

MARKETING AND OUTREACH RESTORATION TO
EMPOWER HEALTH EDUCATION ACT OF 2019

MAY 10, 2019.—Committed to the Committee of the Whole House on the State of
the Union and ordered to be printed

Mr. PALLONE, from the Committee on Energy and Commerce,
submitted the following

R E P O R T

together with

DISSENTING VIEWS

[To accompany H.R. 987]

[Including cost estimate of the Congressional Budget Office]

The Committee on Energy and Commerce, to whom was referred the bill (H.R. 987) to amend the Patient Protection and Affordable Care Act to provide for Federal Exchange outreach and educational activities, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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The amendment is as follows:
Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Marketing and Outreach Restoration to Empower Health Education Act of 2019” or the “MORE Health Education Act”.

SEC. 2. FEDERAL EXCHANGE OUTREACH AND EDUCATIONAL ACTIVITIES.

Section 1321(c) of the Patient Protection and Affordable Care Act (42 U.S.C. 18041(c)) is amended by adding at the end the following new paragraph:

“(3) OUTREACH AND EDUCATIONAL ACTIVITIES.—

“(A) IN GENERAL.—In the case of an Exchange established or operated by the Secretary within a State pursuant to this subsection, the Secretary shall carry out outreach and educational activities for purposes of informing individuals about qualified health plans offered through the Exchange, including by informing such individuals of the availability of coverage under such plans and financial assistance for coverage under such plans. Such outreach and educational activities shall be provided in a manner that is culturally and linguistically appropriate to the needs of the populations being served by the Exchange (including hard-to-reach populations, such as racial and sexual minorities, limited English proficient populations, and young adults).

“(B) LIMITATION ON USE OF FUNDS.—No funds appropriated under this paragraph shall be used for expenditures for promoting non-ACA compliant health insurance coverage.

“(C) NON-ACA COMPLIANT HEALTH INSURANCE COVERAGE.—For purposes of this subparagraph (B):

“(i) The term ‘non-ACA compliant health insurance coverage’ means health insurance coverage, or a group health plan, that is not a qualified health plan.

“(ii) Such term includes the following:

“(I) An association health plan.

“(II) Short-term limited duration insurance.

“(D) FUNDING.—Out of any funds in the Treasury not otherwise appropriated, there are hereby appropriated for fiscal year 2020 and each subsequent fiscal year, \$100,000,000 to carry out this paragraph. Funds appropriated under this subparagraph shall remain available until expended.”.

SEC. 3. DETERMINATION OF BUDGETARY EFFECTS.

The budgetary effects of this Act, for the purpose of complying with the Statutory Pay-As-You-Go Act of 2010, shall be determined by reference to the latest statement titled “Budgetary Effects of PAYGO Legislation” for this Act, submitted for printing in the Congressional Record by the Chairman of the House Budget Committee, provided that such statement has been submitted prior to the vote on passage.

PURPOSE AND SUMMARY

H.R. 987, the “Marketing and Outreach Restoration to Empower Health Education Act of 2019” or the “MORE Health Education Act”, was introduced on February 6, 2019, by Reps. Blunt Rochester (D–DE), Castor (D–FL), McBath (D–GA), and Kildee (D–MI), and referred to the Committee on Energy and Commerce.

The goal of H.R. 987 is to require the Department of Health and Human Services (HHS) to conduct consumer outreach and enrollment educational activities for the Affordable Care Act (ACA) Federally-Facilitated Marketplace (FFM) and fund these activities at \$100 million per year. H.R. 987 further prohibits HHS from expending the funds on promoting non-ACA compliant insurance coverage, including short-term, limited duration insurance (STLTI) plans and association health plans.

BACKGROUND AND NEED FOR LEGISLATION

On August 31, 2017, the Department of Health and Human Services reduced funding for the ACA’s 2018 Open Enrollment con-

sumer outreach and enrollment educational activities from \$100 million to \$10 million, a 90 percent cut from the previous year.¹ HHS continued to fund outreach and enrollment education activities at \$10 million during the 2019 Open Enrollment period.² About 8.4 million people enrolled in the FFM during the 2019 Open Enrollment period, compared to 9.2 million during the 2017 Open Enrollment period.³ Studies have shown that outreach efforts expand the number of Americans with comprehensive health insurance, improving the makeup of the insurance risk pool and reducing premiums for all enrollees.⁴

There has been a significant decline in new enrollment in the FFM since 2017. Approximately one million fewer new consumers enrolled in marketplace plans during the 2019 Open Enrollment period than in 2016.⁵ Studies indicate that reductions in funding for outreach and enrollment depresses new consumer enrollments.⁶ A study conducted by the Commonwealth Fund found that 40 percent of uninsured adults are still unaware of the ACA marketplaces and the law's tax credits that help make coverage affordable.⁷

COMMITTEE HEARINGS

For the purposes of section 103(i) of H. Res. 6 of the 116th Congress, the following hearing was used to develop or consider H.R. 987:

On February 13, 2019, the Subcommittee on Health held a legislative hearing entitled “Strengthening Our Health Care System: Legislation to Reverse ACA Sabotage and Ensure Pre-Existing Conditions Protections” that focused on H.R. 987 and three other bills. The Subcommittee received testimony from the following witnesses:

- Katie Keith, Associate Research Professor and Adjunct Professor of Law, Georgetown University;
- Jessica Altman, Commissioner, Pennsylvania Insurance Department; and
- Grace-Marie Turner, President, Galen Institute.

¹Centers for Medicare & Medicaid Services, *Policies Related to the Navigator Program and Enrollment Education for the Upcoming Enrollment Period* (Aug. 31, 2017) (www.cms.gov/CCIIO/Programs-and-Initiatives/Health-Insurance-Marketplaces/Downloads/Policies-Related-Navigator-Program-Enrollment-Education-8-31-2017pdf.pdf).

²Inside Health Policy, *CMS Not Increasing ACA Marketing And Outreach Budget For 2019* (Sept. 21, 2018) (<https://insidehealthpolicy.com/daily-news/cms-not-increasing-aca-marketing-and-outreach-budget-2019>).

³Centers for Medicare & Medicaid Services, *Final Weekly Enrollment Snapshot for the 2019 Enrollment Period* (Jan. 03, 2019) (www.cms.gov/newsroom/fact-sheets/final-weekly-enrollment-snapshot-2019-enrollment-period).

⁴Covered California, *Marketing Matters: Lessons From California to Promote Stability and Lower Costs in National and State Individual Insurance Markets* (Sept. 2017) (https://hbex.coveredca.com/data-research/library/CoveredCA_Marketing_Matters-9-17.pdf).

⁵Centers for Medicare & Medicaid Services, *Biweekly Enrollment Snapshot* (Feb. 03, 2019) (www.cms.gov/newsroom/fact-sheets/biweekly-enrollment-snapshot-4).

⁶Center on Budget and Policy Priorities, *Strong Demand Expected for Marketplace Open Enrollment, Despite Administration Actions* (Oct. 31, 2018) (www.cbpp.org/research/health/the-outlook-for-marketplace-open-enrollment).

⁷The Commonwealth Fund, *Following the ACA Repeal-and-Replace Effort, Where Does the U.S. Stand on Insurance Coverage?* (Sept. 7, 2017) (www.commonwealthfund.org/publications/issue-briefs/2017/sep/following-aca-repeal-and-replace-effort-where-does-us-stand?redirect_source=publications/issue-briefs/2017/sep/post-aca-repeal-and-replace-health-insurance-coverage).

COMMITTEE CONSIDERATION

H.R. 987, the “Marketing and Outreach Restoration to Empower Health Education Act of 2019” or the “MORE Health Education Act” was introduced on February 6, 2019, by Rep. Blunt Rochester (D–DE), and referred to the Committee on Energy and Commerce. The bill was subsequently referred to the Subcommittee on Health on February 7, 2019. Following legislative hearings, on March 26, 2019, the Subcommittee met in open markup session, pursuant to notice, for consideration of the H.R. 987. An amendment by Rep. Shimkus (R–IL) and an amendment by Mr. Carter (R–GA) were each defeated by a voice vote. Subsequently, the Subcommittee on Health agreed to a motion by Ms. Eshoo, Chairwoman of the Subcommittee, to favorably forward H.R. 987 to the full Committee on Energy and Commerce, without amendment, by a voice vote.

On April 3, 2019, the full Committee on Energy and Commerce met in open markup session, pursuant to notice, to consider H.R. 987, as introduced. During markup, an amendment offered by Rep. Blunt Rochester was agreed to by a voice vote. Also, an amendment offered by Rep. Carter (R–GA) was defeated by a voice vote. At the conclusion of consideration of the bill, the Committee on Energy and Commerce agreed to a motion by Mr. Pallone, Chairman of the Committee, to order H.R. 987 favorably reported to the House, amended, by a record vote of 30 yeas to 22 nays.

COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list each record vote on the motion to report legislation and amendments thereto. The Committee advises that a record vote was taken on final passage of H.R. 987. A motion by Mr. Pallone to order H.R. 987 favorably reported to the House, amended, was agreed to by a record vote of 30 yeas to 22 nays. The following is that record vote taken during Committee consideration, including the names of those members voting for and against:

**COMMITTEE ON ENERGY AND COMMERCE – 116th CONGRESS
ROLL CALL VOTE # 18**

BILL: **H.R. 987**, the “Marketing and Outreach Restoration to Empower Health Education (MORE Health Education) Act of 2019”

MOTION: A motion by Mr. Pallone to order H.R. 987 favorably reported to the House, amended.
(Final Passage)

DISPOSITION: AGREED TO by a roll call vote of 30 yeas to 22 nays

REPRESENTATIVE	YEAS	NAYS	PRESENT	REPRESENTATIVE	YEAS	NAYS	PRESENT
Rep. Pallone	X			Rep. Walden		X	
Rep. Rush	X			Rep. Upton		X	
Rep. Eshoo	X			Rep. Shimkus		X	
Rep. Engel	X			Rep. Burgess		X	
Rep. DeGette	X			Rep. Scalise		X	
Rep. Doyle	X			Rep. Latta		X	
Rep. Schakowsky	X			Rep. Rodgers		X	
Rep. Butterfield	X			Rep. Guthrie		X	
Rep. Matsui	X			Rep. Olson		X	
Rep. Castor	X			Rep. McKinley		X	
Rep. Sarbanes	X			Rep. Kinzinger			
Rep. McNerney	X			Rep. Griffith		X	
Rep. Welch	X			Rep. Bilirakis		X	
Rep. Lujan	X			Rep. Johnson		X	
Rep. Tonko	X			Rep. Long			
Rep. Clarke	X			Rep. Buschon		X	
Rep. Loeb sack	X			Rep. Flores		X	
Rep. Schrader	X			Rep. Brooks		X	
Rep. Kennedy	X			Rep. Mullin		X	
Rep. Cardenas	X			Rep. Hudson		X	
Rep. Ruiz	X			Rep. Walberg		X	
Rep. Peters	X			Rep. Carter		X	
Rep. Dingell	X			Rep. Duncan		X	
Rep. Veasey	X			Rep. Gianforte		X	
Rep. Kuster	X						
Rep. Kelly	X						
Rep. Barragan	X						
Rep. McEachin							
Rep. Blunt Rochester	X						
Rep. Soto	X						
Rep. O’Halleran	X						

04/03/2019

OVERSIGHT FINDINGS

Pursuant to clause 3(c)(1) of rule XIII and clause 2(b)(1) of rule X of the Rules of the House of Representatives, the oversight findings and recommendations of the Committee are reflected in the descriptive portion of the report.

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX
EXPENDITURES

Pursuant to 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee adopts as its own the estimate of new budget authority, entitlement authority, or tax expenditures or revenues contained in the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

CONGRESSIONAL BUDGET OFFICE ESTIMATE

With respect to the requirements of 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 cost estimate for H.R. 987 from the Director of the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, April 25, 2019.

Hon. FRANK PALLONE, Jr.,
*Chairman, Committee on Energy and Commerce,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 987, the MORE Health Education Act.

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

Sincerely,

KEITH HALL,
Director.

Enclosure.

H.R. 987, MORE Health Education Act			
As ordered reported by the House Committee on Energy and Commerce on April 3, 2019			
Millions of Dollars	2019	2019-2024	2019-2029
Direct Spending (Outlays)	0	3,645	11,797
Revenues	0	-451	-1,728
Deficit Effect	0	4,097	13,525
Spending Subject to Appropriation (Outlays)	0	0	0
Pay-as-you-go procedures apply?	Yes	Mandate Effects	
Increases on-budget deficits in any of the four consecutive 10-year periods beginning in 2030?	> \$5 billion	Contains intergovernmental mandate?	No
		Contains private-sector mandate?	No

H.R. 987 would appropriate \$100 million each year beginning in 2020 for the Centers for Medicare & Medicaid Services (CMS) to expand advertising and outreach programs that promote nongroup insurance coverage sold through the marketplaces established by the Affordable Care Act. CBO and JCT estimate that spending for those purposes would increase enrollment in nongroup insurance coverage and Medicaid by about 500,000 each year over the 2020–2029 period. The increase in spending for that coverage would be partially offset by an estimated decline in average nongroup premiums of about 1 percent, which would lower the average subsidy in the marketplaces. That decline is the result of the agencies’ expectation that the people who purchase nongroup coverage as result of CMS’s expanded advertising and outreach activities would likely be healthier, on average, than the average nongroup enrollee who would enroll under current law.

On net, CBO and JCT estimate that enacting H.R. 987 would increase the deficit by \$13.5 billion over the 2019–2029 period. That amount includes an \$11.8 billion increase in direct spending and a \$1.7 billion decrease in revenues.

Details of the estimated budgetary effect of H.R. 987 are shown in Table 1. The costs of the legislation fall within budget function 550.

The CBO staff contact for this estimate is Kevin McNellis. The estimate was reviewed by Leo Lex, Deputy Assistant Director for Budget Analysis.

FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII, the general performance goal or objective of this legislation is to require HHS to conduct consumer and enrollment educational activities for the ACA marketplaces and fund these activities at \$100 million per year. The legislation would further prohibit HHS from expending the funds on promoting non-ACA compliant insurance coverage, including STLDI plans and association health plans.

DUPLICATION OF FEDERAL PROGRAMS

Pursuant to clause 3(c)(5) of rule XIII, no provision of H.R. 987 is known to be duplicative of another Federal program, including any program that was included in a report to Congress pursuant to section 21 of Public Law 111–139 or the most recent Catalog of Federal Domestic Assistance.

COMMITTEE COST ESTIMATE

Pursuant to clause 3(d)(1) of rule XIII, the Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

EARMARKS, LIMITED TAX BENEFITS, AND LIMITED TARIFF BENEFITS

Pursuant to clause 9(e), 9(f), and 9(g) of rule XXI, the Committee finds that H.R. 987 contains no earmarks, limited tax benefits, or limited tariff benefits.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Short title

Section 1 designates that the Act may be cited as the “Marketing and Outreach Restoration to Empower Health Education Act of 2019” or the “MORE Health Education Act”.

Section 2. Federal exchange outreach and educational activities

Section 2 amends Section 1321 of the ACA and requires HHS to conduct outreach and educational activities for the purposes of in-

forming individuals about the ACA marketplaces. The section requires HHS to conduct outreach and educational activities in a manner that is culturally and linguistically appropriate to needs of the populations on the marketplaces. The section prohibits HHS from expending the funds on promoting non-ACA compliant coverage and defines non-ACA compliant coverage as STLDI plans and association health plans. The section appropriates \$100 million per year beginning fiscal year 2020 for the purposes of carrying out this section.

Section 3. Determination of budgetary effects

Section 3 establishes that for the purposes of compliance with the Statutory Pay-As-You-Go Act of 2010, the budgetary effects of the legislation shall be determined by reference to the latest statement titled “Budgetary Effects of PAYGO Legislation” for this Act.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in italic and existing law in which no change is proposed is shown in roman):

PATIENT PROTECTION AND AFFORDABLE CARE ACT

* * * * *

**TITLE I—QUALITY, AFFORDABLE
HEALTH CARE FOR ALL AMERICANS**

* * * * *

**Subtitle D—Available Coverage Choices for
All Americans**

* * * * *

**PART 3—STATE FLEXIBILITY RELATING TO
EXCHANGES**

**SEC. 1321. STATE FLEXIBILITY IN OPERATION AND ENFORCEMENT OF
EXCHANGES AND RELATED REQUIREMENTS.**

(a) ESTABLISHMENT OF STANDARDS.—

(1) IN GENERAL.—The Secretary shall, as soon as practicable after the date of enactment of this Act, issue regulations setting standards for meeting the requirements under this title, and the amendments made by this title, with respect to—

(A) the establishment and operation of Exchanges (including SHOP Exchanges);

(B) the offering of qualified health plans through such Exchanges;

(C) the establishment of the reinsurance and risk adjustment programs under part V; and

(D) such other requirements as the Secretary determines appropriate.

The preceding sentence shall not apply to standards for requirements under subtitles A and C (and the amendments made by such subtitles) for which the Secretary issues regulations under the Public Health Service Act.

(2) CONSULTATION.—In issuing the regulations under paragraph (1), the Secretary shall consult with the National Association of Insurance Commissioners and its members and with health insurance issuers, consumer organizations, and such other individuals as the Secretary selects in a manner designed to ensure balanced representation among interested parties.

(b) STATE ACTION.—Each State that elects, at such time and in such manner as the Secretary may prescribe, to apply the requirements described in subsection (a) shall, not later than January 1, 2014, adopt and have in effect—

(1) the Federal standards established under subsection (a);

or

(2) a State law or regulation that the Secretary determines implements the standards within the State.

(c) FAILURE TO ESTABLISH EXCHANGE OR IMPLEMENT REQUIREMENTS.—

(1) IN GENERAL.—If—

(A) a State is not an electing State under subsection (b);

or

(B) the Secretary determines, on or before January 1, 2013, that an electing State—

(i) will not have any required Exchange operational by January 1, 2014; or

(ii) has not taken the actions the Secretary determines necessary to implement—

(I) the other requirements set forth in the standards under subsection (a); or

(II) the requirements set forth in subtitles A and C and the amendments made by such subtitles;

the Secretary shall (directly or through agreement with a not-for-profit entity) establish and operate such Exchange within the State and the Secretary shall take such actions as are necessary to implement such other requirements.

(2) ENFORCEMENT AUTHORITY.—The provisions of section 2736(b) of the Public Health Services Act shall apply to the enforcement under paragraph (1) of requirements of subsection (a)(1) (without regard to any limitation on the application of those provisions to group health plans).

(3) OUTREACH AND EDUCATIONAL ACTIVITIES.—

(A) IN GENERAL.—*In the case of an Exchange established or operated by the Secretary within a State pursuant to this subsection, the Secretary shall carry out outreach and educational activities for purposes of informing individuals about qualified health plans offered through the Exchange, including by informing such individuals of the availability of coverage under such plans and financial assistance for coverage under such plans. Such outreach and educational*

activities shall be provided in a manner that is culturally and linguistically appropriate to the needs of the populations being served by the Exchange (including hard-to-reach populations, such as racial and sexual minorities, limited English proficient populations, and young adults).

(B) LIMITATION ON USE OF FUNDS.—No funds appropriated under this paragraph shall be used for expenditures for promoting non-ACA compliant health insurance coverage.

(C) NON-ACA COMPLIANT HEALTH INSURANCE COVERAGE.—For purposes of this subparagraph (B):

(i) The term “non-ACA compliant health insurance coverage” means health insurance coverage, or a group health plan, that is not a qualified health plan.

(ii) Such term includes the following:

(I) An association health plan.

(II) Short-term limited duration insurance.

(D) FUNDING.—Out of any funds in the Treasury not otherwise appropriated, there are hereby appropriated for fiscal year 2020 and each subsequent fiscal year, \$100,000,000 to carry out this paragraph. Funds appropriated under this subparagraph shall remain available until expended.

(d) NO INTERFERENCE WITH STATE REGULATORY AUTHORITY.—Nothing in this title shall be construed to preempt any State law that does not prevent the application of the provisions of this title.

(e) PRESUMPTION FOR CERTAIN STATE-OPERATED EXCHANGES.—

(1) IN GENERAL.—In the case of a State operating an Exchange before January 1, 2010, and which has insured a percentage of its population not less than the percentage of the population projected to be covered nationally after the implementation of this Act, that seeks to operate an Exchange under this section, the Secretary shall presume that such Exchange meets the standards under this section unless the Secretary determines, after completion of the process established under paragraph (2), that the Exchange does not comply with such standards.

(2) PROCESS.—The Secretary shall establish a process to work with a State described in paragraph (1) to provide assistance necessary to assist the State’s Exchange in coming into compliance with the standards for approval under this section.

* * * * *

DISSENTING VIEWS

This bill would provide \$100 million annually for outreach and education. The money is strictly available for outreach and education about the Patient Protection and Affordable Care Act's (PPACA) qualified health plans (QHPs) and is prohibited from promoting association health plans (AHPs) and short-term, limited-duration insurance (STLDI) plans. The proposal is not paid for.

The Centers for Medicare and Medicaid Services (CMS) allocated \$10 million to outreach and education for plan year 2018, consistent with promotional spending levels on Medicare Advantage and Medicare Part D. While CMS devoted more than \$100 million to outreach and education for plan year 2017, or roughly twice as much as for plan year 2015, first-time enrollment numbers declined by 42 percent.

According to CMS, for plan year 2019, the Trump Administration "sent over 700 million reminder emails and text messages to consumers, as well as 3.2 million outreach emails to help Navigators, agents, and brokers assist consumers." Additional funding for outreach and education has generally failed to increase first-time enrollment and for \$100 million annually in additional funds provided under the bill is not paid for.

GREG WALDEN,
Republican Leader, Committee on Energy and Commerce.

MICHAEL C. BURGESS, M.D.,
Republican Leader, Subcommittee on Health, Committee on Energy and Commerce.

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