after the item relating to section 36B the following
12 new item:

“Sec. 36C. Universal health insurance tax credit.”.

13 (g) EFFECTIVE DATE.—The amendments made by
14 this section shall apply to taxable years beginning after
15 December 31, 2015.

16 **SEC. 132. APPLICATION OF PORTION OF UNUSED TAX**
17 **CREDITS BY STATES FOR INDIGENT HEALTH**
18 **CARE.**

19 (a) COMPUTATION OF UNUSED CREDITS.—The Sec-
20 retary, in consultation with the Secretary of the Treasury,
21 shall calculate for each State for each year, beginning with
22 2017, using the most recent data available—

23 (1) the maximum aggregate amount of credits
24 under section 36C of the Internal Revenue Code of
25 1986 that would have been allowed for the year for

1 qualified residents of the State for taxable years
2 ending in the year if all eligible qualified residents
3 had qualified for such credits;

4 (2) the aggregate amount of credits under such
5 section that were allowed for taxable years ending in
6 that the year by qualified residents of such State;
7 and

8 (3) 25 percent of the amount by which—

9 (A) the amount determined under para-
10 graph (1) with respect to qualified residents of
11 the State for such year; exceeds

12 (B) the amount determined under para-
13 graph (2) for such State for that year.

14 (b) APPROPRIATION.—For the purpose of making
15 grants to States under this section, there is hereby appro-
16 priated to the Secretary, out of any funds in the Treasury
17 not otherwise appropriated, for each year (beginning with
18 2017) an amount equivalent to the amount determined
19 under subsection (a)(3) for all States under subsection (a)
20 for the year in which such fiscal year ends, subject to ad-
21 justment under subsection (d)(2).

22 (c) GRANTS TO STATES FOR INDIGENT ASSIST-
23 ANCE.—

24 (1) APPLICATION.—A State may file with the
25 Secretary (in a form and manner specified by the

1 Secretary) an application to provide assistance in
2 furnishing health services to indigent individuals re-
3 siding in the State. Such application shall dem-
4 onstrate the manner in which such assistance is fur-
5 nished in an equitable manner to individuals residing
6 in all parts of the State.

7 (2) AMOUNT OF FUNDS.—From the funds ap-
8 propriated under subsection (b) for a year, the
9 amount of funds paid to any State in any year
10 under this section with an application filed in ac-
11 cordance with paragraph (1) is equal to an amount
12 specified in the application, but not to exceed the
13 amount computed under subsection (a)(3) for the
14 State and the year.

15 (3) USE OF FUNDS.—Funds paid to a State
16 under this subsection may be used only to assist in
17 the furnishing of health services to uninsured indi-
18 viduals residing in the State or for purposes of in-
19 creasing the payment adjustments made under sec-
20 tions 1886(d)(5)(F) and 1923 of the Social Security
21 Act (42 U.S.C. 1395ww(d)(5)(F), 1396r-4) to hos-
22 pitals that serve a disproportionate share of such in-
23 dividuals in the State.

24 (d) INITIAL ESTIMATE; FINAL CALCULATION AND
25 RECONCILIATION.—

1 (1) USE OF ESTIMATES.—The calculations
2 under subsection (a) for a year shall initially be esti-
3 mated before the beginning of the year. Payments
4 under this section to a State for a year shall be
5 made, subject to reconciliation under paragraph (2),
6 based on the amount so estimated.

7 (2) RECONCILIATION BASED ON FINAL CAL-
8 CULATION.—The calculations under subsection (a)
9 for a year shall also be made after the end of the
10 year. Insofar as the amount calculated under this
11 paragraph for subsection (a)(3) for a State for a
12 year exceeds (or is less than) by a material amount
13 from the amount for subsection (a)(3) estimated and
14 applied for the State and year under paragraph (1),
15 the amount calculated under subsection (a)(3) for
16 the State for the 2nd year beginning after such year,
17 shall be reduced or increased, respectively by the
18 amount of such excess or deficit.

19 **SEC. 133. MEDICAID OPTION OF ENROLLMENT UNDER PRI-**
20 **VATE PLAN AND CONTRIBUTION TO AN HSA.**

21 (a) IN GENERAL.—Notwithstanding any other provi-
22 sion of law, a State plan under title XIX of the Social
23 Security Act (42 U.S.C. 1396 et seq.) may make available
24 to an individual, who is entitled to medical assistance for
25 a full range of acute care items and services under such

1 title and at the individual's option, instead of the medical
2 assistance otherwise provided, medical assistance con-
3 sisting of coverage under a health plan that qualifies for
4 a tax credit under section 36C of the Internal Revenue
5 Code of 1986, but only if the State provides for the indi-
6 vidual medical assistance, in the form of a deposit into
7 a health savings account for the individual, an amount
8 equivalent to the amount by which the amount of tax cred-
9 it for the individual under such section exceeds the cost
10 of coverage of the individual under the plan.

11 (b) FFP TREATMENT.—The payments by a State de-
12 scribed in subsection (a) for coverage under a health plan
13 and for deposit into a health savings account shall be
14 treated as medical assistance for purposes of section 1903
15 of the Social Security Act (42 U.S.C. 1396b) and subject
16 to Federal financial participating, including the applica-
17 tion of State matching payments, in the same manner as
18 other medical assistance furnished under title XIX of such
19 Act, except that such amount shall be reduced by the
20 amount of any health insurance credits provided under
21 section 36C of the Internal Revenue Code of 1986 with
22 respect to such coverage or deposit.

1 **TITLE II—IMPROVING HEALTH**
2 **SAVINGS ACCOUNTS TO PRO-**
3 **MOTE ACCOUNTABILITY**

4 **SEC. 201. TRANSITION TO NON-DEDUCTIBLE HSAS.**

5 (a) NON-DEDUCTIBLE HSAS.—Subchapter F of
6 chapter 1 of the Internal Revenue Code of 1986 is amend-
7 ed by adding at the end the following new part:

8 **“PART IX—HEALTH SAVINGS ACCOUNTS**

“Sec. 530A. Roth HSAs.

9 **“SEC. 530A. ROTH HSAS.**

10 “(a) IN GENERAL.—A Roth HSA shall be exempt
11 from taxation under this subtitle. Notwithstanding the
12 preceding sentence, the Roth HSA shall be subject to the
13 taxes imposed by section 511 (relating to imposition of
14 tax on unrelated business income of charitable organiza-
15 tions). No deduction shall be allowed for any contribution
16 to a Roth HSA.

17 “(b) DOLLAR LIMITATION.—

18 “(1) IN GENERAL.—The aggregate amount of
19 contributions for any taxable year to all Roth HSAs
20 maintained for the benefit of an individual shall not
21 exceed the sum of the monthly limitations for month
22 during such taxable year that the individual is an el-
23 igible individual.

1 “(2) MONTHLY LIMITATION.—The monthly lim-
2 itation for any month is $\frac{1}{12}$ of—

3 “(A) in the case of an eligible individual
4 who has self-only creditable coverage as of the
5 first day of such month, \$5,000, and

6 “(B) in the case of an eligible individual
7 who has family creditable coverage as of the
8 first day of such month, the amount in effect
9 under subparagraph (A) for the taxable year
10 multiplied by the number of individuals (includ-
11 ing the eligible individual) covered under such
12 family creditable coverage as of such day.

13 “(3) ADDITIONAL CONTRIBUTIONS FOR INDI-
14 VIDUALS 55 OR OLDER.—In the case of an individual
15 who has attained age 55 before the close of the tax-
16 able year, the applicable limitation under subpara-
17 graphs (A) and (B) of paragraph (2) shall be in-
18 creased by \$1,000.

19 “(4) COORDINATION WITH OTHER CONTRIBU-
20 TIONS.—The limitation which would (but for this
21 paragraph) apply under this subsection to an indi-
22 vidual for any taxable year shall be reduced (but not
23 below zero) by the sum of—

24 “(A) the aggregate amount paid for such
25 taxable year to Archer MSAs of such individual,

1 “(B) the aggregate amount contributed to
2 Roth HSAs of such individual which is exclud-
3 able from the taxpayer’s gross income for such
4 taxable year under section 106(d) (and such
5 amount shall not be allowed as a deduction
6 under subsection (a)), and

7 “(C) the aggregate amount contributed to
8 Roth HSAs of such individual for such taxable
9 year under section 408(d)(9) (and such amount
10 shall not be allowed as a deduction under sub-
11 section (a)).

12 Subparagraph (A) shall not apply with respect to
13 any individual to whom paragraph (5) applies.

14 “(5) SPECIAL RULE FOR MARRIED INDIVID-
15 UALS.—In the case of individuals who are married
16 to each other, if either spouse has family coverage—

17 “(A) both spouses shall be treated as hav-
18 ing only such family coverage (and if such
19 spouses each have family coverage under dif-
20 ferent plans, as having the family coverage with
21 the lowest annual deductible), and

22 “(B) the limitation under paragraph (1)
23 (after the application of subparagraph (A) and
24 without regard to any additional contribution
25 amount under paragraph (3))—

1 “(i) shall be reduced by the aggregate
2 amount paid to Archer MSAs of such
3 spouses for the taxable year, and

4 “(ii) after such reduction, shall be di-
5 vided equally between them unless they
6 agree on a different division.

7 “(6) DENIAL OF DEDUCTION TO DEPEND-
8 ENTS.—No contribution may be made to a Roth
9 HSA under this section by any individual with re-
10 spect to whom a deduction under section 151 is al-
11 lowable to another taxpayer for a taxable year begin-
12 ning in the calendar year in which such individual’s
13 taxable year begins.

14 “(7) MEDICARE ELIGIBLE INDIVIDUALS.—The
15 limitation under this subsection for any month with
16 respect to an individual shall be zero for the first
17 month such individual is entitled to benefits under
18 title XVIII of the Social Security Act and for each
19 month thereafter.

20 “(8) INCREASE IN LIMIT FOR INDIVIDUALS BE-
21 COMING ELIGIBLE INDIVIDUALS AFTER THE BEGIN-
22 NING OF THE YEAR.—

23 “(A) IN GENERAL.—For purposes of com-
24 puting the limitation under paragraph (1) for
25 any taxable year, an individual who is an eligi-

1 ble individual during the last month of such
2 taxable year shall be treated—

3 “(i) as having been an eligible indi-
4 vidual during each of the months in such
5 taxable year, and

6 “(ii) as having been enrolled, during
7 each of the months such individual is
8 treated as an eligible individual solely by
9 reason of clause (i), in the same high de-
10 ductible health plan in which the individual
11 was enrolled for the last month of such
12 taxable year.

13 “(B) FAILURE TO MAINTAIN CREDITABLE
14 COVERAGE.—

15 “(i) IN GENERAL.—If, at any time
16 during the testing period, the individual is
17 not an eligible individual, then—

18 “(I) gross income of the indi-
19 vidual for the taxable year in which
20 occurs the first month in the testing
21 period for which such individual is not
22 an eligible individual is increased by
23 the aggregate amount of all contribu-
24 tions to the Roth HSA of the indi-

1 vidual which could not have been
2 made but for subparagraph (A), and

3 “(II) the tax imposed by this
4 chapter for any taxable year on the
5 individual shall be increased by 10
6 percent of the amount of such in-
7 crease.

8 “(ii) EXCEPTION FOR DISABILITY OR
9 DEATH.—Subclauses (I) and (II) of clause
10 (i) shall not apply if the individual ceased
11 to be an eligible individual by reason of the
12 death of the individual or the individual
13 becoming disabled (within the meaning of
14 section 72(m)(7)).

15 “(iii) TESTING PERIOD.—The term
16 ‘testing period’ means the period beginning
17 with the last month of the taxable year re-
18 ferred to in subparagraph (A) and ending
19 on the last day of the 12th month fol-
20 lowing such month.

21 “(c) ROTH HSA.—For purposes of this section—

22 “(1) IN GENERAL.—The term ‘Roth HSA’
23 means a trust created or organized in the United
24 States as a Roth HSA exclusively for the purpose of
25 paying the qualified medical expenses of the account

1 beneficiary, but only if the written governing instru-
2 ment creating the trust meets the following require-
3 ments:

4 “(A) Except in the case of a rollover con-
5 tribution described in subsection (f)(5) or sec-
6 tion 220(f)(5), no contribution will be accept-
7 ed—

8 “(i) unless it is in cash, or

9 “(ii) to the extent such contribution,
10 when added to previous contributions to
11 the trust for the calendar year, exceeds the
12 sum of—

13 “(I) the dollar amount in effect
14 under subsection (b)(2)(B), and

15 “(II) the dollar amount in effect
16 under subsection (b)(3).

17 “(B) The trustee is a bank (as defined in
18 section 408(n)), an insurance company (as de-
19 fined in section 816), or another person who
20 demonstrates to the satisfaction of the Sec-
21 retary that the manner in which such person
22 will administer the trust will be consistent with
23 the requirements of this section.

24 “(C) No part of the trust assets will be in-
25 vested in life insurance contracts.

1 “(D) The assets of the trust will not be
2 commingled with other property except in a
3 common trust fund or common investment
4 fund.

5 “(E) The interest of an individual in the
6 balance in his account is nonforfeitable.

7 “(2) QUALIFIED MEDICAL EXPENSES.—For
8 purposes of this section—

9 “(A) IN GENERAL.—The term ‘qualified
10 medical expenses’ means, with respect to an ac-
11 count beneficiary, amounts paid by such bene-
12 ficiary for medical care (as defined in section
13 213(d) as in effect on the day before the date
14 of the enactment of the World’s Greatest
15 Healthcare Plan Act of 2016) for such indi-
16 vidual, the spouse of such individual, and any
17 dependent (as defined in section 152, deter-
18 mined without regard to subsections (b)(1),
19 (b)(2), and (d)(1)(B) thereof) of such indi-
20 vidual, but only to the extent such amounts are
21 not compensated for by insurance or otherwise.

22 “(B) LIMITATION ON HEALTH INSURANCE
23 PURCHASED FROM ACCOUNT.—Such term shall
24 not include any payment for health benefits cov-

1 erage that is not creditable coverage (as defined
2 in section 36C).

3 “(C) EXCEPTIONS.—Subparagraph (B)
4 shall not apply to any expense for coverage
5 under—

6 “(i) a health plan during any period
7 of continuation coverage required under
8 any Federal law,

9 “(ii) a qualified long-term care insur-
10 ance contract (as defined in section
11 7702B(b)),

12 “(iii) a health plan during a period in
13 which the individual is receiving unemploy-
14 ment compensation under any Federal or
15 State law, or

16 “(iv) in the case of an account bene-
17 ficiary who has attained the age specified
18 in section 1811 of the Social Security Act,
19 any health insurance other than a medi-
20 care supplemental policy (as defined in sec-
21 tion 1882 of the Social Security Act).

22 “(3) ACCOUNT BENEFICIARY.—The term ‘ac-
23 count beneficiary’ means the individual on whose be-
24 half the Roth HSA was established.

1 “(4) CERTAIN RULES TO APPLY.—Rules similar
2 to the following rules shall apply for purposes of this
3 section:

4 “(A) Section 219(f)(3) (relating to time
5 when contributions deemed made).

6 “(B) Except as provided in section 106(d),
7 section 219(f)(5) (relating to employer pay-
8 ments).

9 “(C) Section 408(g) (relating to commu-
10 nity property laws).

11 “(D) Section 408(h) (relating to custodial
12 accounts).

13 “(d) ELIGIBLE INDIVIDUAL; CREDITABLE COV-
14 ERAGE.—For purposes of this section—

15 “(1) ELIGIBLE INDIVIDUAL.—The term ‘eligible
16 individual’ means, with respect to any month, any
17 individual if such individual is covered under cred-
18 itable coverage as of the 1st day of such month.

19 “(2) CREDITABLE COVERAGE.—The term ‘cred-
20 itable coverage’ shall have the meaning given such
21 term in section 36C(f).

22 “(e) TAX TREATMENT OF DISTRIBUTIONS.—

23 “(1) AMOUNTS USED FOR QUALIFIED MEDICAL
24 EXPENSES.—Any amount paid or distributed out of
25 a Roth HSA which is used exclusively to pay quali-

1 fied medical expenses of any account beneficiary
2 shall not be includible in gross income.

3 “(2) INCLUSION OF AMOUNTS NOT USED FOR
4 QUALIFIED MEDICAL EXPENSES.—Any amount paid
5 or distributed out of a Roth HSA which is not used
6 exclusively to pay the qualified medical expenses of
7 the account beneficiary shall be included in the gross
8 income of such beneficiary.

9 “(3) EXCESS CONTRIBUTIONS RETURNED BE-
10 FORE DUE DATE OF RETURN.—

11 “(A) IN GENERAL.—If any excess con-
12 tribution is contributed for a taxable year to
13 any Roth HSA of an individual, paragraph (2)
14 shall not apply to distributions from the Roth
15 HSAs of such individual (to the extent such dis-
16 tributions do not exceed the aggregate excess
17 contributions to all such accounts of such indi-
18 vidual for such year) if—

19 “(i) such distribution is received by
20 the individual on or before the last day
21 prescribed by law (including extensions of
22 time) for filing such individual’s return for
23 such taxable year, and

1 “(ii) such distribution is accompanied
2 by the amount of net income attributable
3 to such excess contribution.

4 Any net income described in clause (ii) shall be
5 included in the gross income of the individual
6 for the taxable year in which it is received.

7 “(B) EXCESS CONTRIBUTION.—For pur-
8 poses of subparagraph (A), the term ‘excess
9 contribution’ means any contribution (other
10 than a rollover contribution described in para-
11 graph (5) or section 220(f)(5)) which exceeds
12 the contribution limitation with respect to the
13 individual for the taxable year.

14 “(4) ADDITIONAL TAX ON DISTRIBUTIONS NOT
15 USED FOR QUALIFIED MEDICAL EXPENSES.—

16 “(A) IN GENERAL.—The tax imposed by
17 this chapter on the account beneficiary for any
18 taxable year in which there is a payment or dis-
19 tribution from a Roth HSA of such beneficiary
20 which is includible in gross income under para-
21 graph (2) shall be increased by 10 percent of
22 the amount which is so includible.

23 “(B) EXCEPTION FOR DISABILITY OR
24 DEATH.—Subparagraph (A) shall not apply if
25 the payment or distribution is made after the

1 account beneficiary becomes disabled within the
2 meaning of section 72(m)(7) or dies.

3 “(C) EXCEPTION FOR DISTRIBUTIONS
4 AFTER MEDICARE ELIGIBILITY.—Subparagraph
5 (A) shall not apply to any payment or distribu-
6 tion after the date on which the account bene-
7 ficiary attains the age specified in section 1811
8 of the Social Security Act.

9 “(5) ROLLOVER CONTRIBUTION.—An amount is
10 described in this paragraph as a rollover contribu-
11 tion if it meets the requirements of subparagraphs
12 (A) and (B).

13 “(A) IN GENERAL.—Paragraph (2) shall
14 not apply to any amount paid or distributed
15 from a health savings account (as defined in
16 section 223) or a Roth HSA to the account
17 beneficiary to the extent the amount received is
18 paid into a Roth HSA for the benefit of such
19 beneficiary not later than the 60th day after
20 the day on which the beneficiary receives the
21 payment or distribution.

22 “(B) LIMITATION.—This paragraph shall
23 not apply to any amount described in subpara-
24 graph (A) received by an individual from a
25 health savings account or a Roth HSA if, at

1 any time during the 1-year period ending on the
2 day of such receipt, such individual received any
3 other amount described in subparagraph (A)
4 from a health savings account or Roth HSA
5 which was not includible in the individual's
6 gross income because of the application of this
7 paragraph.

8 “(6) TRANSFER OF ACCOUNT INCIDENT TO DI-
9 VORCE.—The transfer of an individual's interest in
10 a Roth HSA to an individual's spouse or former
11 spouse under a divorce or separation instrument de-
12 scribed in subparagraph (A) of section 71(b)(2) shall
13 not be considered a taxable transfer made by such
14 individual notwithstanding any other provision of
15 this subtitle, and such interest shall, after such
16 transfer, be treated as a Roth HSA with respect to
17 which such spouse is the account beneficiary.

18 “(7) TREATMENT AFTER DEATH OF ACCOUNT
19 BENEFICIARY.—If an individual acquires an account
20 beneficiary's interest in a health savings account by
21 reason of the death of the account beneficiary, such
22 health savings account shall be treated as if the indi-
23 vidual were the account beneficiary.

24 “(f) COST-OF-LIVING ADJUSTMENT.—

1 “(1) IN GENERAL.—In the case of any calendar
2 year beginning after 2016, the \$5,000 dollar amount
3 in subsection (b)(2) shall be increased by an amount
4 equal to—

5 “(A) such dollar amount, multiplied by

6 “(B) the cost-of-living adjustment deter-
7 mined under section 1(f)(3) for the calendar
8 year, determined—

9 “(i) by substituting ‘calendar year
10 2015’ for ‘calendar year 1992’ in subpara-
11 graph (B) thereof, and

12 “(ii) by substituting ‘CPI medical care
13 component’ for ‘CPI’.

14 “(2) CPI MEDICAL CARE COMPONENT.—For
15 purposes of this paragraph, the term ‘CPI medical
16 care component’ means the medical care component
17 for the Consumer Price Index for All Urban Con-
18 sumers published by the Department of Labor.

19 “(3) ROUNDING.—If the amount of any in-
20 crease under the preceding sentence is not a mul-
21 tiple of \$50, such increase shall be rounded to the
22 next lowest multiple of \$50.

23 “(g) REPORTS.—The Secretary may require—

24 “(1) the trustee of a Roth HSA to make such
25 reports regarding such account to the Secretary and

1 to the account beneficiary with respect to contribu-
2 tions, distributions, the return of excess contribu-
3 tions, and such other matters as the Secretary deter-
4 mines appropriate, and

5 “(2) any person who provides an individual with
6 creditable coverage to make such reports to the Sec-
7 retary and to the account beneficiary with respect to
8 such plan as the Secretary determines appropriate.

9 The reports required by this subsection shall be filed at
10 such time and in such manner and furnished to such indi-
11 viduals at such time and in such manner as may be re-
12 quired by the Secretary.”.

13 (b) LIMIT ON CONTRIBUTIONS TO DEDUCTIBLE
14 HEALTH SAVINGS ACCOUNTS.—Section 223 of such Code
15 is amended by adding at the end the following new sub-
16 section:

17 “(i) LIMITED CONTRIBUTIONS AFTER 2016.—

18 “(1) IN GENERAL.—No contribution may be ac-
19 cepted by a health savings account after December
20 31, 2016.

21 “(2) EXCEPTIONS.—Paragraph (1) shall not
22 apply—

23 “(A) in the case of a rollover contribution
24 described in subsection (f)(5) or section
25 220(f)(5), or

1 “(B) in the case of a month for which an
2 individual is covered by insurance that con-
3 stitutes medical care and that is provided by an
4 employer with respect to which an election is in
5 effect for such month under section 131(b) of
6 the World’s Greatest Healthcare Plan Act of
7 2016.”.

8 (c) CLERICAL AMENDMENT.—The table of parts for
9 subchapter F of chapter 1 of such Code is amended by
10 adding at the end the following new item:

 “PART IX. ROTH HEALTH SAVINGS ACCOUNTS”.

11 (d) EFFECTIVE DATE.—The amendments made by
12 this section shall apply to taxable years beginning after
13 December 31, 2016.

14 **SEC. 202. ELIMINATION OF MEDICAL EXPENSE DEDUCTION.**

15 Section 213 of the Internal Revenue Code of 1986
16 is amended by adding at the end the following new sub-
17 section:

18 “(g) TERMINATION.—Except in the case of long-term
19 care premiums (as defined in subsection (d)(10)), sub-
20 section (a) shall not apply to any amounts paid during
21 any taxable year beginning after December 31, 2015.”.

22 **SEC. 203. TREATMENT OF HSA AFTER DEATH OF ACCOUNT**
23 **BENEFICIARY.**

24 (a) IN GENERAL.—Section 223(f)(8) of the Internal
25 Revenue Code of 1986 is amended to read as follows:

1 “(8) TREATMENT AFTER DEATH OF ACCOUNT
2 BENEFICIARY.—If an individual acquires an account
3 beneficiary’s interest in a health savings account by
4 reason of the death of the account beneficiary, such
5 health savings account shall be treated as if the indi-
6 vidual were the account beneficiary.”.

7 (b) EFFECTIVE DATE.—The amendment made by
8 this section shall apply with respect to interests acquired
9 after the date of the enactment of this Act.

10 **SEC. 204. TREATMENT OF CONCIERGE MEDICINE.**

11 (a) HSAs.—

12 (1) ROTH HSA.—Section 530A(c)(2)(A) of the
13 Internal Revenue Code of 1986, as added by this
14 Act, is amended by adding at the end the following:
15 “Such term shall include the payment of a monthly
16 or other prepaid amount for the furnishing (or ac-
17 cess to the furnishing) by a physician or group of
18 physicians of physician professional services (and an-
19 cillary services).”.

20 (2) HSA.—Section 223(d)(2)(A) of such Code
21 is amended by adding at the end the following:
22 “Such term shall include the payment of a monthly
23 or other prepaid amount for the furnishing (or ac-
24 cess to the furnishing) by a physician or group of

1 physicians of physician professional services (and an-
2 cillary services).”.

3 (b) NOT TREATED AS HEALTH INSURANCE COV-
4 ERAGE.—

5 (1) IN GENERAL.—For purposes of title XXVII
6 of the Public Health Service Act, subtitle B of title
7 I of the Employee Retirement and Income Security
8 Act of 1974, PPACA, and this Act, the offering of
9 concierge medicine shall not be treated as the offer-
10 ing of health insurance coverage and shall not be
11 subject to regulations as such coverage under such
12 Acts.

13 (2) CONCIERGE MEDICINE DEFINED.—In this
14 subsection, the term “concierge medicine” means the
15 furnishing (or access to the furnishing) by a physi-
16 cian or group of physicians of physician professional
17 services (and ancillary services) in return for pay-
18 ment of a monthly or other prepaid amount.

19 **TITLE III—STATE FLEXIBILITY**
20 **IN REGULATION OF HEALTH**
21 **INSURANCE COVERAGE**

22 **SEC. 301. STATE FLEXIBILITY IN REGULATION OF HEALTH**
23 **INSURANCE COVERAGE.**

24 (a) IN GENERAL.—States are given the flexibility
25 under section 122(b) to revise their regulations of the

1 health insurance marketplace, without regard to many of
2 the requirements imposed under PPACA, in order to pro-
3 mote freedom of choice of affordable health insurance cov-
4 erage options offered outside of an Exchange.

5 (b) CONSTRUCTION.—Nothing in the Employee Re-
6 tirement and Income Security Act of 1974 or of any
7 amendments made by the Health Insurance Portability
8 and Accountability Act of 1996 shall be interpreted as pre-
9 venting an employer from offering, or making an employer
10 contribution towards, individual health insurance coverage
11 for employees and dependent family members.

12 **TITLE IV—MEDICAID PAYMENT** 13 **REFORM**

14 **SEC. 401. MEDICAID PAYMENT REFORM.**

15 (a) IN GENERAL.—Title XIX of the Social Security
16 Act (42 U.S.C. 1396 et seq.) is amended by inserting after
17 section 1903 the following section:

18 **“SEC. 1903A. REFORMED PAYMENT TO STATES.**

19 “(a) REFORMED PAYMENT SYSTEM.—

20 “(1) IN GENERAL.—For quarters beginning on
21 or after the implementation date (as defined in sub-
22 section (k)(1)), in lieu of amounts otherwise payable
23 to a State under this title (including any payments
24 attributable to section 1923), except as otherwise

1 provided in this section, the amount payable to such
2 State shall be equal to the sum of the following:

3 “(A) ADJUSTED AGGREGATE BENE-
4 FICIARY-BASED AMOUNT.—The aggregate bene-
5 ficiary-based amount specified in subsection (b)
6 for the quarter and the State, adjusted under
7 subsection (e).

8 “(B) CHRONIC CARE QUALITY BONUS.—
9 The amount (if any) of the chronic care quality
10 bonus payment specified in subsection (f) for
11 the quarter for the State.

12 “(2) REQUIREMENT OF STATE SHARE.—

13 “(A) IN GENERAL.—A State shall make,
14 from non-Federal funds, expenditures in an
15 amount equal to its State share (as determined
16 under subparagraph (B)) for a quarter for
17 items, services, and other costs for which, but
18 for paragraph (1), Federal funds would have
19 been payable under this title.

20 “(B) STATE SHARE.—The State share for
21 a State for a quarter in a fiscal year is equal
22 to the product of—

23 “(i) the aggregate beneficiary-based
24 amount specified in subsection (b) for the
25 quarter and the State; and

1 “(ii) the ratio of—

2 “(I) the State percentage de-
3 scribed in subparagraph (D)(ii) for
4 such State and fiscal year; to

5 “(II) the Federal percentage de-
6 scribed in subparagraph (D)(i) for
7 such State and fiscal year.

8 “(C) NONPAYMENT FOR FAILURE TO PAY
9 STATE SHARE.—

10 “(i) IN GENERAL.—If a State fails to
11 expend the amount required under sub-
12 paragraph (A) for a quarter in a fiscal
13 year, the amount payable to the State
14 under paragraph (1) shall be reduced by
15 the product of the amount by which the
16 State payment is less than the State share
17 and the ratio of—

18 “(I) the Federal percentage de-
19 scribed in subparagraph (D)(i) for
20 such State and fiscal year; to

21 “(II) the State percentage de-
22 scribed in subparagraph (D)(ii) for
23 such State and fiscal year.

24 “(ii) GRACE PERIOD.—A State shall
25 not be considered to have failed to provide

1 payment of its required State share for a
2 quarter under subparagraph (A) if the ag-
3 gregate State payment towards the State’s
4 required State share for the 4-quarter pe-
5 riod beginning with such quarter exceeds
6 the required State share amount for such
7 4-quarter period.

8 “(D) FEDERAL AND STATE PERCENT-
9 AGES.—In this paragraph, with respect to a
10 State and a fiscal year:

11 “(i) FEDERAL PERCENTAGE.—The
12 Federal percentage described in this clause
13 is 75 percent or, if higher, the Federal
14 medical assistance percentage for such
15 State for such fiscal year.

16 “(ii) STATE PERCENTAGE.—The State
17 percentage described in this clause is 100
18 percent minus the Federal percentage de-
19 scribed in clause (i).

20 “(E) RULES FOR CREDITING TOWARD
21 STATE SHARE.—

22 “(i) GENERAL LIMITATION TO MATCH-
23 ABLE EXPENDITURES.—A payment for ex-
24 penditures shall not be counted toward the
25 State share under subparagraph (A) unless

1 Federal payments may be used for such
2 expenditures consistent with paragraph
3 (3)(B).

4 “(ii) FURTHER LIMITATIONS ON AL-
5 LOWABLE EXPENDITURES.—A payment for
6 expenditures shall not be counted towards
7 the State share under subparagraph (A) if
8 the expenditure is for any of the following:

9 “(I) ABORTION.—Expenditures
10 for an abortion.

11 “(II) INTERGOVERNMENTAL
12 TRANSFERS.—An expenditure that is
13 attributable to an intergovernmental
14 transfer.

15 “(III) CERTIFIED PUBLIC EX-
16 PENDITURES.—An expenditure that is
17 attributable to certified public expend-
18 itures.

19 “(iii) CREDITING FRAUD AND ABUSE
20 RECOVERIES.—Amounts recovered by a
21 State through the operation of its Medicaid
22 fraud and abuse control unit described in
23 section 1903(q) shall be fully counted to-
24 ward the State share under subparagraph
25 (A).

1 “(F) CONSTRUCTION.—Nothing in the
2 paragraph shall be construed as preventing a
3 State from expending, from non-Federal funds,
4 an amount under this title in excess of the
5 amount of the State share.

6 “(G) DETERMINATION BASED UPON SUB-
7 MITTED CLAIMS.—In applying this paragraph
8 with respect to expenditures of a State for a
9 quarter, the determination of the expenditures
10 for such State for such quarter shall be made
11 after the end of the period (which, as of the
12 date of the enactment of this section, is 2
13 years) for which the Secretary accepts claims
14 for payment under this title with respect to
15 such quarter.

16 “(3) USE OF FEDERAL PAYMENTS.—

17 “(A) APPLICATION OF MEDICAID LIMITA-
18 TIONS.—A State may only use Federal pay-
19 ments received under subsection (a) for expend-
20 itures for which Federal funds would have been
21 payable under this title but for this section.

22 “(B) LIMITATION FOR CERTAIN ELIGI-
23 BLES.—

24 “(i) APPLICATION OF 100 PERCENT
25 FEDERAL POVERTY LINE LIMIT ON ELIGI-

1 BILITY.—Subject to clause (iii), a State
2 may not use such Federal payments to
3 provide medical assistance for an indi-
4 vidual who has an income (as determined
5 under clause (ii)) that exceeds 100 percent
6 of the poverty line (as defined in section
7 2110(c)(5)) applicable to a family of the
8 size involved.

9 “(ii) DETERMINATION OF INCOME
10 USING MODIFIED ADJUSTED GROSS IN-
11 COME WITHOUT ANY 5 PERCENT IN-
12 CREASE.—In determining income for pur-
13 poses of clause (i) under section
14 1902(e)(14) (relating to modified adjusted
15 gross income), the following rules shall
16 apply:

17 “(I) APPLICATION OF SPEND
18 DOWN.—The State shall take into ac-
19 count the costs incurred for medical
20 care or for any other type of remedial
21 care recognized under State law in the
22 same manner and to the same extent
23 that such State takes such costs into
24 account for purposes of section
25 1902(a)(17).

1 “(II) DISREGARD OF 5 PERCENT
2 INCREASE.—Subparagraph (I) of sec-
3 tion 1902(e)(14) (relating to a 5 per-
4 cent reduction) shall not apply.

5 “(iii) EXCEPTION.—Clause (i) shall
6 not apply to an individual who is—

7 “(I) a woman described in clause
8 (i) of section 1903(v)(4)(A);

9 “(II) a child who is an individual
10 described in clause (i) of section
11 1905(a);

12 “(III) enrolled in a State plan
13 under this title as of the date of the
14 enactment of this section for the pe-
15 riod of continuous enrollment; or

16 “(IV) described in section
17 1902(e)(14)(D) (relating to modified
18 adjusted gross income).

19 “(iv) CLARIFICATION RELATED TO
20 COMMUNITY SPOUSE.—Nothing in this
21 subparagraph shall supersede the applica-
22 tion of section 1924 (related to community
23 spouse income and assets).

24 “(4) EXCEPTIONS FOR PASS-THROUGH PAY-
25 MENTS.—

1 “(A) IN GENERAL.—Paragraph (1) shall
2 not apply, and amounts shall continue to be
3 payable under this title (and not under sub-
4 section (a)), in the case of the following pay-
5 ments (and related administrative costs and ex-
6 penditures):

7 “(i) PAYMENTS TO TERRITORIES.—
8 Payments to a State other than the 50
9 States and the District of Columbia.

10 “(ii) MEDICARE COST SHARING.—
11 Payments attributable to Medicare cost
12 sharing under section 1905(p).

13 “(iii) PEDIATRIC VACCINES.—Pay-
14 ments attributable to section 1928.

15 “(iv) EMERGENCY SERVICES FOR CER-
16 TAIN INDIVIDUALS.—Payments for treat-
17 ment of emergency medical conditions at-
18 tributable to the application of section
19 1903(v)(2).

20 “(v) INDIAN HEALTH CARE FACILI-
21 TIES.—Payments for medical assistance
22 described in the third sentence of section
23 1905(b).

24 “(vi) EMPLOYER-SPONSORED INSUR-
25 ANCE (ESI).—Payments for medical assist-

1 ance attributable to payments to employers
2 for employer-sponsored health benefits cov-
3 erage.

4 “(vii) OTHER POPULATIONS WITH
5 LIMITED BENEFIT COVERAGE.—Other pay-
6 ments that are determined by the Sec-
7 retary to be related to a specified popu-
8 lation for which the medical assistance
9 under this title is limited and does not in-
10 clude any inpatient, nursing facility, or
11 long-term care services.

12 “(B) CERTAIN EXPENSES.—Paragraph (1)
13 shall not apply, and amounts shall continue to
14 be payable under this title (and not under sub-
15 section (a)), in the case of the following:

16 “(i) ADMINISTRATION OF MEDICARE
17 PRESCRIPTION DRUG BENEFIT.—Expendi-
18 tures described in section 1935(b) (relating
19 to administration of the Medicare prescrip-
20 tion drug benefit).

21 “(ii) PAYMENTS FOR HIT BONUSES.—
22 Payments under section 1903(a)(3)(F) (re-
23 lating to payments to encourage the adop-
24 tion and use of certified EHR technology).

1 “(iii) PAYMENTS FOR DESIGN, DEVEL-
2 OPMENT, AND INSTALLATION OF MMIS AND
3 ELIGIBILITY SYSTEMS.—Payments under
4 subparagraphs (A)(i) and (H)(i) of section
5 1903(a)(3) for expenditures for design, de-
6 velopment, and installation of the Medicaid
7 management information systems and
8 mechanized verification and information
9 retrieval systems (related to eligibility).

10 “(5) PAYMENT OF AMOUNTS.—

11 “(A) IN GENERAL.—Except as the Sec-
12 retary may otherwise provide, amounts shall be
13 payable to a State under subsection (a) in the
14 same manner as amounts are payable under
15 subsection (d) of section 1903 to a State under
16 subsection (a) of such section.

17 “(B) INFORMATION AND FORMS.—

18 “(i) SUBMISSION.—As a condition of
19 receiving payment under subsection (a), a
20 State shall submit such information, in
21 such form, and manner, as the Secretary
22 shall specify, including information nec-
23 essary to make the computations under
24 subsections (c)(2)(C) and (e).

1 “(ii) UNIFORM REPORTING.—The
2 Secretary shall develop such forms as may
3 be needed to assure a system of uniform
4 reporting of such information across
5 States.

6 “(C) REQUIRED REPORTING OF INFORMA-
7 TION ON MEDICAL LOSS RATIOS FOR MANAGED
8 CARE.—The information required to be reported
9 under subparagraph (B)(i) shall include infor-
10 mation on the medical loss ratio with respect to
11 coverage provided under each Medicaid man-
12 aged care plan with a contract with the State
13 under section 1903(m) or 1932.

14 “(b) AGGREGATE BENEFICIARY-BASED AMOUNT.—

15 “(1) IN GENERAL.—The aggregate beneficiary-
16 based amount specified in this subsection for a State
17 for a quarter is equal to the sum of the products,
18 for each of the categories of Medicaid beneficiaries
19 specified in paragraph (2), of the following:

20 “(A) BENEFICIARY-BASED QUARTERLY
21 AMOUNT.—The beneficiary-based quarterly
22 amount for such category computed under sub-
23 section (c) for such State for such quarter.

24 “(B) NUMBER OF INDIVIDUALS IN CAT-
25 EGORY.—Subject to subsection (d), the average

1 number of Medicaid beneficiaries enrolled in
2 such category in the State in such quarter.

3 “(2) CATEGORIES.—The categories specified in
4 this paragraph are the following:

5 “(A) ELDERLY.—A category of Medicaid
6 beneficiaries who are 65 years of age or older.

7 “(B) BLIND OR DISABLED.—A category of
8 Medicaid beneficiaries not described in subpara-
9 graph (A) who are described in section
10 1937(a)(2)(B)(ii).

11 “(C) CHILDREN.—A category of Medicaid
12 beneficiaries not described in subparagraph (B)
13 who are under 21 years of age.

14 “(D) OTHER ADULTS.—A category of any
15 Medicaid beneficiaries who are not described in
16 a previous subparagraph of this paragraph.

17 “(c) COMPUTATION OF PER BENEFICIARY, PER CAT-
18 EGORY QUARTERLY AMOUNT.—

19 “(1) IN GENERAL.—For a State, for each cat-
20 egory of beneficiary for a quarter—

21 “(A) FIRST REFORM YEAR.—For quarters
22 in the first reform year (as defined in sub-
23 section (k)(2)), the beneficiary-based quarterly
24 amount is equal to $\frac{1}{4}$ of the base average per
25 beneficiary Federal payments for such State for

1 such category determined under paragraph (2),
2 increased by a factor that reflects the sum of
3 the following:

4 “(i) HISTORICAL MEDICAL CARE COM-
5 PONENT OF CPI THROUGH PREVIOUS RE-
6 FORM YEAR.—The percentage increase in
7 the historical medical care component of
8 the Consumer Price Index for all urban
9 consumers (U.S. city average) from the
10 midpoint of the base fiscal year (as defined
11 in paragraph (6)) to the midpoint of the
12 fiscal year preceding the first reform year.

13 “(ii) PROJECTED MEDICAL CARE COM-
14 PONENT OF CPI FOR THE FIRST REFORM
15 YEAR.—The percentage increase in the
16 projected medical care component of the
17 Consumer Price Index for all urban con-
18 sumers (U.S. city average) from the mid-
19 point of the previous fiscal year referred to
20 in clause (i) to the midpoint of the first re-
21 form year.

22 “(B) SECOND AND THIRD REFORM
23 YEARS.—The beneficiary-based quarterly
24 amount for a State for a category for quarters
25 in the second reform year or the third reform

1 year is equal to the beneficiary-based quarterly
2 amount under this paragraph for such State
3 and category for the previous reform year in-
4 creased by the per beneficiary percentage in-
5 crease (as defined in subparagraph (E)) for
6 such category and reform year.

7 “(C) FOURTH THROUGH TENTH REFORM
8 YEARS.—The beneficiary-based quarterly
9 amount for a State for a category for quarters
10 in a reform year beginning with the fourth re-
11 form year and ending with the tenth reform
12 year is—

13 “(i) in the case of a State that is a
14 high per beneficiary State or a low per
15 beneficiary State (as defined in paragraph
16 (4)(B)(iii)) for the category, the amount
17 determined under clause (i) or (ii) of para-
18 graph (4)(B) for such State, category, and
19 reform year; or

20 “(ii) in the case of any other State,
21 the beneficiary-based quarterly amount
22 under this paragraph for such State and
23 category for the previous reform year in-
24 creased by the per beneficiary percentage

1 increase for such category and reform
2 year.

3 “(D) ELEVENTH REFORM YEAR AND SUB-
4 SEQUENT REFORM YEARS.—The beneficiary-
5 based quarterly amount for a State for a cat-
6 egory for quarters in a reform year beginning
7 with the eleventh reform year is equal to the
8 beneficiary-based quarterly amount under this
9 paragraph for such State and category for the
10 previous reform year increased by the per bene-
11 ficiary percentage increase for such category
12 and reform year.

13 “(E) ANNUAL PERCENTAGE INCREASE BE-
14 GINNING WITH SECOND REFORM YEAR.—For
15 purposes of this subsection, the term ‘per bene-
16 ficiary percentage increase’ means, for a reform
17 year, the sum of—

18 “(i) the projected percentage change
19 in nominal gross domestic product from
20 the midpoint of the previous reform year to
21 the midpoint of the reform year for which
22 the percentage increase is being applied;
23 and

24 “(ii) one percentage point.

1 “(2) BASE PER BENEFICIARY, PER CATEGORY
2 AMOUNT FOR EACH STATE.—

3 “(A) AVERAGE PER CATEGORY.—

4 “(i) IN GENERAL.—The Secretary
5 shall determine, consistent with this para-
6 graph and paragraph (3), a base per bene-
7 ficiary, per category amount for each of
8 the 50 States and the District of Columbia
9 equal to the average amount, per Medicaid
10 beneficiary, of Federal payments under
11 this title, including payments attributable
12 to disproportionate share hospital pay-
13 ments under section 1923, for each of the
14 categories of beneficiaries under subsection
15 (b)(2) for the base fiscal year for each of
16 the 50 States and the District of Colum-
17 bia.

18 “(ii) BEST AVAILABLE DATA.—The
19 determination under clause (i) shall ini-
20 tially be estimated by the Secretary, based
21 upon the best available data at the time
22 the determination is made.

23 “(iii) UPDATES.—The determination
24 under clause (i) shall be updated by the
25 Secretary on an annual basis based upon

1 improved data. The Secretary shall adjust
2 the amounts under subsection (a)(1)(A) to
3 reflect changes in the amounts so deter-
4 mined based on such updates.

5 “(B) EXCLUSION OF PASS-THROUGH PAY-
6 MENTS.—In computing base per beneficiary,
7 per category amounts under subparagraph
8 (A)(i) the Secretary shall exclude payments de-
9 scribed in subsection (a)(4).

10 “(C) STANDARDIZATION.—

11 “(i) IN GENERAL.—In computing each
12 such amount, the Secretary shall stand-
13 ardize the amount in order to remove the
14 variation attributable to the following:

15 “(I) RISK FACTORS.—Such risk
16 factors as age, health and disability
17 status (including high cost medical
18 conditions), gender, institutional sta-
19 tus, and such other factors as the
20 Secretary determines to be appro-
21 priate, so as to ensure actuarial
22 equivalence.

23 “(II) GEOGRAPHIC.—Variations
24 in costs on a county-by-county basis.

1 “(ii) METHOD OF STANDARDIZA-
2 TION.—

3 “(I) CONSULTATION IN DEVEL-
4 OPMENT OF RISK STANDARDIZA-
5 TION.—In developing the methodology
6 for risk standardization for purposes
7 of clause (i)(I), the Secretary shall
8 consult with the Medicaid and CHIP
9 Payment and Access Commission, the
10 Medicare Payment Advisory Commis-
11 sion, and the National Association of
12 Medicaid Directors.

13 “(II) METHOD FOR RISK STAND-
14 ARDIZATION.—In carrying out clause
15 (i)(I), the Secretary may apply the
16 hierarchal condition category method-
17 ology under section 1853(a)(1)(C). If
18 the Secretary uses such methodology,
19 the Secretary shall adjust the applica-
20 tion of such methodology to take into
21 account the differences in services
22 provided under this title compared to
23 title XVIII, such as the coverage of
24 long term care, pregnancy, and pedi-
25 atric services.

1 “(III) METHOD FOR GEOGRAPHIC
2 STANDARDIZATION.—The Secretary
3 shall apply the standardization under
4 clause (i)(II) in a manner similar to
5 that applied under section
6 1853(c)(4)(A)(iii).

7 “(iii) APPLICATION ON A NATIONAL,
8 BUDGET NEUTRAL BASIS.—The standard-
9 ization under clause (i) shall be designed
10 and implemented on a uniform national
11 basis and shall be budget neutral so as to
12 not result in any aggregate change in pay-
13 ments under subsection (a).

14 “(iv) RESPONSE TO NEW RISK.—Sub-
15 ject to clause (iii), the Secretary may ad-
16 just the standardization under clause (i) to
17 respond promptly to new instances of com-
18 municable diseases and other public health
19 hazards.

20 “(v) REFERENCE TO APPLICATION OF
21 RISK ADJUSTMENT.—For rules related to
22 the application of risk adjustment to
23 amounts under subsection (a)(1)(A), see
24 subsection (e).

1 “(D) ADJUSTMENT FOR TEMPORARY FMAP
2 INCREASES.—In computing each base per bene-
3 ficiary, per category amounts under subpara-
4 graph (A)(i) the Secretary shall disregard por-
5 tions of payments that are attributable to a
6 temporary increase in the Federal matching
7 rates, including those attributable to the fol-
8 lowing:

9 “(i) PPACA DISASTER FMAP.—Sec-
10 tion 1905(aa).

11 “(ii) ARRA.—Section 5001 of the
12 American Recovery and Reinvestment Act
13 of 2009 (42 U.S.C. 1396d note).

14 “(iii) EXTRAORDINARY EMPLOYER
15 PENSION CONTRIBUTION.—Section 614 of
16 the Children’s Health Insurance Program
17 Reauthorization Act of 2009 (42 U.S.C.
18 1396d note).

19 “(3) ALLOCATION OF NONMEDICAL ASSISTANCE
20 PAYMENTS.—The Secretary shall establish rules for
21 the allocation of payments under this title (other
22 than those payments described in paragraph (1) or
23 (5) of section 1903(a) and including such payments
24 attributable to section 1923)—

1 “(A) among different categories of bene-
2 ficiaries; and

3 “(B) between payments included under
4 subsection (a)(1) and payments described in
5 subsection (a)(4).

6 “(4) TRANSITION TO A CORRIDOR AROUND THE
7 NATIONAL AVERAGE.—

8 “(A) DETERMINATION OF NATIONAL AVER-
9 AGE BASE PER BENEFICIARY, PER CATEGORY
10 AMOUNT.—Subject to subparagraph (C), the
11 Secretary shall determine a national average
12 base per beneficiary, per category amount equal
13 to the average of the base per beneficiary, per
14 category amounts for each of the 50 States and
15 the District of Columbia determined under
16 paragraph (2), weighted by the average number
17 of beneficiaries in each such category and State
18 as determined by the Secretary consistent with
19 subsection (d) for the base fiscal year.

20 “(B) TRANSITION ADJUSTMENT.—

21 “(i) HIGH PER BENEFICIARY
22 STATES.—In the case of a high per bene-
23 ficiary State (as defined in clause (iii)(I))
24 for a category, the beneficiary-based quar-
25 terly amount for such State and category

1 for a quarter in a reform year (beginning
2 with the fourth reform year and ending
3 with the tenth reform year) is equal to the
4 sum of—

5 “(I) the product of the State-spe-
6 cific factor for such reform year (as
7 defined in clause (iv)) and the bene-
8 ficiary-based quarterly amount that
9 would otherwise be determined under
10 paragraph (1) for such State and cat-
11 egory if the State were a State de-
12 scribed in clause (ii) of paragraph
13 (1)(C), instead of a State described in
14 clause (i) of such paragraph; and

15 “(II) the product of 1 minus the
16 State-specific factor for such reform
17 year and the beneficiary-based quar-
18 terly amount that would otherwise be
19 determined under paragraph (1) for a
20 State and category if the base per
21 beneficiary, per category amount de-
22 termined under paragraph (2) for the
23 State and category were equal to 110
24 percent of the national average base
25 per beneficiary, per category amount

1 determined under subparagraph (A)
2 for such category.

3 “(ii) LOW PER BENEFICIARY
4 STATES.—In the case of a low per bene-
5 ficiary State (as defined in clause (iii)(II))
6 for a category, the beneficiary-based quar-
7 terly amount for such State and category
8 for a quarter in a reform year (beginning
9 with the fourth reform year and ending
10 with the tenth reform year) is equal to the
11 sum of—

12 “(I) the product of the State-spe-
13 cific factor for such reform year and
14 the beneficiary-based quarterly
15 amount that would otherwise be deter-
16 mined under paragraph (1) for such
17 State and category if the State were
18 a State described in clause (ii) of
19 paragraph (1)(C), instead of a State
20 described in clause (i) of such para-
21 graph; and

22 “(II) the product of 1 minus the
23 State-specific factor for such reform
24 year and the beneficiary-based quar-
25 terly amount that would otherwise be

1 determined under paragraph (1) for a
2 State and category if the base per
3 beneficiary, per category amount de-
4 termined under paragraph (2) for the
5 State and category were equal to 90
6 percent of the national average base
7 per beneficiary, per category amount
8 determined under subparagraph (A)
9 for such category.

10 “(iii) HIGH AND LOW PER BENE-
11 FICIARY STATES DEFINED.—In this sub-
12 paragraph:

13 “(I) HIGH PER BENEFICIARY
14 STATE.—The term ‘high per bene-
15 ficiary State’ means, with respect to a
16 category, a State for which the base
17 per beneficiary, per category amount
18 determined under paragraph (2) for
19 such category is greater than 110 per-
20 cent of the national average base per
21 beneficiary, per category amount de-
22 termined under subparagraph (A) for
23 such category.

24 “(II) LOW PER BENEFICIARY
25 STATE.—The term ‘low per bene-

1 beneficiary State’ means, with respect to a
2 category, a State for which the base
3 per beneficiary, per category amount
4 determined under paragraph (2) for
5 such category is less than 90 percent
6 of the national average base per bene-
7 ficiary, per category amount deter-
8 mined under subparagraph (A) for
9 such category.

10 “(iv) STATE-SPECIFIC FACTOR.—In
11 this subparagraph, the term ‘State-specific
12 factor’ means—

13 “(I) for the fourth reform year,

14 $\frac{7}{8}$; and

15 “(II) for a subsequent reform
16 year, the State-specific factor under
17 this clause for the previous reform
18 year minus $\frac{1}{8}$.

19 “(C) NO ADDITIONAL EXPENDITURES.—

20 “(i) DETERMINATION OF INCREASE IN
21 FEDERAL EXPENDITURES.—For each cat-
22 egory for each reform year (beginning with
23 the fourth reform year and ending with the
24 tenth reform year), the Secretary shall de-

1 termine whether the application of this
2 paragraph—

3 “(I) to the category for the re-
4 form year will result in an aggregate
5 increase in the aggregate Federal ex-
6 penditures under subsection (a); and

7 “(II) to all the categories for the
8 reform year will result in a net aggre-
9 gate increase in the aggregate Federal
10 expenditures under subsection (a).

11 “(ii) ADJUSTMENT.—If the Secretary
12 determines under clause (i)(II) that the
13 application of this paragraph to all the cat-
14 egories for a reform year will result in a
15 net aggregate increase in the aggregate
16 Federal expenditures under subsection (a),
17 the Secretary shall reduce the national av-
18 erage base per beneficiary, per category
19 amount computed under subparagraph (A)
20 for each of the categories determined
21 under clause (i)(I) for which there will be
22 an aggregate increase in the aggregate
23 Federal expenditures under subsection (a)
24 by such uniform percentage as will ensure
25 that there is no net aggregate Federal ex-

1 penditure increase described in clause
2 (i)(II) for the reform year.

3 “(5) REPORTS ON PER BENEFICIARY RATES;
4 APPEALS.—

5 “(A) REPORT TO STATES.—Not later than
6 8 months after the date of the enactment of
7 this section, the Secretary shall submit to each
8 State the Secretary’s initial determination of—

9 “(i) the base per beneficiary, per cat-
10 egory amounts under paragraph (2) for
11 such State; and

12 “(ii) the national average base per
13 beneficiary, per category amounts under
14 paragraph (4)(A).

15 “(B) OPPORTUNITY TO APPEAL.—Not
16 later than 3 months after the date a State re-
17 ceives notice of the Secretary’s initial deter-
18 mination of such base per beneficiary, per cat-
19 egory amounts for such State under subpara-
20 graph (A)(i), the State may file with the Sec-
21 retary, in a form and manner specified by the
22 Secretary, an appeal of such determination.

23 “(C) DETERMINATION ON APPEAL.—Not
24 later than 3 months after receiving such an ap-
25 peal, the Secretary shall make a final deter-

1 mination on such amounts for such State. If no
2 such appeal is received for a State, the Sec-
3 retary’s initial determination under subpara-
4 graph (A)(i) shall become final.

5 “(6) BASE FISCAL YEAR DEFINED.—In this
6 section, the term ‘base fiscal year’ means the latest
7 fiscal year, ending before the date of the enactment
8 of this section, for which the Secretary determines
9 that adequate data are available to make the com-
10 putations required under this subsection.

11 “(d) NOT COUNTING INDIVIDUALS TO ACCOUNT FOR
12 EXCLUDED PAYMENTS.—Under rules specified by the
13 Secretary, individuals shall not be counted as Medicaid
14 beneficiaries for purposes of subsection (b)(1)(B) and sub-
15 section (c)(2)(A) in proportion to the extent that such in-
16 dividuals are receiving medical assistance for which pay-
17 ments described under subsection (a)(4)(A) are made.

18 “(e) RISK ADJUSTMENT.—

19 “(1) IN GENERAL.—The amount under sub-
20 section (a)(1)(A) shall be adjusted under this sub-
21 section in an appropriate manner, specified by the
22 Secretary and consistent with paragraph (2), to take
23 into account—

1 “(A) the factors described in subsection
2 (c)(2)(C)(i)(I) within a category of bene-
3 ficiaries; and

4 “(B) variations in costs on a county-by-
5 county basis for medical assistance and admin-
6 istrative expenses.

7 “(2) METHOD OF ADJUSTMENT.—

8 “(A) IN GENERAL.—The adjustments
9 under paragraph (1) shall be made in a manner
10 similar to the manner in which similar adjust-
11 ments are made under subsection (c)(2)(C) and
12 consistent with the requirements of clause (iii)
13 of such subsection and subparagraph (B).

14 “(B) BIENNIAL UPDATE OF RISK ADJUST-
15 MENT METHODOLOGY.—In applying clause
16 (i)(I) of subsection (c)(2)(C) for purposes of
17 subparagraph (A), the Secretary shall, in con-
18 sultation with the entities described in clause
19 (ii)(I) of such subsection, update the risk ad-
20 justment methodology applied as appropriate
21 not less often than every 2 years.

22 “(f) CHRONIC CARE QUALITY BONUS PAYMENTS.—

23 “(1) DETERMINATION OF BONUS PAYMENTS.—

24 If the Secretary determines that, based on the re-
25 ports under paragraph (5), with respect to cat-

1 categories of chronic disease for which chronic care per-
2 formance targets had been established under para-
3 graph (3) for each category of Medicaid beneficiaries
4 specified under subsection (b)(2) such targets have
5 been met by a State for a reform year, the Secretary
6 shall make an additional payment to such State in
7 the amount specified in paragraph (6) for each quar-
8 ter in the succeeding reform year. Such payments
9 shall be made in a manner specified by the Secretary
10 and may only be used consistent with subsection
11 (a)(3).

12 “(2) IDENTIFICATION OF CATEGORIES OF
13 CHRONIC DISEASE.—The Secretary shall determine
14 the categories of chronic disease for which bonus
15 payments may be available under this subsection for
16 each category of Medicaid beneficiaries.

17 “(3) ADOPTION OF QUALITY MEASUREMENT
18 SYSTEM AND IDENTIFICATION OF PERFORMANCE
19 TARGETS.—

20 “(A) SYSTEM AND DATA.—With respect to
21 the categories of chronic disease under para-
22 graph (2), the Secretary shall adopt a quality
23 measurement system that uses data described
24 in paragraph (4) and is similar to the Five-Star
25 Quality Rating System used to indicate the per-

1 formance of Medicare Advantage plans under
2 part C of title XVIII.

3 “(B) TARGETS.—Using such system and
4 data, the Secretary shall establish for each re-
5 form year the chronic care performance targets
6 for purposes of the payments under paragraph
7 (1). Such performance targets shall be estab-
8 lished in consultation with States, associations
9 representing individuals with chronic illnesses,
10 entities providing treatment to such individuals
11 for such chronic illnesses, and other stake-
12 holders, including the National Association of
13 Medicaid Directors and the National Governors
14 Association.

15 “(4) DATA TO BE USED.—The data to be used
16 under paragraph (3) shall include—

17 “(A) data collected through methods such
18 as—

19 “(i) the ‘Healthcare Effectiveness
20 Data and Information Set’ (also known as
21 ‘HEDIS’) (or an appropriate successor
22 performance measurement tool);

23 “(ii) the ‘Consumer Assessment of
24 Healthcare Providers and Systems’ (also
25 known as ‘CAHPS’) (or an appropriate

1 successor performance measurement tool);

2 and

3 “(iii) the ‘Health Outcomes Survey’

4 (also known as ‘HOS’) (or an appropriate

5 successor performance measurement tool);

6 and

7 “(B) other data collected by the State.

8 “(5) REPORTS.—

9 “(A) IN GENERAL.—Each State shall col-
10 lect, analyze, and report to the Secretary, at a

11 frequency and in a manner to be established by

12 the Secretary, data described in paragraph (4)

13 that permit the Secretary to monitor the State’s

14 performance relative to the chronic care per-

15 formance targets established under paragraph

16 (3).

17 “(B) REVIEW AND VERIFICATION.—The

18 Secretary may review the data collected by the

19 State under subparagraph (A) to verify the

20 State’s analysis of such data with respect to the

21 performance targets under paragraph (3).

22 “(6) AMOUNT OF BONUS PAYMENTS.—

23 “(A) IN GENERAL.—Subject to subpara-

24 graphs (B) and (C), with respect to each cat-

25 egory of Medicaid beneficiaries, in the case of

1 a State that the Secretary determines, based on
2 the chronic care performance targets set under
3 paragraph (3) for a reform year for such cat-
4 egory, performs—

5 “(i) in the top five States in such cat-
6 egory, subject to subparagraph (C)(ii), the
7 amount of the bonus for each quarter in
8 the succeeding reform year shall be 10 per-
9 cent of the payment amount otherwise paid
10 to the State under subsection (a) for indi-
11 viduals enrolled under the plan within such
12 category;

13 “(ii) in the next five States in such
14 category, subject to subparagraph (C)(ii),
15 the amount of the bonus for each such
16 quarter shall be 5 percent of the payment
17 amount otherwise paid to the State under
18 subsection (a) for individuals enrolled
19 under the plan within such category;

20 “(iii) in the next five States in such
21 category, subject to clauses (i) and (iii) of
22 subparagraph (C), the amount of the
23 bonus for each such quarter shall be 3 per-
24 cent of the payment amount otherwise paid
25 to the State under subsection (a) for indi-

1 viduals enrolled under the plan within such
2 category;

3 “(iv) in the next five States in such
4 category, subject to clauses (i) and (iii) of
5 subparagraph (C), the amount of the
6 bonus for each such quarter shall be 2 per-
7 cent of the payment amount otherwise paid
8 to the State under subsection (a) for indi-
9 viduals enrolled under the plan within such
10 category; and

11 “(v) in the next five States in such
12 category, subject to clauses (i) and (iii) of
13 subparagraph (C), the amount of the
14 bonus for each such quarter shall be 1 per-
15 cent of the payment amount otherwise paid
16 to the State under subsection (a) for indi-
17 viduals enrolled under the plan within such
18 category.

19 “(B) AGGREGATE ANNUAL LIMIT FOR
20 EACH CATEGORY OF MEDICAID BENE-
21 FICIARIES.—

22 “(i) IN GENERAL.—In no case may
23 the aggregate amount of bonuses under
24 this subsection for quarters in a reform
25 year for a category of Medicaid bene-

1 ficiaries exceed the limit specified in clause
2 (ii) for the reform year.

3 “(ii) LIMIT.—The limit specified in
4 this clause—

5 “(I) for the second reform year is
6 equal to \$250,000,000; or

7 “(II) for a subsequent reform
8 year is equal to the limit specified in
9 this clause for the previous reform
10 year increased by the per beneficiary
11 percentage increase determined under
12 paragraph (1)(E) of subsection (c).

13 “(C) LIMITATION AND PRORATION OF BO-
14 NUSES BASED ON APPLICATION OF AGGREGATE
15 LIMIT.—

16 “(i) NO BONUS FOR THIRD OR SUBSE-
17 QUENT TIERS UNLESS AGGREGATE LIMIT
18 NOT REACHED ON FIRST TWO TIERS.—No
19 bonus shall be payable under clause (iii),
20 (iv), or (v) of subparagraph (A) for a cat-
21 egory of Medicaid beneficiaries for a quar-
22 ter in a reform year unless the aggregate
23 amount of bonuses under clauses (i) and
24 (ii) of such subparagraph for such category
25 and reform year is less than the limit spec-

1 ified in subparagraph (B)(ii) for the re-
2 form year.

3 “(ii) PRORATION FOR FIRST TWO
4 TIERS.—If the aggregate amount of bo-
5 nuses under clauses (i) and (ii) of subpara-
6 graph (A) for a category of Medicaid bene-
7 ficiaries for quarters in a reform year ex-
8 ceeds the limit specified in subparagraph
9 (B)(ii) for the reform year, the amount of
10 each such bonus shall be prorated in a
11 manner so the aggregate amount of such
12 bonuses is equal to such limit.

13 “(iii) PRORATION FOR NEXT THREE
14 TIERS.—If the aggregate amount of bo-
15 nuses under clauses (i) and (ii) of subpara-
16 graph (A) for a category of Medicaid bene-
17 ficiaries for quarters in a reform year is
18 less than the limit specified in subpara-
19 graph (B)(ii) for the reform year, but the
20 aggregate amount of bonuses under clauses
21 (i) through (v) of subparagraph (A) for the
22 category and such quarters in the reform
23 year exceeds the limit specified in subpara-
24 graph (B)(ii) for the reform year, the
25 amount of each bonus in clauses (iii), (iv),

1 and (v) of subparagraph (A) shall be pro-
2 rated in a manner so the aggregate
3 amount of all the bonuses under subpara-
4 graph (A) is equal to such limit.

5 “(g) STATE OPTION FOR RECEIVING MEDICARE PAY-
6 MENTS FOR FULL-BENEFIT DUAL ELIGIBLE INDIVID-
7 UALS.—

8 “(1) IN GENERAL.—Under this subsection a
9 State may elect for quarters beginning on or after
10 the implementation date in a reform year to receive
11 payment from the Secretary under paragraph (3).
12 As a condition of receiving such payment, the State
13 shall agree to provide to full-benefit dual eligible in-
14 dividuals eligible for medical assistance under the
15 State plan—

16 “(A) the medical assistance to which such
17 eligible individuals would otherwise be entitled
18 under this title; and

19 “(B) any items and services which such eli-
20 gible individuals would otherwise receive under
21 title XVIII.

22 “(2) PROVIDER PAYMENT REQUIREMENT.—

23 “(A) IN GENERAL.—A State electing the
24 option under this subsection shall provide pay-
25 ment to health care providers for the items and

1 services described under paragraph (1)(B) at a
2 rate that is not less than the rate at which pay-
3 ments would be made to such providers for such
4 items and services under title XVIII.

5 “(B) FLEXIBILITY IN PAYMENT METH-
6 ODS.—Nothing in subparagraph (A) shall be
7 construed as preventing a State from using al-
8 ternative payment methodologies (such as bun-
9 dled payments or the use of accountable care
10 organizations (as such term is used in section
11 1899)) for purposes of making payments to
12 health care providers for items and services pro-
13 vided to dual eligible individuals in the State
14 under the option under this subsection.

15 “(3) PAYMENTS TO STATES IN LIEU OF MEDI-
16 CARE PAYMENTS.—With respect to a full-benefit
17 dual eligible individual, in the case of a State that
18 elects the option under paragraph (1) for quarters in
19 a reform year—

20 “(A) the Secretary shall not make any pay-
21 ment under title XVIII for items and services
22 furnished to such individual for such quarters;
23 and

24 “(B) the Secretary shall pay to the State,
25 in addition to the amounts paid to such State

1 under subsection (a), the amount that the Sec-
2 retary would, but for this subsection, otherwise
3 pay under title XVIII for items and services
4 furnished to such an individual in such State
5 for such quarters.

6 “(4) FULL-BENEFIT DUAL ELIGIBLE INDI-
7 VIDUAL DEFINED.—In this subsection, the term
8 ‘full-benefit dual eligible individual’ means an indi-
9 vidual who meets the requirements of section
10 1935(e)(6)(A)(ii).

11 “(h) AUDITS.—The Secretary shall conduct such au-
12 dits on the number and classification of Medicaid bene-
13 ficiaries under such subsections and expenditures under
14 this section as may be necessary to ensure appropriate
15 payments under this section.

16 “(i) TREATMENT OF WAIVERS.—

17 “(1) NO IMPACT ON CURRENT WAIVERS.—In
18 the case of a waiver of requirements of this title pur-
19 suant to section 1115 or other law that is in effect
20 as of the date of the enactment of this section, noth-
21 ing in this section shall be construed to affect such
22 waiver for the period of the waiver as approved as
23 of such date.

24 “(2) APPLICATION OF BUDGET NEUTRALITY TO
25 SUBSEQUENT WAIVERS AND RENEWALS TAKING SEC-

1 TION INTO ACCOUNT.—In the case of a waiver of re-
2 quirements of this title pursuant to section 1115 or
3 other law that is approved or renewed after the date
4 of the enactment of this section, to the extent that
5 such approval or renewal is conditioned upon a dem-
6 onstration of budget neutrality, budget neutrality
7 shall be determined taking into account the applica-
8 tion of this section.

9 “(j) REPORT TO CONGRESS.—Not later than Janu-
10 ary 1 of the second reform year, the Secretary shall submit
11 to Congress a report on the implementation of this section.

12 “(k) DEFINITIONS.—In this section:

13 “(1) IMPLEMENTATION DATE.—The term ‘im-
14 plementation date’ means—

15 “(A) July 1, 2017, if this section is en-
16 acted on or before July 1, 2016; or

17 “(B) July 1, 2018, if this section is en-
18 acted after July 1, 2016.

19 “(2) REFORM YEARS.—

20 “(A) The term ‘reform year’ means a fiscal
21 year beginning with the first reform year.

22 “(B) The term ‘first reform year’ means
23 the fiscal year in which the implementation date
24 occurs.

1 “(C) The terms ‘second’, ‘third’, and suc-
2 cessive similar terms mean, with respect to a
3 reform year, the second, third, or successive re-
4 form year, respectively, succeeding the first re-
5 form year.”.

6 (b) CONFORMING AMENDMENTS.—

7 (1) CONTINUED APPLICATION OF CLAWBACK
8 PROVISIONS.—

9 (A) CONTINUED APPLICATION.—Sub-
10 sections (a) and (c)(1)(C) of section 1935 of
11 such Act (42 U.S.C. 1396u–5) are each amend-
12 ed by inserting “or 1903A(a)” after “1903(a)”.

13 (B) TECHNICAL AMENDMENT.—Section
14 1935(d)(1) of the Social Security Act (42
15 U.S.C. 1396u–5(d)(1)) is amended by inserting
16 “except as provided in section 1903A(g)” after
17 “any other provision of this title”.

18 (2) PAYMENT RULES UNDER SECTION 1903.—

19 (A) Section 1903(a) of such Act (42
20 U.S.C. 1396b(a)) is amended, in the matter be-
21 fore paragraph (1), by inserting “and section
22 1903A” after “except as otherwise provided in
23 this section”.

24 (B) Section 1903(d) of such Act (42
25 U.S.C. 1396b(d)) is amended—

1 (i) in paragraph (1), by inserting
2 “and under section 1903A” after “sub-
3 sections (a) and (b)”;

4 (ii) in paragraph (2)—

5 (I) in subparagraph (A), by in-
6 serting “or section 1903A” after “was
7 made under this section”; and

8 (II) in subparagraph (B), by in-
9 serting “or section 1903A” after
10 “under subsection (a)”;

11 (iii) in paragraph (4)—

12 (I) by striking “under this sub-
13 section” and inserting “, with respect
14 to this section or section 1903A,
15 under this subsection”; and

16 (II) by striking “under this sec-
17 tion” and inserting “under the respec-
18 tive section”; and

19 (iv) in paragraph (5), by inserting “or
20 section 1903A” after “overpayment under
21 this section”.

22 (3) CONFORMING WAIVER AUTHORITY.—Section
23 1115(a)(2)(A) of the Social Security Act (42 U.S.C.
24 1315(a)(2)(A)) is amended by striking “or 1903”
25 and inserting “1903, or 1903A”.

1 (4) REPORT ON ADDITIONAL CONFORMING
2 AMENDMENTS NEEDED.—Not later than 6 months
3 after the date of the enactment of this Act, the Sec-
4 retary of Health and Human Services shall submit
5 to Congress a report that includes a description of
6 any additional technical and conforming amend-
7 ments to law that are required to properly carry out
8 this Act.

9 **TITLE V—INCREASING PRICE**
10 **TRANSPARENCY AND FREE-**
11 **DOM OF PRACTICE**

12 **SEC. 501. ENSURING ACCESS TO EMERGENCY SERVICES**
13 **WITHOUT EXCESSIVE CHARGES FOR OUT-OF-**
14 **NETWORK SERVICES.**

15 (a) IN GENERAL.—Section 1867 of the Social Secu-
16 rity Act (42 U.S.C. 1395dd) is amended—

17 (1) in subsection (d), by adding at the end the
18 following new paragraph:

19 “(5) ENFORCEMENT WITH RESPECT TO EXCES-
20 SIVE CHARGES.—A hospital, physician, or other enti-
21 ty that violates the requirements of subsection (j)(1)
22 with respect to the furnishing of items and services
23 is subject to a civil money penalty of not more than
24 \$25,000 for each such violation. The provisions of
25 section 1128A (other than subsections (a) and (b))

1 shall apply to a civil money penalty under this para-
2 graph in the same manner as such provisions apply
3 with respect to a penalty or proceeding under section
4 1128A(a).”; and

5 (2) by adding at the end the following new sub-
6 section:

7 “(j) PROTECTIONS AGAINST EXCESSIVE OUT-OF-
8 NETWORK CHARGES FOR EMERGENCY SERVICES.—

9 “(1) IN GENERAL.—If items or services to
10 screen or treat an emergency medical condition are
11 furnished under this section in a participating hos-
12 pital with respect to an individual and the individual
13 has not, directly or through a health insurance
14 issuer, group health plan, or other third party, nego-
15 tiated a payment rate for such items and services,
16 subject to paragraph (2), the charges imposed for
17 such items and services may not be in excess of the
18 following:

19 “(A) PHYSICIANS’ AND OTHER PROFES-
20 SIONAL SERVICES.—For physicians’ services or
21 services of a health care provider to which sec-
22 tion 223(e)(9) of the Internal Revenue Code of
23 1986 applies (and including drugs and
24 biologicals furnished in conjunction with and
25 billed as part of such services), the lesser of—

1 “(i) the cash price for such services
2 posted pursuant to such section; or

3 “(ii) 85 percent of the usual, cus-
4 tomary, and reasonable (UCR) charge for
5 such services, as determined under rules
6 established by the department of insurance
7 for the State in which the services are fur-
8 nished.

9 “(B) HOSPITAL SERVICES.—For inpatient
10 and outpatient hospital services for which pay-
11 ment rates are established under this title (and
12 including drugs and biologicals furnished in
13 conjunction with and billed as part of such
14 services), the lesser of—

15 “(i) the cash price for such services
16 posted pursuant to section 223(e)(9) of the
17 Internal Revenue Code of 1986; or

18 “(ii) 110 percent of the payment rate
19 applicable to such services in the case of
20 an individual entitled to benefits under
21 part A and enrolled under part B.

22 “(C) DRUGS AND BIOLOGICALS.—For
23 drugs and other pharmaceuticals furnished to
24 which a previous subparagraph does not apply,
25 the lesser of—

1 “(i) twice the acquisition cost to the
2 hospital or other provider for the dose in-
3 volved; or

4 “(ii) the acquisition cost to the hos-
5 pital or other provider plus \$250.

6 The dollar amount in clause (ii) shall be in-
7 creased from year to year (beginning with the
8 year after the first year in which this subsection
9 applies) by the same percentage as the percent-
10 age increase in the consumer price index for all
11 urban consumers (all items; U.S. city average)
12 for the year involved (as determined by the Sec-
13 retary). Any such dollar amount as so increased
14 that is not a multiple of \$5 shall be rounded to
15 the nearest multiple of \$5 (or, if a multiple of
16 \$2.50, to the next highest multiple of \$5).

17 “(D) OTHER ITEMS AND SERVICES.—For
18 any other items or services, the lesser of—

19 “(i) the cash price for such items and
20 services posted pursuant to section
21 223(e)(9) of the Internal Revenue Code of
22 1986; or

23 “(ii) 110 percent of the payment basis
24 that would be applicable to payment for
25 such items and services under this title in

1 the case of an individual entitled to bene-
2 fits under part A and enrolled under part
3 B.

4 “(2) SPECIAL RULE FOR ITEMS AND SERVICES
5 FURNISHED AS A BUNDLE.—In the case of items
6 and services for which there is a single price for a
7 group or bundle of such items and services, the max-
8 imum charge permitted under paragraph (1) may
9 not exceed the lesser of—

10 “(A) the price charged for such bundled
11 services; or

12 “(B) the aggregate of the maximum
13 charges permitted under paragraph (1) with re-
14 spect to items and services included in such
15 bundle.”.

16 (b) EFFECTIVE DATE.—The amendments made by
17 this section shall apply to charges imposed for items and
18 services furnished on or after January 1, 2017.

19 **SEC. 502. PUBLISHING OF CASH PRICE FOR CARE PAID**
20 **THROUGH HEALTH SAVINGS ACCOUNTS.**

21 (a) HEALTH SAVINGS ACCOUNTS.—Section 223(f) of
22 the Internal Revenue Code of 1986 is amended by adding
23 at the end the following new paragraph:

24 “(9) CASH PRICE TRANSPARENCY REQUIRED
25 FOR PAYMENTS TO HEALTH CARE PROVIDERS.—

1 “(A) IN GENERAL.—A payment to a health
2 care provider with respect to the furnishing of
3 health care items and services by such provider
4 shall not be treated as a qualified medical ex-
5 pense unless health care provider provides for
6 continuing disclosure (such as through posting
7 on a publicly accessible website) of the cash
8 price the health care provider charges for the
9 furnishing of such items and services.

10 “(B) FORM OF DISCLOSURE.—The disclo-
11 sure of prices under this subsection shall be in
12 a form and manner specified by the Secretary
13 of Health and Human Services, in consultation
14 with the Secretary, and shall be designed—

15 “(i) to establish a single price for re-
16 lated items and services in a manner simi-
17 lar to the manner in which pricing and
18 payment for such items and services is pro-
19 vided under the Medicare program under
20 title XVIII of the Social Security Act, and

21 “(ii) to make it easy for consumers to
22 compare the prices for similar items and
23 services furnished by different providers.

24 “(C) FAILURE TO FURNISH SERVICES OR
25 CHARGE IN EXCESS OF STATED PRICE.—A

1 health care provider shall be treated as not
2 meeting the requirement of subparagraph (A),
3 in the case of items and services for which the
4 provider is disclosing a cash price, if the pro-
5 vider—

6 “(i) refuses to furnish such items or
7 services at the price listed, or

8 “(ii) charges more than the price list-
9 ed for the furnishing of the items and serv-
10 ices.”.

11 (b) ROTH HSA.—Section 530A(c)(4) of such Code,
12 as added by this Act, is amended by adding at the end
13 the following new subparagraph:

14 “(E) Section 223(f) (relating to cash price
15 transparency required for payments to health
16 care providers).”.

17 (c) ENFORCEMENT.—If the Secretary of Health and
18 Human Services determines that a health care provider
19 has not provided for continuing disclosure of the cash
20 price of health care provider charges under section
21 223(f)(9) of the Internal Revenue Code of 1986, the Sec-
22 retary may instruct the Secretary of the Treasury that
23 payments made to such provider shall be not treated, for
24 purposes of section 223 of the Internal Revenue Code of

1 1986, as an amount used for a qualified medical expense
2 for a period of not to exceed 1 year.

3 (d) EFFECTIVE DATE.—The amendments made by
4 this section shall apply to taxable years beginning after
5 December 31, 2016.

6 **SEC. 503. LIBERATING THE LOCAL PRACTICE OF HEALTH**
7 **CARE.**

8 (a) WAIVING NATIONAL RESTRICTIONS ON PHYSI-
9 CIAN-OWNED FACILITIES.—Section 1877 of the Social Se-
10 curity Act (42 U.S.C. 1395nn) is amended by adding at
11 the end the following new subsection:

12 “(j) WAIVER AUTHORITY.—A physician or other enti-
13 ty may apply to the Secretary to waive any provision of
14 this section and the Secretary may waive such provision
15 with respect to such physician or entity if the Secretary
16 determines that such waiver would—

17 “(1) increase competition within the health care
18 market;

19 “(2) reduce the costs of health care; and

20 “(3) increase the quality of health care.”.

21 (b) REMOVING CERTAIN STATE AND LOCAL LICEN-
22 SURE OR CERTIFICATION RESTRICTIONS.—

23 (1) APPLICATION FOR WAIVER OF RESTRIC-
24 TIONS.—An individual who is required to be licensed
25 or certified by a State as a condition of furnishing

1 items or services as a health care professional (as
2 defined by the Secretary of Health and Human
3 Services) may submit to the Secretary an application
4 to waive any condition of such licensure or certifi-
5 cation.

6 (2) STANDARD.—The Secretary may grant a
7 waiver submitted under paragraph (1) if the Sec-
8 retary determines such waiver would—

9 (A) increase competition within the health
10 care market;

11 (B) reduce the costs of health care; and

12 (C) increase the quality of health care.

13 (3) PREEMPTION.—In the case of a health care
14 professional granted a waiver under paragraph (2),
15 any requirement with respect to which such waiver
16 is granted is preempted to the extent specified in
17 such waiver.

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