

105TH CONGRESS  
2D SESSION

# S. 1804

To amend title XXVII of the Public Health Service Act to limit the amount of any increase in the payments required by health insurance issuers for health insurance coverage provided to individuals who are guaranteed an offer of enrollment under individual health insurance coverage relative to other individuals who purchase health insurance coverage.

---

## IN THE SENATE OF THE UNITED STATES

MARCH 19, 1998

Mr. KENNEDY introduced the following bill; which was read twice and referred to the Committee on Labor and Human Resources

---

## A BILL

To amend title XXVII of the Public Health Service Act to limit the amount of any increase in the payments required by health insurance issuers for health insurance coverage provided to individuals who are guaranteed an offer of enrollment under individual health insurance coverage relative to other individuals who purchase health insurance coverage.

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

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Affordable Health In-  
5       surance Act of 1998”.

1 **SEC. 2. AMENDMENTS TO THE PUBLIC HEALTH SERVICE**  
 2 **ACT.**

3 (a) PREMIUM LIMITATIONS WITH RESPECT TO INDIVIDUAL  
 4 COVERAGE.—Section 2741 of the Public Health  
 5 Service Act (42 U.S.C. 300gg–41) is amended—

6 (1) by redesignating the second subsection (e)  
 7 and subsection (f) as subsections (f) and (g), respec-  
 8 tively; and

9 (2) by adding at the end thereof the following:

10 “(h) PREMIUM LIMITATIONS.—

11 “(1) IN GENERAL.—With respect to an eligible  
 12 individual desiring to enroll in, or renew, individual  
 13 health insurance coverage under this section, the  
 14 health insurance issuer that offers such coverage  
 15 shall not charge such individual a premium rate for  
 16 such coverage that is higher than a rate equal to  
 17 150 percent of the average standard risk rate (as  
 18 determined under paragraph (2)) of the issuer for  
 19 individual health insurance offered in the State or  
 20 applicable marketing or service area (as determined  
 21 pursuant to regulations).

22 “(2) AVERAGE STANDARD RISK RATE.—As used  
 23 in paragraph (1), the term ‘average standard risk  
 24 rate’ means the following:

25 “(A) GUARANTEED ISSUE OF ALL POLI-  
 26 CIES.—In the case of a health insurance issuer

1 that meets the requirements of this section with  
2 respect to individual health insurance coverage  
3 by meeting the requirements of subsection  
4 (a)(1), the standard risk rate for the policy in  
5 which the eligible individual is enrolled or de-  
6 sires to enroll.

7 “(B) GUARANTEED ISSUE OF TWO MOST  
8 POPULAR POLICIES.—In the case of a health in-  
9 surance issuer that meets the requirements of  
10 this section with respect to individual health in-  
11 surance coverage through a mechanism de-  
12 scribed in subsection (c)(2), the standard risk  
13 rate for the policy in which the eligible individ-  
14 ual is enrolled or desires to enroll.

15 “(C) GUARANTEED ISSUE OF TWO POLICY  
16 FORMS WITH REPRESENTATIVE COVERAGE.—In  
17 the case of a health insurance issuer that meets  
18 the requirements of this section with respect to  
19 individual health insurance coverage through a  
20 mechanism described in subsection (c)(3), the  
21 average of the standard risk rates for the most  
22 common policy forms offered by the issuer in  
23 the State or applicable marketing or service  
24 area (as determined pursuant to regulations),  
25 established using reasonable actuarial tech-

1           niques to adjust for the difference in actuarial  
 2           values among such policy forms, subject to re-  
 3           view and approval or disapproval of the applica-  
 4           ble regulatory authority.

5           (b) STATE FLEXIBILITY.—Section 2744(c) of the  
 6 Public Health Service Act (42 U.S.C. 300gg–44(c)) is  
 7 amended—

8           (1) in paragraph (1), by inserting before the pe-  
 9           riod the following: “, except that in applying any  
 10          such model act, an eligible individual shall not be  
 11          charged a premium rate that is higher than a rate  
 12          equal to 150 percent of the standard risk rate of the  
 13          issuer”;

14          (2) in paragraph (2)(B), by inserting before the  
 15          period the following: “, except that an eligible indi-  
 16          vidual shall not be charged a premium rate that is  
 17          higher than a rate equal to 150 percent of the  
 18          standard risk rate as determined under the Model  
 19          Plan”; and

20          (3) by adding at the end the following:

21          “(4) LIMITATION.—

22                 “(A) IN GENERAL.—In the case of a mech-  
 23          anism described in subparagraph (A) or (B) of  
 24          paragraph (3), a State shall not be considered  
 25          to be implementing an acceptable alternative

1 mechanism unless the mechanism limits the  
2 amount of premium rates that may be charged  
3 to eligible individuals to not more than 150 per-  
4 cent of the standard risk rate.

5 “(B) STANDARD RISK RATE.—For pur-  
6 poses of subparagraph (A), the term ‘standard  
7 risk rate’ means—

8 “(i) in the case of a mechanism under  
9 paragraph (3)(A), and as determined by  
10 the Secretary to be appropriate with re-  
11 spect to the State mechanism involved—

12 “(I) the rate determined under  
13 section 2741(h)(2)(A);

14 “(II) the rate determined pursu-  
15 ant to the standards included in the  
16 Model Plan described in paragraph  
17 (2)(B); or

18 “(III) the rate determined pursu-  
19 ant to such other method of calcula-  
20 tion as is determined by the State and  
21 approved by the Secretary as appro-  
22 priate to achieve the goal of this sub-  
23 section; and

1 “(ii) in the case of a mechanism  
2 under paragraph (3)(B), the rate deter-  
3 mined under section 2741(h)(2)(A).”.

4 **SEC. 3. EFFECTIVE DATE.**

5 The amendments made by—

6 (1) section 2(a) shall apply to health insurance  
7 coverage offered, sold, issued, renewed, in effect, or  
8 operated in the individual market on the date that  
9 is 6 months after the date of enactment of the Act;  
10 and

11 (2) section 2(b) shall apply with respect to a  
12 State that adopted an alternative mechanism under  
13 section 2744 of the Public Health Service Act (42  
14 U.S.C. 300gg-44) on the date that is 1 year after  
15 the date of enactment of this Act.

○