

PROVIDING THAT THE RULE ENTITLED “SHORT-TERM,  
LIMITED DURATION INSURANCE” SHALL HAVE NO  
FORCE OR EFFECT

APRIL 29, 2019.—Ordered to be printed

Mr. SCOTT of Virginia, from the Committee on Education and  
Labor, submitted the following

R E P O R T

together with

MINORITY VIEWS

[To accompany H.R. 1010]

[Including cost estimate of the Congressional Budget Office]

The Committee on Education and Labor, to whom was referred the bill (H.R. 1010) to provide that the rule entitled “Short-Term, Limited Duration Insurance” shall have no force or effect, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

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## PURPOSE AND SUMMARY

The purpose of H.R. 1010, *To provide that the rule entitled “Short-Term, Limited Duration Insurance” shall have no force or effect*, is to protect consumers by reversing the harmful rule promulgated by the U.S. Department of the Treasury, the U.S. Department of Labor, and the U.S. Department of Health and Human Services that has expanded Short-Term, Limited Duration Insurance (STLDI). The bill is necessary because STLDI is exempt from many basic consumer protections such as prohibitions on medical underwriting, prohibitions on denying coverage due to health status, and prohibitions on lifetime or annual coverage limits. Although the *Patient Protection and Affordable Care Act* (ACA) eliminated these and other harmful practices in the individual insurance market, the rule has created a loophole, allowing plans to circumvent these vital consumer protections.

## COMMITTEE ACTION

*115th Congress*

On September 13, 2018, Congresswoman Kathy Castor (D-FL-14) and fifty-six House Democratic cosponsors introduced H.J. Res. 140, *Providing for congressional disapproval under chapter 8 of title 5, United States Code, of the final rule of the Department of the Treasury, the Department of Labor, and the Department of Health and Human Services relating to “Short-Term, Limited-Duration Insurance.”* H.J. Res. 140 was referred to the Committees on Energy and Commerce, Education and the Workforce, and Ways and Means. No further action was taken during the 115th Congress.

*116th Congress*

On February 6, 2019, Congresswoman Castor, Congresswoman Lauren Underwood (D-IL-14), Congressman Mark DeSaulnier (D-CA-11), Congresswoman Gwen Moore (D-WI-4), Congresswoman Nanette Diaz Barragán (D-CA-44), and Congressman Steven Horsford (D-NV-04) introduced H.J. Res. 43, *Providing for congressional disapproval under chapter 8 of title 5, United States Code, of the final rule of the Department of the Treasury, the Department of Labor, and the Department of Health and Human Services relating to “Short-Term, Limited-Duration Insurance.”* H.J. Res. 43 was referred to the Committees on Energy and Commerce, Education and Labor, and Ways and Means.

On February 6, 2019, Congresswoman Castor, Congresswoman Underwood, Congressman DeSaulnier, Congresswoman Moore, Congresswoman Barragán, and Congressman Horsford introduced H.R. 1010, *To provide that the rule entitled “Short-Term, Limited Duration Insurance” shall have no force or effect.* H.R. 1010 was referred to the Committees on Energy and Commerce, Education and Labor, and Ways and Means.

On February 6, 2019, the Committee on Education and Labor held a hearing entitled *“Examining Threats to Workers with Pre-existing Conditions”* to examine executive, judicial, and legislative threats to working Americans with preexisting medical conditions, including the Administration’s expansion of STLDI through the final rule of the U.S. Departments of Treasury, Labor, and Health

and Human Services. Witnesses included: Dr. Rahul Gupta, Senior Vice President and Chief Medical Health Officer, March of Dimes, Arlington, VA; Ms. Grace Marie Turner, President, Galen Institute, Paeonian Springs, VA; Ms. Sabrina Corlette, Research Professor, Georgetown University Health Policy Institute Center on Health Insurance Reforms, Washington, D.C.; and Mr. Chad Riedy, patient advocate living with Cystic Fibrosis, Alexandria, VA.

On February 13, 2019, the Committee on Energy and Commerce's Subcommittee on Health held a hearing entitled "*Strengthening Our Health Care System: Legislation to Reverse ACA Sabotage and Ensure Pre-Existing Conditions Protections.*" The hearing examined a number of important legislative proposals to undo sabotage of the ACA, protect patients with preexisting medical conditions, and improve access to affordable and comprehensive health coverage. Among the bills considered at the hearing was H.R. 1010. Witnesses included: Ms. Grace-Marie Turner, President, Galen Institute, Paeonian Springs, VA; Ms. Katie Keith, Associate Research Professor and Adjunct Professor of Law, Georgetown University, Washington, D.C.; and Ms. Jessica K. Altman, Commissioner, Pennsylvania Insurance Department, Harrisburg, PA. On March 27, 2019, the Health Subcommittee marked up H.R. 1010 and favorably forwarded the bill to the full Committee on Energy and Commerce. On April 3, 2019, the full Committee on Energy and Commerce marked up H.R. 1010 and ordered it to be favorably reported to the House of Representatives.

On April 9, 2019, the Committee on Education and Labor (the Committee) held a full committee markup of H.R. 1010. The Committee ordered the bill to be favorably reported without amendment to the House of Representatives by a vote of 26–19.

During the markup, the following amendments were offered but not adopted:

- Congressman David P. Roe (R–TN–1) offered an amendment to: strike Section 1 of H.R. 1010, thereby keeping in place the final rule on short-term, limited duration insurance; amend the *Public Health Service Act* to define short-term, limited duration insurance as insurance coverage with an expiration date that is less than 12 months; and provide that short-term, limited duration insurance coverage be subject to guaranteed renewability. The amendment was ruled not germane.

- Congressman Dusty Johnson (R–SD–At Large) offered an amendment to provide for the application of the short-term, limited duration insurance rule in a State if the State submits a request that the rule be offered for the year. The amendment was defeated by a vote of 19–25.

- Congressman Tim Walberg (R–MI–7) offered an amendment to condition the implementation of H.R. 1010 on a study by the Secretaries of Health and Human Services, Labor, and Treasury to determine whether consumers are provided with adequate disclosures by entities offering short-term, limited duration insurance. The amendment was defeated by a vote of 19–26.

- Congressman Ron Wright (R–TX–6) offered an amendment to provide for the continued application of the short-term, limited duration insurance rule in a plan year for any rating area where the average premium for the second-lowest-cost silver plan increased

by 20 percent or more relative to the previous year. The amendment was defeated by a vote of 19–26.

- Congressman William R. Timmons, IV (R–SC–4) offered an amendment to provide for the continued application of the short-term, limited duration insurance rule in a local jurisdiction if there are fewer than two qualified health plan issuers in a plan year in that jurisdiction. The amendment was defeated by a vote of 19–26.

#### COMMITTEE VIEWS

##### *Introduction*

Short-term, limited duration insurance (STLDI) plans are marketed to consumers as an alternative to traditional health insurance. They are designed to be temporary in nature, providing coverage for consumers during brief periods of uninsurance. Due to the meager benefits they provide, their harmful impact on the overall risk pool, and their largely unregulated status under federal law, these plans directly threaten Americans’ access to quality, affordable health coverage. The final rule issued by the U.S. Department of the Treasury, the U.S. Department of Labor, and the U.S. Department of Health and Human Services will expand the prevalence of STLDI, weakening the stability of the insurance market and undermining vital consumer protections.

##### *The Affordable Care Act Strengthened Consumer Protections*

On March 23, 2010, President Barack Obama signed the *Patient Protection and Affordable Care Act* (ACA) into law. The law has improved the lives of millions of Americans by increasing the affordability of health insurance, slashing the uninsured rate, and improving the quality of health coverage. Since enactment, the ACA has expanded health insurance coverage to over 20 million Americans.<sup>1</sup> The ACA also instituted dramatically more comprehensive protections in both the individual and group health care markets, particularly for people with preexisting conditions. The law’s consumer protections include:

- *Guaranteed Issue and Renewability*: The ACA’s guaranteed issue and renewability of coverage provisions require insurers to accept every applicant for health coverage, regardless of health status.<sup>2</sup> Practically, this means an insurer must accept and renew health coverage, even if the consumer has a preexisting condition, is sick, or has sought medical treatment.

- *Adjusted Community Rating*: Under the ACA, insurers in the individual and small group market are prohibited from charging higher premiums based on health status and may only vary premiums based on family size, age,<sup>3</sup> geographic area, and tobacco use.

- *Essential Health Benefits*: Under the ACA, individual market and small group plans must cover ten categories of essential health

<sup>1</sup> Democratic Staff of the U.S. House Committee on Education and the Workforce, *Accessible, Affordable Health Care: A Right, Not a Privilege 1* (2017), [https://edlabor.house.gov/imo/media/doc/Report%20-%20Accessible,%20Affordable%20Health%20Care%20A%20Right%20Not%20A%20Privilege\\_Ed%20-%20the%20Workforce%20Dems.pdf](https://edlabor.house.gov/imo/media/doc/Report%20-%20Accessible,%20Affordable%20Health%20Care%20A%20Right%20Not%20A%20Privilege_Ed%20-%20the%20Workforce%20Dems.pdf).

<sup>2</sup> Provisions of the *Health Insurance Portability and Accountability Act* of 1996, Pub. L. 104–191, 110 Stat. 1936 (HIPAA), applied this protection generally to the small group market and to certain “HIPAA-eligible” individuals in the nongroup market.

<sup>3</sup> Age rating is restricted such that plans may charge older individuals no more than three times more than younger individuals.

benefits.<sup>4</sup> Prior to the ACA, insurers often excluded coverage of maternity care, mental health care, substance use disorder treatment, among other benefits.<sup>5</sup>

- *Elimination of Lifetime and Annual Caps:* Under the ACA’s elimination of lifetime and annual benefit caps, consumers—including those with job-based insurance—are protected from these coverage limits. Consumers now have new safeguards against unreasonable out-of-pocket expenses, which can be financially crippling for many families, especially those struggling to make ends meet while facing or recovering from a major health issue. Before the ACA, more than 90 percent of nongroup plans had annual or lifetime caps on coverage; most employer-provided plans also imposed lifetime limits.<sup>6</sup>

- *Elimination of Preexisting Health Condition Exclusions:* Under the ACA, all health plans are prohibited from excluding coverage for preexisting health conditions.<sup>7</sup> In 2002, roughly one in three workers were in a plan that had preexisting condition exclusions.<sup>8</sup> Prior to the ACA, protections for people with preexisting conditions were inconsistent across the country, but in the majority of states consumers could be subjected to denials of coverage, higher premiums, or exclusions.<sup>9</sup>

#### *Short-Term, Limited Duration Insurance is Harmful to Consumers*

STLDI plans are not clearly defined in federal law and have explicitly been excluded from the definition of individual health insurance coverage under the *Public Health Service Act*.<sup>10</sup> Because they are not individual health insurance coverage, these plans are not subject to vital consumer protections that apply to traditional health insurance plans. For example, plans offered for sale in the individual market are prohibited from denying coverage or charging individuals more for having a preexisting condition. In contrast, STLDI plans are permitted to limit coverage of services associated with a preexisting condition as well as charge higher premiums based on age, gender, and health status—or deny coverage altogether. The implications of the ability of STLDI to circumvent these protections are enormous. One major insurer has even defined a preexisting condition as one “that would cause a reasonable

<sup>4</sup> While large group and self-insured plans do not need to comply with Essential Health Benefits (EHB) requirements, if these plans cover a specific EHB category, then the plan cannot impose an annual or lifetime limit on that category of coverage.

<sup>5</sup> Gary Claxton et al., *Would States Eliminate Key Benefits if AHCA Waivers are Enacted?* 1 (2017), <http://files.kff.org/attachment/Issue-Brief-Would-States-Eliminate-Key-Benefits-if-AHCA-Waivers-are-Enacted>.

<sup>6</sup> Loren Adler & Paul B. Ginsburg, *Health Insurance as Assurance: The Importance of Keeping the ACA’s Limits on Enrollee Health Costs*, Brookings, (Jan. 1, 2017), <https://www.brookings.edu/blog/usc-brookings-schaeffer-on-health-policy/2017/01/17/health-insurance-as-assurance-the-importance-of-keeping-the-acas-limits-on-enrollee-health-costs/>.

<sup>7</sup> Previously, HIPAA provided that individuals with employer-sponsored coverage could generally be subject to up to a 12-month exclusion period for preexisting health conditions for which the enrollee sought treatment in the previous six months before enrollment in the health plan. Non-HIPAA-eligible individuals in the individual market had no federal protections from these exclusions whatsoever.

<sup>8</sup> Kaiser Family Foundation, *Employer Health Benefits Annual Survey 138 (2002)*, <https://kaiserfamilyfoundation.files.wordpress.com/2013/04/3251.pdf>.

<sup>9</sup> Sandy Ahn, *How Accessible and Affordable were Individual Market Health Plans before the Affordable Care Act? Depends Where You Lived* 3 (2017), [https://www.rwjf.org/content/dam/farm/reports/issue\\_briefs/2017/rwjf434339](https://www.rwjf.org/content/dam/farm/reports/issue_briefs/2017/rwjf434339).

<sup>10</sup> See *Public Health Service Act* § 2791(b)(5), 42 U.S.C. § 300gg–91(b)(5).

person to seek diagnosis, care or treatment,” even if the individual has not actually sought care for the condition.<sup>11</sup>

There is also no guarantee that STLDI will meet the health coverage needs of enrollees. STLDI plans do not have to offer essential health benefits, and as a result, consumers can be denied access to basic health care that would otherwise be covered in a traditional individual market plan.<sup>12</sup> In fact, one analysis of plans offered on leading brokerage sites found that more than half of the short-term plans offered did not cover substance use disorder treatment, seven in ten did not cover outpatient prescription drugs, and none covered maternity care.<sup>13</sup>

In addition, consumers enrolled in STLDI plans may be subject to devastating out-of-pocket costs when they have a major medical expense. Because STLDI plans are not subject to the ACA’s annual and lifetime caps on out-of-pocket expenses, consumers often have little protection against exorbitant out-of-pocket costs arising from their care. For example, one heart attack victim was left with \$900,000 in bills after his insurer refused to cover bypass surgery under his short-term plan, and a stroke victim “was left with \$250,000 in unpaid medical bills because the policy did not cover prescription drugs and other basic treatment.”<sup>14</sup> STLDI is not subject to other ACA requirements—such as rate review or the medical loss ratio. While ACA-compliant plans are required to spend at least 80 percent of premiums on claims and actual health care-related expenses, rather than corporate bonuses and administration, the average loss ratio for individual market short-term plans in 2016 was 67 percent; for the top two insurers the average loss ratio was even lower, at a mere 50 percent.<sup>15</sup>

*The Trump Administration’s Efforts To Roll Back Consumer Protections Against Short-Term, Limited Duration Coverage*

Concerned the STLDI plans were increasingly being relied upon as a primary form of health insurance coverage, the Obama Administration took steps to protect consumers from the sale of these policies. On October 31, 2016, the U.S. Departments of Health and Human Services, Labor, and the Treasury (collectively, the Departments), jointly published a final rule to ensure that STLDI plans were offered for truly short-term, gap-filling coverage, noting that “these policies may have significant limitations, such as lifetime and annual dollar limits on essential health benefits and pre-existing condition exclusions, and therefore may not provide meaningful health coverage.”<sup>16</sup> Accordingly, the Departments’ final rule required improved disclosures to warn consumers that STLDI plans do not constitute minimum essential coverage under the ACA, and

<sup>11</sup>Dania Palanker et al., *New Executive Order: Expanding Access to Short-Term Health Plans is Bad for Consumers and the Individual Market*, Commonwealth Fund (Oct. 11, 2017), <http://www.commonwealthfund.org/publications/blog/2017/aug/short-term-health-plans#/>.

<sup>12</sup>Karen Pollitz et al., *Understanding Short-Term Limited Duration Health Insurance 2* (2018), <http://files.kff.org/attachment/Issue-Brief-Understanding-Short-Term-Limited-Duration-Health-Insurance>.

<sup>13</sup>*Id.*

<sup>14</sup>Reed Abelson, *Without Obamacare Mandate, ‘You Open the Floodgates’ for Skimpy Health Plans*, New York Times (Nov. 30, 2017), <https://www.nytimes.com/2017/11/30/health/health-insurance-obamacare-mandate.html>.

<sup>15</sup>Karen Pollitz et al., *supra* note 12, at 2.

<sup>16</sup>81 Fed. Reg. 75317 (Oct. 31, 2016).

it restricted the duration for which policies could be sold and renewed to three months.<sup>17</sup>

On October 12, 2017, President Trump signed an Executive Order (EO) entitled “Promoting Healthcare Choice and Competition across the United States.”<sup>18</sup> In the EO, the President attacked the ACA and promised to loosen consumer protections and expand the prevalence of health plans that do not comply with federal law. Pursuant to the EO, on February 21, 2018, the Departments jointly published a proposed rule expanding the availability of short-term plans.<sup>19</sup> On August 3, 2018, the Departments jointly published a final rule to extend the allowable duration of STLDI from three months to up to 12 months, with plans renewable for up to 36 months.<sup>20</sup>

The Departments’ rulemaking was widely criticized by stakeholders. Twenty-one of the largest organizations that represent patients and consumers across America found that the expansion of STLDI plans would “seriously undermine the key principles of access, adequacy, and affordability [that underpin the ACA].”<sup>21</sup> These groups asserted that “implementing these policies will once again leave patients and consumers in the lurch with insufficient coverage, unpaid medical bills, long-term impacts on their financial wellbeing, and lifelong health implications—just as many of these plans did prior to the enactment of the ACA.”<sup>22</sup> Strikingly, an analysis published by the *Los Angeles Times* found that 98 percent of the over 300 patient and consumer advocates, physician and provider organizations, and other health care stakeholders that submitted comments opposing or criticizing the rule.<sup>23</sup>

*Why Congressional action is needed to protect consumers, including those with preexisting conditions*

STLDI is a threat to the wellbeing of millions of Americans, particularly those living with preexisting conditions. According to the U.S. Department of Health and Human Services, the number of Americans with preexisting conditions ranges from at least 61 million people (or 23 percent of Americans)<sup>24</sup> to as many as 133 million people (51 percent of Americans).<sup>25</sup> With respect to STLDI plans, there are no safeguards to protect these individuals against actions by insurers that would discriminate, deny coverage, medically underwrite, or otherwise not provide coverage to individuals

<sup>17</sup>*Id.*

<sup>18</sup>Exec. Order No. 13813, 82 Fed. Reg. 48385 (Oct. 12, 2017).

<sup>19</sup>83 Fed. Reg. 7437 (Feb. 21, 2018).

<sup>20</sup>83 Fed. Reg. 38212 (Aug. 3, 2018).

<sup>21</sup>Letter from American Cancer Society Cancer Action Network et al. to Secretary of Health and Human Services Alex Azar (Apr. 23, 2018), <https://www.fightcancer.org/sites/default/files/National%20Documents/042318%20Coalition%20Comments%20on%20STLDPs%20-%20SIGNED%20FINAL.pdf> (Comment on the Centers for Medicare Medicaid Services (CMS) Proposed Rule: Short-Term, Limited-Duration Insurance).

<sup>22</sup>*Id.* at 3.

<sup>23</sup>Noam N. Levey, *Trump’s New Insurance Rules are Panned by Nearly Every Healthcare Group that Submitted Formal Comments*, LA Times (May 30, 2018, 3:00 AM), <https://www.latimes.com/politics/la-na-pol-trump-insurance-opposition-20180530-story.html>.

<sup>24</sup>Based on a narrow definition using eligibility criteria for pre-ACA state high-risk pools. U.S. Department of Health and Human Services; see ASPE Issue Brief, *Health Insurance Coverage for Americans with Preexisting Conditions: The Impact of the Affordable Care Act 1* (2017), <https://aspe.hhs.gov/system/files/pdf/255396/Pre-ExistingConditions.pdf>.

<sup>25</sup>Based on a broader definition more similar to the underwriting criteria used by insurers prior to the ACA. *Id.*

with preexisting conditions who enroll or attempt to enroll in a policy.

On February 6, 2019, the House Committee on Education and Labor’s hearing on “Examining Threats to Workers with Preexisting Conditions” explored this issue in more detail. As Congressman Robert C. “Bobby” Scott, Chairman of the Committee, noted in his opening statement, the lack of protections for patients with preexisting conditions and other federal consumer protections in STLDI plans poses a severe threat to millions of Americans.<sup>26</sup> Dr. Rahul Gupta, Senior Vice President and Chief Medical and Health Officer for March of Dimes, testified that STLDI plans could be “disastrous” to the health of moms and babies because these plans often do not cover “preventive care like contraception, as well as prenatal, maternity and newborn care.”<sup>27</sup> Sabrina Corlette, Research Professor at the Georgetown University Health Policy Institute’s Center on Health Insurance Reforms, testified that “[w]ith respect to the preexisting conditions . . . [STLDI plans] will look at your medical history and even if you were not given a formal diagnosis they might say that you had the condition . . . before you enrolled and might disenroll you because of that.”<sup>28</sup>

Moreover, the expansion of STLDI threatens the overall stability of the larger health care market.<sup>29</sup> As the Blue Cross Blue Shield Association noted in their comment on the Obama Administration’s 2016 proposed rule, the expansion of STLDI would create “two risk pools, the ACA pool for people with pre-existing conditions and the STLD[I] pool for persons without pre-existing conditions.”<sup>30</sup> Similarly, multiple studies have found that the adverse selection associated with the expansion of SLDTI will have a deleterious impact on consumers enrolled in traditional health coverage.<sup>31</sup> According to the Urban Institute, premiums in the nongroup market could be expected to increase by more than 18 percent in states that do not restrict these plans.<sup>32</sup>

*H.R. 1010 will protect consumers by reversing the Trump Administration’s harmful rule*

H.R. 1010 would undo the Trump Administration’s harmful 2018 rule that has expanded STLDI. The legislation would restore the treatment of these plans to their appropriate role as temporary insurance to fill an unexpected gap in coverage. It would also prevent

<sup>26</sup> *Examining Threats to Workers with Preexisting Conditions, Before the H. Comm. on Education and Labor*, 116th Cong. (2019) (opening statement of Congressman Robert C. “Bobby” Scott, Chairman, at 2).

<sup>27</sup> *Id.* (written testimony of Rahul Gupta, Senior Vice President and Chief Medical and Health Officer for March of Dimes, at 10).

<sup>28</sup> *Id.* (testimony of Sabrina Corlette, Research Professor at the Georgetown University Health Policy Institute’s Center on Health Insurance Reforms).

<sup>29</sup> Letter from Congressman Frank Pallone, Jr., et al., to Secretary of the Treasury Steven Mnuchin, et al. (Jan. 8, 2019), <https://energycommerce.house.gov/sites/democrats.energycommerce.house.gov/files/documents/Letter%20re%20the%20Administration%20Final%20Rule%20on%20Short-Term%20Plans.pdf>.

<sup>30</sup> Letter from Blue Cross Blue Shield Association (Aug. 9, 2016), <https://www.regulations.gov/contentStreamer?documentId=IRS-2016-0021-0127&attachmentNumber=1&contentType=pdf> (Comments on Proposed Rule on Expatriate Health Plans, Expatriate Health Plan Issuers, and Qualified Expatriates; Excepted Benefits; Lifetime and Annual Limits; and Short-Term, Limited-Duration Insurance).

<sup>31</sup> Katie Keith, *The Short-Term, Limited-Duration Coverage Final Rule: The Background, The Content, and What Could Come Next*, Health Affairs (Aug. 1, 2018), <https://www.healthaffairs.org/doi/10.1377/hblog20180801.169759/full/>.

<sup>32</sup> Linda J. Blumberg, et al., *The Potential Impact of Short-Term, Limited Duration Policies on Insurance Coverage, Premiums, and Federal Spending 18* (2018), [https://www.urban.org/sites/default/files/publication/96781/stld\\_draft\\_0226\\_finalized\\_0.pdf](https://www.urban.org/sites/default/files/publication/96781/stld_draft_0226_finalized_0.pdf).

consumers from being exposed to a future expansion of these harmful policies by ensuring that the Departments do not promulgate a substantially similar rule in the future.

#### *Conclusion*

H.R. 1010 protects consumers from being denied coverage for a preexisting condition. By repealing the 2018 STLDI rule submitted by the U.S. Department of the Treasury, the U.S. Department of Labor, and the U.S. Department of Health and Human Services, H.R. 1010 helps protect Americans from health care plans that arbitrarily limit coverage, lack consumer protections for preexisting conditions, and allow for discrimination.

#### SECTION-BY-SECTION ANALYSIS

*Section 1:* States that the U.S. Department of the Treasury, the U.S. Department of Labor, and the U.S. Department of Health and Human Services may not take any action to implement, enforce, or otherwise give effect to the “Short-Term, Limited-Duration Insurance” rule. It would further provide that the Departments may not promulgate any substantially similar rule in the future.

#### EXPLANATION OF AMENDMENTS

The amendments offered during the Committee markup of H.R. 1010 are explained in the descriptive portions of this report.

#### APPLICATION OF LAW TO THE LEGISLATIVE BRANCH

H.R. 1010 does not apply to terms and conditions of employment or to access to public services or accommodations within the legislative branch.

#### UNFUNDED MANDATE STATEMENT

Pursuant to Section 423 of the *Congressional Budget and Impoundment Control Act* (as amended by Section 101(a)(2) of the *Unfunded Mandates Reform Act*, Pub. L. 104–4), H.R. 1010 contains no unfunded mandates. The Committee adopts as its own the estimate of federal mandates regarding H.R. 1010, prepared by the Director of the Congressional Budget Office.

#### EARMARK STATEMENT

In accordance with clause 9 of rule XXI of the Rules of the House of Representatives, H.R. 1010 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as described in clauses 9(e), 9(f), and 9(g) of rule XXI.

#### ROLL CALL VOTES

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, the Committee advises that the following roll call votes occurred during the Committee’s consideration of H.R. 1010:

Date: 4/9/2019

**COMMITTEE ON EDUCATION AND LABOR RECORD OF COMMITTEE VOTE**

Roll Call: 1

Bill: H.R. 1010

Amendment Number: 2

Disposition: Defeated by a vote of 19-25

Sponsor/Amendment: Johnson/ to provide for the application of the STLDI rule in a State if the State submits a request that the rule apply for the plan year.

Name & State	Aye	No	Not Voting	Name & State	Aye	No	Not Voting
Mr. SCOTT (VA) (Chairman)		X		Mrs. FOXX (NC) (Ranking)	X		
Mrs. DAVIS (CA)		X		Mr. ROE (TN)	X		
Mr. GRUJALVA (AZ)			X	Mr. THOMPSON (PA)	X		
Mr. COURNTEY (CT)		X		Mr. WALBERG (MI)	X		
Ms. FUDGE (OH)			X	Mr. GUTHRIE (KY)	X		
Mr. SABLAN (MP)		X		Mr. BYRNE (AL)	X		
Ms. WILSON (FL)		X		Mr. GROTHMAN (WI)	X		
Ms. BONAMICI (OR)		X		Ms. STEFANIK (NY)	X		
Mr. TAKANO (CA)		X		Mr. ALLEN (GA)	X		
Ms. ADAMS (NC)		X		Mr. ROONEY (FL)			X
Mr. DESAULNIER (CA)			X	Mr. SMUCKER (PA)	X		
Mr. NORCROSS (NJ)		X		Mr. BANKS (IN)	X		
Ms. JAYAPAL (WA)		X		Mr. WALKER (NC)			X
Mr. MORELLE (NY)		X		Mr. COMER (KY)	X		
Ms. WILD (PA)		X		Mr. CLINE (VA)	X		
Mr. HARDER (CA)		X		Mr. FULCHER (ID)	X		
Mrs. MCBATH (GA)		X		Mr. TAYLOR (TX)	X		
Ms. SCHRIER (WA)		X		Mr. WATKINS (KS)			X
Ms. UNDERWOOD (IL)		X		Mr. WRIGHT (TX)	X		
Mrs. HAYES (CT)		X		Mr. MEUSER (PA)	X		
Ms. SHALALA (FL)		X		Mr. TIMMONS (SC)	X		
Mr. LEVIN (MI)		X		Mr. JOHNSON (SD)	X		
Ms. OMAR (MN)		X					
Mr. TRONE (MD)		X					
Ms. STEVENS (MI)		X					
Mrs. LEE (NV)		X					
Mrs. TRAHAN (MA)		X					
Mr. CASTRO (TX)		X					

TOTALS: Ayes: 19

Nos: 25

Not Voting: 6

Total: 50 / Quorum: / Report:

(28 D - 22 R)

\*Although not present for the recorded vote, Member expressed he/she would have voted AYE if present at time of vote.

\*Although not present for the recorded vote, Member expressed he/she would have voted NO if present at time of vote.

Date: 4/9/2019

**COMMITTEE ON EDUCATION AND LABOR RECORD OF COMMITTEE VOTE**

Roll Call: 2

Bill: H.R. 1010

Amendment Number: 3

Disposition: **Defeated by a vote of 19-26**

Sponsor/Amendment: Walberg/ to condition implementation of H.R. 1010 on a study to determine whether consumers are provided with adequate disclosures by entities offering STLDI plans.

Name & State	Aye	No	Not Voting	Name & State	Aye	No	Not Voting
Mr. SCOTT (VA) (Chairman)		X		Mrs. FOXX (NC) (Ranking)	X		
Mrs. DAVIS (CA)		X		Mr. ROE (TN)	X		
Mr. GRIJALVA (AZ)			X	Mr. THOMPSON (PA)	X		
Mr. COURNTEY (CT)		X		Mr. WALBERG (MI)	X		
Ms. FUDGE (OH)		X		Mr. GUTHRIE (KY)	X		
Mr. SABLAN (MP)		X		Mr. BYRNE (AL)	X		
Ms. WILSON (FL)		X		Mr. GROTHMAN (WI)	X		
Ms. BONAMICI (OR)		X		Ms. STEFANIK (NY)	X		
Mr. TAKANO (CA)		X		Mr. ALLEN (GA)	X		
Ms. ADAMS (NC)		X		Mr. ROONEY (FL)			X
Mr. DESAULNIER (CA)		X		Mr. SMUCKER (PA)	X		
Mr. NORCROSS (NJ)		X		Mr. BANKS (IN)	X		
Ms. JAYAPAL (WA)		X		Mr. WALKER (NC)			X
Mr. MORELLE (NY)			X	Mr. COMER (KY)	X		
Ms. WILD (PA)		X		Mr. CLINE (VA)	X		
Mr. HARDER (CA)		X		Mr. FULCHER (ID)	X		
Mrs. MCBATH (GA)		X		Mr. TAYLOR (TX)	X		
Ms. SCHRIER (WA)		X		Mr. WATKINS (KS)			X
Ms. UNDERWOOD (IL)		X		Mr. WRIGHT (TX)	X		
Mrs. HAYES (CT)		X		Mr. MEUSER (PA)	X		
Ms. SHALALA (FL)		X		Mr. TIMMONS (SC)	X		
Mr. LEVIN (MI)		X		Mr. JOINTSON (SD)	X		
Ms. OMAR (MN)		X					
Mr. TRONE (MD)		X					
Ms. STEVENS (MI)		X					
Mrs. LEE (NV)		X					
Mrs. TRAHAN (MA)		X					
Mr. CASTRO (TX)		X					

TOTALS: Ayes: 19

Nos: 26

Not Voting: 5

Total: 50 / Quorum: / Report:

(28 D - 22 R)

\*Although not present for the recorded vote, Member expressed he/she would have voted AYE if present at time of vote.

\*Although not present for the recorded vote, Member expressed he/she would have voted NO if present at time of vote.

Date: 4/9/2019

## COMMITTEE ON EDUCATION AND LABOR RECORD OF COMMITTEE VOTE

Roll Call: 3

Bill: H.R. 1010

Amendment Number: 4

Disposition: Defeated by a vote of 19-26

Sponsor/Amendment: Wright/ to provide for the continued application of the STLDI rule in a rating area if the average Exchange premium increased more than 20 percent from the previous year.

Name & State	Aye	No	Not Voting	Name & State	Aye	No	Not Voting
Mr. SCOTT (VA) (Chairman)		X		Mrs. FOXX (NC) (Ranking)	X		
Mrs. DAVIS (CA)		X		Mr. ROE (TN)	X		
Mr. GRIJALVA (AZ)			X	Mr. THOMPSON (PA)	X		
Mr. COURNTEY (CT)		X		Mr. WALBERG (MI)	X		
Ms. FUDGE (OH)		X		Mr. GUTHRIE (KY)	X		
Mr. SABLAN (MP)		X		Mr. BYRNE (AL)	X		
Ms. WILSON (FL)		X		Mr. GROTHMAN (WI)	X		
Ms. BONAMICI (OR)		X		Ms. STEFANIK (NY)	X		
Mr. TAKANO (CA)		X		Mr. ALLEN (GA)	X		
Ms. ADAMS (NC)		X		Mr. ROONEY (FL)			X
Mr. DESAULNIER (CA)		X		Mr. SMUCKER (PA)	X		
Mr. NORCROSS (NJ)		X		Mr. BANKS (IN)	X		
Ms. JAYAPAL (WA)		X		Mr. WALKER (NC)			X
Mr. MORELLE (NY)			X	Mr. COMER (KY)	X		
Ms. WILD (PA)		X		Mr. CLINE (VA)	X		
Mr. HARDER (CA)		X		Mr. FULCHER (ID)	X		
Mrs. MCBATH (GA)		X		Mr. TAYLOR (TX)	X		
Ms. SCHRIER (WA)		X		Mr. WATKINS (KS)			X
Ms. UNDERWOOD (IL)		X		Mr. WRIGHT (TX)	X		
Mrs. HAYES (CT)		X		Mr. MEUSER (PA)	X		
Ms. SHALALA (FL)		X		Mr. TIMMONS (SC)	X		
Mr. LEVIN (MI)		X		Mr. JOHNSON (SD)	X		
Ms. OMAR (MN)		X					
Mr. TRONE (MD)		X					
Ms. STEVENS (MI)		X					
Mrs. LEE (NV)		X					
Mrs. TRAHAN (MA)		X					
Mr. CASTRO (TX)		X					

TOTALS: Ayes: 19

Nos: 26

Not Voting: 5

Total: 50 / Quorum: / Report:

(28 D - 22 R)

\*Although not present for the recorded vote, Member expressed he/she would have voted AYE if present at time of vote.

\*Although not present for the recorded vote, Member expressed he/she would have voted NO if present at time of vote.

Date: 4/9/2019

**COMMITTEE ON EDUCATION AND LABOR RECORD OF COMMITTEE VOTE**

Roll Call: 4

Bill: H.R. 1010

Amendment Number: 5

Disposition: **Defeated by a vote of 19-26**

Sponsor/Amendment: Timmons/ to To provide for the continued application of the STLDI rule in a county if there are fewer than two issuers offering coverage on the Exchange.

Name & State	Aye	No	Not Voting	Name & State	Aye	No	Not Voting
Mr. SCOTT (VA) (Chairman)		X		Mrs. FOXX (NC) (Ranking)	X		
Mrs. DAVIS (CA)		X		Mr. ROE (TN)	X		
Mr. GRUJALVA (AZ)			X	Mr. THOMPSON (PA)	X		
Mr. COURNTEY (CT)		X		Mr. WALBERG (MI)	X		
Ms. FUDGE (OH)		X		Mr. GUTHRIE (KY)	X		
Mr. SABLAN (MP)		X		Mr. BYRNE (AL)	X		
Ms. WILSON (FL)		X		Mr. GROTHMAN (WI)	X		
Ms. BONAMICI (OR)		X		Ms. STEFANIK (NY)	X		
Mr. TAKANO (CA)		X		Mr. ALLEN (GA)	X		
Ms. ADAMS (NC)		X		Mr. ROONEY (FL)			X
Mr. DESAULNIER (CA)		X		Mr. SMUCKER (PA)	X		
Mr. NORCROSS (NJ)		X		Mr. BANKS (IN)	X		
Ms. JAYAPAL (WA)		X		Mr. WALKER (NC)			X
Mr. MORELLE (NY)			X	Mr. COMER (KY)	X		
Ms. WILD (PA)		X		Mr. CLINE (VA)	X		
Mr. HARDER (CA)		X		Mr. FULCHER (ID)	X		
Mrs. MCBATH (GA)		X		Mr. TAYLOR (TX)	X		
Ms. SCHRIER (WA)		X		Mr. WATKINS (KS)			X
Ms. UNDERWOOD (IL)		X		Mr. WRIGHT (TX)	X		
Mrs. HAYES (CT)		X		Mr. MEUSER (PA)	X		
Ms. SHALALA (FL)		X		Mr. TIMMONS (SC)	X		
Mr. LEVIN (MI)		X		Mr. JOHNSON (SD)	X		
Ms. OMAR (MN)		X					
Mr. TRONE (MD)		X					
Ms. STEVENS (MI)		X					
Mrs. LEE (NV)		X					
Mrs. TRAHAN (MA)		X					
Mr. CASTRO (TX)		X					

TOTALS: Ayes: 19

Nos: 26

Not Voting: 5

Total: 50 / Quorum: / Report:

(28 D - 22 R)

\*Although not present for the recorded vote, Member expressed he/she would have voted AYE if present at time of vote.

\*Although not present for the recorded vote, Member expressed he/she would have voted NO if present at time of vote.

Date: 4/9/2019

**COMMITTEE ON EDUCATION AND LABOR RECORD OF COMMITTEE VOTE**

Roll Call: 5

Bill: H.R. 1010

Amendment Number: Motion

Disposition: Adopted by a vote of 26 - 19

Sponsor/Amendment: Underwood/ to report the bill to the House of Representatives with the recommendation that the bill do pass

Name & State	Aye	No	Not Voting	Name & State	Aye	No	Not Voting
Mr. SCOTT (VA) (Chairman)	X			Mrs. FOXX (NC) (Ranking)		X	
Mrs. DAVIS (CA)	X			Mr. ROE (TN)		X	
Mr. GRUJALVA (AZ)			X	Mr. THOMPSON (PA)		X	
Mr. COURNTEY (CT)	X			Mr. WALBERG (MI)		X	
Ms. FUDGE (OH)	X			Mr. GUTHRIE (KY)		X	
Mr. SABLAN (MP)	X			Mr. BYRNE (AL)		X	
Ms. WILSON (FL)	X			Mr. GROTHMAN (WI)		X	
Ms. BONAMICI (OR)	X			Ms. STEFANIK (NY)		X	
Mr. TAKANO (CA)	X			Mr. ALLEN (GA)		X	
Ms. ADAMS (NC)	X			Mr. ROONEY (FL)			X
Mr. DESAULNIER (CA)	X			Mr. SMUCKER (PA)		X	
Mr. NORCROSS (NJ)	X			Mr. BANKS (IN)		X	
Ms. JAYAPAL (WA)	X			Mr. WALKER (NC)			X
Mr. MORELLE (NY)			X	Mr. COMER (KY)		X	
Ms. WILD (PA)	X			Mr. CLINE (VA)		X	
Mr. HARDER (CA)	X			Mr. FULCHER (ID)		X	
Mrs. MCBATH (GA)	X			Mr. TAYLOR (TX)		X	
Ms. SCHRIER (WA)	X			Mr. WATKINS (KS)			X
Ms. UNDERWOOD (IL)	X			Mr. WRIGHT (TX)		X	
Mrs. HAYES (CT)	X			Mr. MEUSER (PA)		X	
Ms. SHALALA (FL)	X			Mr. TIMMONS (SC)		X	
Mr. LEVIN (MI)	X			Mr. JOHNSON (SD)		X	
Ms. OMAR (MN)	X						
Mr. TRONE (MD)	X						
Ms. STEVENS (MI)	X						
Mrs. LEE (NV)	X						
Mrs. TRAHAN (MA)	X						
Mr. CASTRO (TX)	X						

TOTALS: Ayes: 26

Nos: 19

Not Voting: 5

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^Although not present for the recorded vote, Member expressed he/she would have voted AYE if present at time of vote.

\*Although not present for the recorded vote, Member expressed he/she would have voted NO if present at time of vote.

## STATEMENT OF PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause (3)(c) of rule XIII of the Rules of the House of Representatives, the goals of H.R. 1010 are to protect Americans' access to affordable and comprehensive health insurance and preserve consumer protections in health coverage.

## DUPLICATION OF FEDERAL PROGRAMS

Pursuant to clause 3(c)(5) of rule XIII of the Rules of the House of Representatives, the Committee states that no provision of H.R. 1010 establishes or reauthorizes a program of the Federal Government known to be duplicative of another federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

## HEARINGS

Pursuant to section 103(i) of H. Res. 6 for the 116th Congress, the Committee held a legislative hearing entitled “*Examining Threats to Workers with Preexisting Conditions*,” which was used to consider H.R. 1010. The Committee heard testimony on the threats posed by short-term, limited duration health plans to workers with preexisting conditions, including discrimination, higher costs, exclusions on coverage, and financial burden, among other issues. Witnesses included: Dr. Rahul Gupta, Senior Vice President and Chief Medical Health Officer, March of Dimes, Arlington, VA; Ms. Grace Marie Turner, President, Galen Institute, Paeonian Springs, VA; Ms. Sabrina Corlette, Research Professor, Georgetown University Health Policy Institute Center on Health Insurance Reforms, Washington, D.C.; and Mr. Chad Riedy, patient advocate living with Cystic Fibrosis, Alexandria, VA.

## STATEMENT OF OVERSIGHT FINDINGS AND RECOMMENDATIONS OF THE COMMITTEE

In compliance with clause 3(c)(1) of rule XIII and clause 2(b)(1) of rule X of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in the descriptive portions of this report.

## NEW BUDGET AUTHORITY AND CBO COST ESTIMATE

Pursuant to clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the *Congressional Budget Act of 1974*, and pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the *Congressional Budget Act of 1974*, the Committee has received the following estimate for H.R. 1010 from the Director of the Congressional Budget Office:

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, April 29, 2019.*

Hon. BOBBY SCOTT,  
*Chairman, Committee on Education and Labor,  
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 1010, a bill to provide that the rule entitled "Short-Term, Limited Duration Insurance" shall have no force or effect.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Alice Burns and Kevin McNellis.

Sincerely,

KEITH HALL,  
*Director.*

Enclosure.

<b>H.R. 1010, a bill to provide that the rule entitled "Short-Term, Limited Duration Insurance" shall have no force or effect</b>			
As ordered reported by the House Committee on Education and Labor on April 9, 2019			
Millions of Dollars	2019	2019-2024	2019-2029
Direct Spending (Outlays)	0	-3,211	-7,753
Revenues	0	409	1,103
Deficit Effect	0	-3,619	-8,856
Spending Subject to Appropriation (Outlays)	0	0	0
Pay-as-you-go procedures apply?	Yes	<b>Mandate Effects</b>	
Increases on-budget deficits in any of the four consecutive 10-year periods beginning in 2030?	No	Contains intergovernmental mandate?	No
		Contains private-sector mandate?	Yes, Over Threshold

H.R. 1010 would prevent the Administration from implementing or enforcing a recent regulation aimed at increasing the number of people with short-term limited duration insurance (short-term plans) and would prohibit the Administration from promulgating similar regulations in the future.

CBO and JCT estimate that enacting the legislation would result in roughly 1.5 million fewer people purchasing short-term plans each year over the 2020–2029 period. Of those, more than 500,000 would instead purchase nongroup coverage through the marketplaces established by the Affordable Care Act, a small number would obtain coverage through an employer, and about 500,000 would become uninsured. The agencies expect that additional enrollees in the nongroup market would have the effect of lowering nongroup premiums by about 1 percent on average because those enrollees are likely to be healthier than the average nongroup enrollee under current law.

On net, CBO and JCT estimate that enacting H.R. 1010 would decrease the deficit by \$8.9 billion over the 2019–2029 period pri-

marily because premiums for subsidized nongroup insurance would be lower. That amount includes a \$7.8 billion reduction in direct spending and a \$1.1 billion increase in revenues.

H.R. 1010 would impose a private-sector mandate as defined in the Unfunded Mandates Reform Act (UMRA) by restricting the terms under which insurers may offer short-term plans. CBO estimates the cost of the mandate, which would include the revenue lost as a result of the restriction, would exceed the private-sector threshold established by UMRA in each of the first five years the mandate is in effect (\$164 million in 2019, adjusted annually for inflation).

Details of the estimated budgetary effects of H.R. 1010 are shown in Table 1. The costs of the legislation fall within budget function 550 (health).

TABLE 1.—ESTIMATED BUDGETARY EFFECTS OF H.R. 1010

	By fiscal year, millions of dollars—												
	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2019–2024	2019–2029
Decreases in Direct Spending													
Estimated Budget Authority .....	0	-289	-632	-746	-738	-806	-883	-873	-895	-928	-963	-3,211	-7,753
Estimated Outlays .....	0	-289	-632	-746	-738	-806	-883	-873	-895	-928	-963	-3,211	-7,753
Increases in Revenues													
Estimated Revenues .....	0	33	74	91	96	114	109	144	149	160	132	409	1,103
On-Budget .....	0	0	9	20	31	37	35	43	41	48	30	98	295
Off-Budget .....	0	33	66	70	64	77	74	101	108	112	103	310	808
Decrease in the Deficit From Changes in Direct Spending and Revenues													
Effect on the Deficit .....	0	-322	-706	-837	-834	-920	-992	-1,017	-1,044	-1,088	-1,095	-3,619	-8,856
On-Budget .....	0	-289	-641	-767	-770	-843	-918	-916	-936	-976	-992	-3,309	-8,048
Off-Budget .....	0	-33	-66	-70	-64	-77	-74	-101	-108	-112	-103	-310	-808

Components may not sum to totals because of rounding. All off-budget effects would come from changes in Social Security revenues.  
Sources: Congressional Budget Office; staff of the Joint Committee on Taxation.

On April 25, 2019, CBO issued a cost estimate for H.R. 1010, a bill to provide that the rule entitled “Short-Term, Limited Duration Insurance” shall have no force or effect, as ordered reported by the House Committee on Energy and Commerce on April 3, 2019. The two pieces of legislation are identical and CBO’s estimate of their budgetary effects are the same.

The CBO staff contacts for this estimate are Kevin McNellis and Alice Burns (for federal costs) and Andrew Laughlin (for mandates). The estimate was reviewed by Leo Lex, Deputy Assistant Director for Budget Analysis.

#### COMMITTEE COST ESTIMATE

Clause 3(d)(1) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison of the costs that would be incurred in carrying out H.R. 1010. However, clause 3(d)(2)(B) of that rule provides that this requirement does not apply when the committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the *Congressional Budget Act*.

#### CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

The bill does not change existing law for purposes of clause 3(e) of rule XIII of the Rules of the House of Representatives.

## MINORITY VIEWS

### INTRODUCTION

Committee Republicans have consistently promoted and supported policies to lower costs and improve competition in health care including Trump administration initiatives to expand access to Association Health Plans (AHPs), Short-Term Limited Duration Insurance Plans (STLDI), and Health Reimbursement Arrangements (HRAs). Committee Republicans agree with the Trump administration that the STLDI final rule provides additional and significant options for individuals struggling to afford insurance coverage.

#### *Legislative History and Regulatory Definitions*

STLDI is designed for short-term coverage, and federal statutes have recognized the importance of making short-term options available to health care consumers for over 20 years. Because it is designed to fill coverage gaps, STLDI is deliberately excluded from the definition of “individual health insurance coverage” included in the *Public Health Service Act* (PHSA) as amended by the *Health Insurance Portability and Accountability Act of 1996* (HIPAA). The *Affordable Care Act* (ACA) used the same definition, cross-referencing the PHSA. This exemption from the definition of “individual health insurance coverage” means that plans do not have to comply with federal requirements for health insurance, including rules under the ACA. As a result, these short-term plans can offer coverage at significantly lower prices for consumers in transition.

Since the Clinton administration, STLDI was defined through regulation as health insurance coverage that expires less than 12 months after the original effective date. In October 2016, the Department of Labor (DOL), Department of the Treasury (Treasury), and Department of Health and Human Services (HHS) under the Obama administration published a final rule that restricted STLDI to less than three months, effective January 1, 2017.<sup>1</sup> Instead of working to make health care more affordable, the previous administration, in the final weeks of President Obama’s term, used a last-minute ploy to decrease affordable options by limiting the length of time a consumer could maintain STLDI coverage.

#### *Trump Administration Actions*

On October 12, 2017, President Trump signed an executive order (EO) focused on expanding access to insurance options, including selling insurance across state lines.<sup>2</sup> The EO directed DOL, HHS, and Treasury to issue new guidance and review existing regula-

<sup>1</sup> Excepted Benefits; Lifetime and Annual Limits; and Short-Term Limited Duration Insurance, 81 Fed. Reg. 75,316 (Oct. 31, 2016).

<sup>2</sup> Exec. Order No. 13,813, 82 Fed. Reg. 48,385 (Oct. 17, 2017).

tions to allow more regulatory flexibility for AHPs, STLDI, and HRAs.

In consultation with DOL and Treasury, HHS revised the Obama administration regulations limiting STLDI by allowing plans to be available to consumers for up to 364 days and renewable for up to 36 months.<sup>3</sup> Even though federal regulations allow this duration and renewability, Democrats refuse to acknowledge that states are still able to issue and apply their own laws and requirements regarding STLDI, including restricting their sale or requiring STLDI to cover specific benefits. Restricting the allowable duration of STLDI in this manner eliminates access to short-term coverage for consumers that need it.

*H.R. 1010: Legislation Which Eliminates Affordable Options for Consumers*

Historically, health insurance coverage on the ACA Exchange (Exchange) has been very difficult for many consumers to afford. According to data from the Center for Medicare and Medicaid Services (CMS), after the ACA regulations took effect in 2014, average individual market premiums more than doubled from \$2,784 per year in 2013 on HealthCare.gov to \$5,712 on HealthCare.gov, an increase of \$2,928 or 105 percent.<sup>4</sup> In the HealthCare.gov states, between 2017 and 2018, the average premium increased by 37 percent, and between 2016 and 2017, the hike in average premiums was 25 percent.<sup>5</sup> In October 2018, CMS announced that thanks to immediate actions taken by the Trump administration, the average premium for individual market plans dropped by 1.5 percent, the first time that average premiums dropped since the implementation of the federally-facilitated Exchange in 2014.<sup>6</sup>

Market participation has also been a longstanding concern for the Exchange. From 2016 to 2017 alone, the number of insurance carriers offering plans on the Exchange decreased by nearly 30 percent.<sup>7</sup> In 2018, 56 percent of U.S. counties on the federal platform had only one issuer offering coverage, while in 2019, after the Trump administration's market stabilization efforts, the number of counties with one issuer dropped to 39 percent.<sup>8</sup>

STLDI plans, which would be prohibited by H.R. 1010, can represent more affordable, attractive options for individuals who are between jobs or cannot afford ACA coverage. In testimony to the House Committee on Energy and Commerce, Grace-Marie Turner of the Galen Institute discussed the different circumstances where STLDI may benefit consumers:

Short-term plans are helpful to people with gaps in employment, to early retirees who no longer have employer-sponsored health insurance and need bridge coverage before they qualify for Medicare, people between jobs, young people who no longer have coverage from their parents and are working in the gig economy, people who are leaving

<sup>3</sup> Short-Term, Limited-Duration Insurance, 83 Fed. Reg. 38,212 (Aug. 3, 2018).

<sup>4</sup> CENTERS FOR MEDICARE AND MEDICAID SERV., PREMIUMS ON THE FEDERALLY-FACILITATED EXCHANGES DROP IN 2019 (OCT. 11, 2018).

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

the workforce temporarily to attend school or training programs, and entrepreneurs starting new businesses. Premiums for short-term health plans typically are less than half those of ACA plans.

The administration's rule also extended consumer protections. Under the Obama administration's previous 2016 rule, people could lose their coverage after three months if they acquired a medical condition during the three-month period. By extending the contract period, people can be protected from a period of uninsurance until the next ACA open enrollment period.<sup>9</sup>

The Trump administration and HHS Secretary Alex Azar have stated that expanding STLDI will help people struggling to afford ACA coverage while still providing robust disclosure so that consumers know what benefits are covered under a STLDI policy. According to CMS, "[i]n the fourth quarter of 2016, a short-term, limited-duration policy cost approximately \$124 a month compared to \$393 for an unsubsidized ACA-compliant plan."<sup>10</sup> The administration projected roughly 100,000 to 200,000 individuals would move from ACA-compliant plans to STLDI in 2019.<sup>11</sup>

#### *H.R. 1010 Does Not Improve Employer-Sponsored Coverage*

The Committee on Education and Labor has jurisdiction over the *Employee Retirement Income Security Act* (ERISA) and, therefore, jurisdiction over legislation and regulations affecting employer-provided health coverage. Approximately 152 million Americans receive their coverage from an employer-provided plan, the single largest source of health care coverage in the country.<sup>12</sup>

Notably, H.R. 1010 does not affect employer-sponsored coverage, and this Committee does not have jurisdiction over the statute (PHSA) that exempts STLDI from the definition of individual health insurance. Republican Leader Virginia Foxx (R-NC) noted this in her opening statement:

This Committee has jurisdiction over employer-sponsored health care. Our focus should be on improving those options. Rather than focus on this priority, we are here today to consider H.R. 1010, which would eliminate short-term limited duration insurance plans. These plans are an obvious potential solution for millions of Americans, working or not, who may find themselves between jobs, or unable to afford rising premiums in the already expensive individual market.<sup>13</sup>

Republican Leader Foxx also noted that this bill does nothing to address the main concerns of millions of hardworking Americans:

<sup>9</sup>*Strengthening Our Health Care System: Legislation to Reverse ACA Sabotage and Ensure Pre-Existing Conditions Protections: Hearing on H.R. 986, H.R. 987, H.R. 1010, and H.R. 1143 Before the Subcomm. on Health of the H. Comm. on Energy and Commerce, 116th Cong. (2019)* (statement of Grace-Marie Turner, President, Galen Institute).

<sup>10</sup>CENTERS FOR MEDICARE AND MEDICAID SERV., FACT SHEET: SHORT-TERM, LIMITED-DURATION INSURANCE PROPOSED RULE (FEB. 20, 2018).

<sup>11</sup>*Id.*

<sup>12</sup>KAISER FAMILY FOUND., EMPLOYER HEALTH BENEFITS ANNUAL SURVEY (OCT. 2018).

<sup>13</sup>*H.R. 1010, To provide that the rule entitled "Short-Term, Limited Duration Insurance" shall have no force or effect: Markup Before the H. Comm. on Educ. and Labor, 116th Cong. (2019)* (statement of Virginia Foxx, Republican Leader, Committee on Education and Labor).

H.R. 1010 is a one-sentence bill that will not lower drug prices, will not protect anyone from surprise billing, will not lower premiums, will not cut any out-of-pocket costs, and will not provide one cent of tax relief. Its failure to achieve any of those objectives makes it simply unacceptable to us as Republicans.<sup>14</sup>

*H.R. 1010 Ignores Existing State and Federal Regulatory Authority*

H.R. 1010 invalidates the Trump administration’s STLDI plan rule and prohibits the Secretaries of HHS, DOL, and Treasury from promulgating any substantially similar rules. Since 1996, Congress has chosen to deliberately exclude STLDI from the definition of “individual health insurance” included in HIPAA, the PHSA, and the ACA. Therefore, the Departments are within their authority to issue regulations defining STLDI, and should continue to propose regulations, such as the STLDI final rule, which promote affordability, flexibility, and market competition for consumers seeking health coverage.

Additionally, under the Trump administration’s STLDI rule, and under previous rules, states maintain the ability to prohibit or restrict sales or determine whether these policies should include certain benefits or services. Some states, such as New Jersey and California, have chosen to prohibit the sale of STLDI plans. Since states are the primary regulators of insurance markets, they make decisions based on the specific and varied needs of consumers in their state and local jurisdictions. States should continue to be allowed to regulate STLDI plans and their insurance markets in ways they see fit, but H.R. 1010 seeks to eliminate this state authority and market choice.

REPUBLICAN AMENDMENTS

H.R. 1010 takes away affordable options for Americans struggling to afford health insurance coverage under the ACA. In an attempt to preserve the STLDI rule, Republican Committee members offered the following amendments.

Representative Phil Roe (R-TN) questioned the Committee’s motivation for spending time to debate an issue where the Committee has no jurisdiction over the underlying statute. He offered an amendment to codify the STLDI rule and allow for guaranteed renewability. The amendment was ruled by the Chairman to be not germane which underscored the fact that this Committee’s consideration of H.R. 1010 is a political ploy to shield the costly, rigid plans offered under the ACA from competition while eliminating additional choice and flexible options that offer Americans the level of coverage they want at rates they can afford.

Representative Dusty Johnson (R-SD) offered an amendment to add a section to H.R. 1010 to allow states to use the STLDI final rule’s definition if they choose. Republicans embrace the principle of federalism and respect the judgment of state lawmakers and authorities similarly elected by the people to act in their state’s best interest. What works best for one state may not be the best approach for others. Democrats disagreed with allowing the states

<sup>14</sup>*Id.*

this freedom and further demonstrated their desire to eliminate affordable options in favor of one-size-fits-all government-mandated coverage by defeating the amendment by a vote of 19–25.

Representative Tim Walberg (R–MI) offered an amendment that would require the Secretaries of HHS, DOL, and Treasury to conduct a study to determine whether consumers who are considering purchasing an STLDI plan are provided with adequate information on coverage exclusions and premium variations in marketing resources, consumer application, and enrollment materials. STLDI coverage is one option for consumers struggling to afford ACA coverage and Republicans support affordable choices but also want to ensure that consumers have adequate information when purchasing STLDI. Under the Walberg amendment, if the study finds that these materials do not provide sufficient consumer information on these plans, H.R. 1010 would take effect in 90 days. Otherwise, if the study finds consumer information is sufficient, H.R. 1010 would not go into effect. Despite claims from Democrats that consumers do not have enough information to make informed choices, the amendment was defeated by a vote of 19–26.

Representative Ron Wright (R–TX) offered an amendment that allows the sale of STLDI in counties where the average Exchange benchmark premium increased by 20 percent or more in a year. Health care costs are one of the top areas of concern for American families, and this is especially true for consumers purchasing coverage on the individual market. If consumers are faced with double digit premium increases, affordable and flexible plan options should be preserved. Although the Wright amendment preserves choice and recognizes that consumers have unique needs and want more affordable coverage, Democrats defeated it by a vote of 19–26.

Representative William Timmons (R–SC) offered an amendment to allow the sale of STLDI in counties where fewer than two issuers offer coverage on the Exchange. Cost is not the only concern for American families as many consumers who purchase Exchange coverage often have few plan options. Although the Timmons amendment preserves choice in places that need it most, Democrats defeated it by a vote of 19–26.

#### CONCLUSION

H.R. 1010 eliminates affordable and flexible options for Americans struggling to find health insurance coverage for themselves and their families at a time when they need options most. H.R. 1010 reduces consumer choice, does not improve employer-sponsored coverage, and fails to respect federalism and the role of state and federal regulatory authority. H.R. 1010 also attacks policies issued under a statute which is not in the jurisdiction of this Committee. For these reasons and those outlined above, Committee Republicans strongly oppose enactment of H.R. 1010 as reported by the Committee on Education and Labor.

VIRGINIA FOXX,  
*Ranking Member.*  
 DAVID P. ROE.  
 GLENN “GT” THOMPSON.

TIM WALBERG.  
BRETT GUTHRIE.  
BRADLEY BYRNE.  
GLENN GROTHMAN.  
ELISE M. STEFANIK.  
RICK W. ALLEN.  
FRANCIS ROONEY.  
LLOYD SMUCKER.  
JIM BANKS.  
MARK WALKER.  
JAMES COMER.  
BEN CLINE.  
RUSS FULCHER.  
VAN TAYLOR.  
STEVEN C. WATKINS, JR.  
RON WRIGHT.  
DANIEL MEUSER,  
WILLIAM R. TIMMONS IV.  
DUSTY JOHNSON.

