

111TH CONGRESS  
1ST SESSION

# H. R. 3681

To provide for minimum loss ratios for health insurance coverage.

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## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 30, 2009

Mr. ELLISON (for himself and Mr. TIERNEY) introduced the following bill;  
which was referred to the Committee on Energy and Commerce

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## A BILL

To provide for minimum loss ratios for 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 “Fairness in Health  
5       Insurance Act of 2009”.

6       **SEC. 2. REQUIREMENT OF MINIMUM LOSS RATIO OF 90**  
7                       **PERCENT FOR HEALTH INSURANCE COV-**  
8                       **ERAGE.**

9       (a) IN GENERAL.—A health insurance issuer shall  
10      not offer health insurance coverage unless the issuer dem-

1 onstrates that such coverage has a medical loss ratio of  
2 at least 90 percent.

3 (b) MEDICAL LOSS RATIO.—

4 (1) IN GENERAL.—In this section, the term  
5 “medical loss ratio” has the meaning given such  
6 term by the Secretary of Health and Human Serv-  
7 ices. The Secretary shall establish a uniform defini-  
8 tion of medical loss ratio and methodology for deter-  
9 mining how to calculate the medical loss ratio. Such  
10 methodology shall take into account the cir-  
11 cumstances of different plans and activities related  
12 to health services such as chronic disease manage-  
13 ment and quality assurance.

14 (2) REPORT.—Not later than December 31,  
15 2010, the Secretary of Health and Human Services  
16 shall publish a report that describes the definition  
17 developed under paragraph (1) and the elements  
18 with respect to such definition.

19 (c) TRANSPARENCY.—

20 (1) SUBMISSION OF DATA.—Beginning in plan  
21 year 2011, a health insurance issuer shall provide  
22 the Secretary of Health and Human Services with  
23 data to enable the Secretary to determine whether  
24 the issuer is in compliance with subsection (a) with

1       respect to health insurance coverage offered by such  
2       issuer.

3               (2) DEVELOPMENT OF ELEMENTS AND DEFINI-  
4       TIONS.—Not later than December 31, 2010, the  
5       Secretary of Health and Human Services shall de-  
6       velop, publish in a report, and implement the stand-  
7       ardized data elements and definitions to be used by  
8       health insurance issuers in the reporting of data  
9       necessary for the calculation of the medical loss ratio  
10      under paragraph (1).

11      (d) REBATES.—Each health insurance issuer that of-  
12     fers health insurance coverage shall provide that for any  
13     plan year in which the coverage has a medical loss ratio  
14     below 90 percent, the issuer shall provide, in a manner  
15     specified by the Secretary, for rebates to enrollees of pay-  
16     ments sufficient with respect to such loss ratio.

17      (e) ENFORCEMENT.—The Secretary shall promulgate  
18     regulations for enforcing the provisions of this section and  
19     may provide for appropriate penalties.

20      (f) DEFINITION.—In this section, the terms “health  
21     insurance coverage” and “health insurance issuer” shall  
22     have the meanings given such terms in section 2791 of  
23     the Public Health Service Act (42 U.S.C. 300gg–91).

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