

112TH CONGRESS
1ST SESSION

S. 137

To amend the Public Health Service Act to provide protections for consumers against excessive, unjustified, or unfairly discriminatory increases in premium rates.

IN THE SENATE OF THE UNITED STATES

JANUARY 25 (legislative day, JANUARY 5), 2011

Mr. REID (for Mrs. FEINSTEIN (for herself, Mr. INOUE, Mrs. BOXER, Mr. SANDERS, Mr. WHITEHOUSE, Mr. CASEY, and Mr. LAUTENBERG) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To amend the Public Health Service Act to provide protections for consumers against excessive, unjustified, or unfairly discriminatory increases in premium rates.

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 “Health Insurance Rate
5 Review Act”.

1 **SEC. 2. PROTECTION OF CONSUMERS FROM EXCESSIVE,**
 2 **UNJUSTIFIED, OR UNFAIRLY DISCRIMINA-**
 3 **TORY RATES.**

4 (a) PROTECTION FROM EXCESSIVE, UNJUSTIFIED,
 5 OR UNFAIRLY DISCRIMINATORY RATES.—The first sec-
 6 tion 2794 of the Public Health Service Act (42 U.S.C.
 7 300gg–94), as added by section 1003 of the Patient Pro-
 8 tection and Affordable Care Act (Public Law 111–148),
 9 is amended by adding at the end the following new sub-
 10 section:

11 “(e) PROTECTION FROM EXCESSIVE, UNJUSTIFIED,
 12 OR UNFAIRLY DISCRIMINATORY RATES.—

13 “(1) AUTHORITY OF STATES.—Nothing in this
 14 section shall be construed to prohibit a State from
 15 imposing requirements (including requirements re-
 16 lating to rate review standards and procedures and
 17 information reporting) on health insurance issuers
 18 with respect to rates that are in addition to the re-
 19 quirements of this section and are more protective of
 20 consumers than such requirements.

21 “(2) CONSULTATION IN RATE REVIEW PROC-
 22 ESS.—In carrying out this section, the Secretary
 23 shall consult with the National Association of Insur-
 24 ance Commissioners and consumer groups.

25 “(3) DETERMINATION OF WHO CONDUCTS RE-
 26 VIEWS FOR EACH STATE.—The Secretary shall de-

1 terminate, after the date of enactment of this section
2 and periodically thereafter, the following:

3 “(A) In which States the State insurance
4 commissioner or relevant State regulator shall
5 undertake the corrective actions under para-
6 graph (4), as a condition of the State receiving
7 the grant in subsection (c), based on the Sec-
8 retary’s determination that the State is ade-
9 quately prepared to undertake and is ade-
10 quately undertaking such actions.

11 “(B) In which States the Secretary shall
12 undertake the corrective actions under para-
13 graph (4), in cooperation with the relevant
14 State insurance commissioner or State regu-
15 lator, based on the Secretary’s determination
16 that the State is not adequately prepared to un-
17 dertake or is not adequately undertaking such
18 actions.

19 “(4) CORRECTIVE ACTION FOR EXCESSIVE, UN-
20 JUSTIFIED, OR UNFAIRLY DISCRIMINATORY
21 RATES.—In accordance with the process established
22 under this section, the Secretary or the relevant
23 State insurance commissioner or State regulator
24 shall take corrective actions to ensure that any ex-
25 cessive, unjustified, or unfairly discriminatory rates

1 are corrected prior to implementation, or as soon as
 2 possible thereafter, through mechanisms such as—

3 “(A) denying rates;

4 “(B) modifying rates; or

5 “(C) requiring rebates to consumers.”.

6 (b) CLARIFICATION OF REGULATORY AUTHORITY.—

7 Such section is further amended—

8 (1) in subsection (a)—

9 (A) in the heading, by striking “PRE-
 10 MIUM” and inserting “RATE”;

11 (B) in paragraph (1), by striking “unrea-
 12 sonable increases in premiums” and inserting
 13 “potentially excessive, unjustified, or unfairly
 14 discriminatory rates, including premiums,”; and

15 (C) in paragraph (2)—

16 (i) by striking “an unreasonable pre-
 17 mium increase” and inserting “a poten-
 18 tially excessive, unjustified, or unfairly dis-
 19 criminatory rate”;

20 (ii) by striking “the increase” and in-
 21 serting “the rate”; and

22 (iii) by striking “such increases” and
 23 inserting “such rates”;

24 (2) in subsection (b)—

1 (A) by striking “premium increases” each
2 place it appears and inserting “rates”; and

3 (B) in paragraph (2)(B), by striking “pre-
4 mium” and inserting “rate”; and
5 (3) in subsection (c)(1)—

6 (A) in the heading, by striking “PRE-
7 MIUM” and inserting “RATE”;

8 (B) by inserting “that satisfy the condition
9 under subsection (e)(3)(A)” after “award
10 grants to States”; and

11 (C) in subparagraph (A), by striking “pre-
12 mium increases” and inserting “rates”.

13 (c) CONFORMING AMENDMENT.—Title XXVII of the
14 Public Health Service Act (42 U.S.C. 300gg et seq.) is
15 amended—

16 (1) in section 2723 (42 U.S.C. 300gg–22), as
17 redesignated by the Patient Protection and Afford-
18 able Care Act—

19 (A) in subsection (a)—

20 (i) in paragraph (1), by inserting
21 “and section 2794” after “this part”; and

22 (ii) in paragraph (2), by inserting “or
23 section 2794” after “this part”; and

24 (B) in subsection (b)—

1 (i) in paragraph (1), by inserting
2 “and section 2794” after “this part”; and

3 (ii) in paragraph (2)—

4 (I) in subparagraph (A), by in-
5 serting “or section 2794 that is” after
6 “this part”; and

7 (II) in subparagraph (C)(ii), by
8 inserting “or section 2794” after
9 “this part”; and

10 (2) in section 2761 (42 U.S.C. 300gg-61)—

11 (A) in subsection (a)—

12 (i) in paragraph (1), by inserting
13 “and section 2794” after “this part”; and

14 (ii) in paragraph (2)—

15 (I) by inserting “or section
16 2794” after “set forth in this part”;
17 and

18 (II) by inserting “and section
19 2794” after “the requirements of this
20 part”; and

21 (B) in subsection (b)—

22 (i) by inserting “and section 2794”
23 after “this part”; and

24 (ii) by inserting “and section 2794”
25 after “part A”.

1 (d) APPLICABILITY TO GRANDFATHERED PLANS.—
2 Section 1251(a)(4)(A) of the Patient Protection and Af-
3 fordable Care Act (Public Law 111–148), as added by sec-
4 tion 2301 of the Health Care and Education Reconcili-
5 ation Act of 2010 (Public Law 111–152), is amended by
6 adding at the end the following:

7 “(v) Section 2794 (relating to reason-
8 ableness of rates with respect to health in-
9 surance coverage).”.

10 (e) EFFECTIVE DATE.—The amendments made by
11 this section shall take effect on the date of enactment of
12 this Act.

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