

113TH CONGRESS
2D SESSION

H. R. 4414

IN THE SENATE OF THE UNITED STATES

APRIL 30, 2014

Received

AN ACT

To clarify the treatment under the Patient Protection and Affordable Care Act of health plans in which expatriates are the primary enrollees, and for other purposes.

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

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Expatriate Health Cov-
3 erage Clarification Act of 2014”.

4 **SEC. 2. TREATMENT OF EXPATRIATE HEALTH PLANS**
5 **UNDER ACA.**

6 (a) IN GENERAL.—Subject to subsection (b), the pro-
7 visions of (including any amendment made by) the Patient
8 Protection and Affordable Care Act (Public Law 111–
9 148) and of title I and subtitle B of title II of the Health
10 Care and Education Reconciliation Act of 2010 (Public
11 Law 111–152) shall not apply with respect to—

12 (1) expatriate health plans;

13 (2) employers with respect to any such plans
14 for which such employers are acting as plan spon-
15 sors; or

16 (3) expatriate health insurance issuers with re-
17 spect to coverage offered by such issuers under such
18 plans.

19 (b) MINIMUM ESSENTIAL COVERAGE AND ELIGIBLE
20 EMPLOYER-SPONSORED PLAN.—For purposes of section
21 5000A(f) of the Internal Revenue Code of 1986, and any
22 other section of the Internal Revenue Code of 1986 that
23 incorporates the definition of minimum essential coverage
24 provided under such section 5000A(f) by reference, cov-
25 erage under an expatriate health plan shall be deemed to
26 be minimum essential coverage under an eligible employer-

1 sponsored plan as defined in paragraph (2) of such sec-
2 tion.

3 (c) QUALIFIED EXPATRIATES AND DEPENDENTS
4 NOT UNITED STATES HEALTH RISK.—

5 (1) IN GENERAL.—For purposes of section
6 9010 of the Patient Protection and Affordable Care
7 Act (26 U.S.C. 4001 note prec.), for calendar years
8 after 2014, a qualified expatriate (and any depend-
9 ent of such individual) enrolled in an expatriate
10 health plan shall not be considered a United States
11 health risk.

12 (2) SPECIAL RULE FOR 2014.—The fee under
13 section 9010 of such Act for calendar year 2014
14 with respect to any expatriate health insurance
15 issuer shall be the amount which bears the same
16 ratio to the fee amount determined by the Secretary
17 of the Treasury with respect to such issuer under
18 such section for such year (determined without re-
19 gard to this paragraph) as—

20 (A) the amount of premiums taken into ac-
21 count under such section with respect to such
22 issuer for such year, less the amount of pre-
23 miums for expatriate health plans taken into
24 account under such section with respect to such
25 issuer for such year, bears to

1 (B) the amount of premiums taken into ac-
2 count under such section with respect to such
3 issuer for such year.

4 (d) DEFINITIONS.—In this section:

5 (1) EXPATRIATE HEALTH INSURANCE
6 ISSUER.—The term “expatriate health insurance
7 issuer” means a health insurance issuer that issues
8 expatriate health plans.

9 (2) EXPATRIATE HEALTH PLAN.—The term
10 “expatriate health plan” means a group health plan,
11 health insurance coverage offered in connection with
12 a group health plan, or health insurance coverage of-
13 fered to a group of individuals described in para-
14 graph (3)(B) (which may include dependents of such
15 individuals) that meets each of the following stand-
16 ards:

17 (A) Substantially all of the primary enroll-
18 ees in such plan or coverage are qualified expa-
19 triates, with respect to such plan or coverage.
20 In applying the previous sentence, an individual
21 shall not be taken into account as a primary en-
22 rollee if the individual is not a national of the
23 United States and resides in the country of
24 which the individual is a citizen.

1 (B) Substantially all of the benefits pro-
2 vided under the plan or coverage are not ex-
3 cepted benefits described in section 9832(c) of
4 the Internal Revenue Code of 1986.

5 (C) The plan or coverage provides benefits
6 for items and services, in excess of emergency
7 care, furnished by health care providers—

8 (i) in the case of individuals described
9 in paragraph (3)(A), in the country or
10 countries in which the individual is present
11 in connection with the individual's employ-
12 ment, and such other country or countries
13 as the Secretary of Health and Human
14 Services, in consultation with the Secretary
15 of the Treasury and the Secretary of
16 Labor, may designate; or

17 (ii) in the case of individuals described
18 in paragraph (3)(B), in the country or
19 countries as the Secretary of Health and
20 Human Services, in consultation with the
21 Secretary of the Treasury and the Sec-
22 retary of Labor, may designate.

23 (D) In the case of an expatriate health
24 plan that is a group health plan offered by a
25 plan sponsor that—

1 (i) also offers a qualifying minimum
2 value domestic group health plan, the plan
3 sponsor reasonably believes that the bene-
4 fits provided by the expatriate health plan
5 are actuarially similar to, or better than,
6 the benefits provided under a qualifying
7 minimum value domestic group health plan
8 offered by that plan sponsor; or

9 (ii) does not also offer a qualifying
10 minimum value domestic group health
11 plan, the plan sponsor reasonably believes
12 that the benefits provided by the expatriate
13 health plan are actuarially similar to, or
14 better than, the benefits provided under a
15 qualifying minimum value domestic group
16 health plan.

17 (E) If the plan or coverage provides de-
18 pendent coverage of children, the plan or cov-
19 erage makes such dependent coverage available
20 for adult children until the adult child turns 26
21 years of age, unless such individual is the child
22 of a child receiving dependent coverage.

23 (F) The plan or coverage—

24 (i) is issued by an expatriate health
25 plan issuer, or administered by an adminis-

1 trator, that maintains, with respect to such
2 plan or coverage—

3 (I) network provider agreements
4 with health care providers that are
5 outside of the United States; and

6 (II) call centers in more than one
7 country and accepts calls from cus-
8 tomers in multiple languages; and

9 (ii) offers reimbursements for items or
10 services under such plan or coverage in
11 more than two currencies.

12 (G) The plan or coverage, and the plan
13 sponsor or expatriate health insurance issuer
14 with respect to such plan or coverage, satisfies
15 the provisions of title XXVII of the Public
16 Health Service Act (42 U.S.C. 300gg et seq.),
17 chapter 100 of the Internal Revenue Code of
18 1986, and part 7 of subtitle B of title I of the
19 Employee Retirement Income Security Act of
20 1974 (29 U.S.C. 1181 et seq.), which would
21 otherwise apply to such a plan or coverage, and
22 sponsor or issuer, if not for the enactment of
23 the Patient Protection and Affordable Care Act
24 and title I and subtitle B of title II of the

1 Health Care and Education Reconciliation Act
2 of 2010.

3 (3) QUALIFIED EXPATRIATE.—The term “quali-
4 fied expatriate” means any of the following individ-
5 uals:

6 (A) WORKERS.—An individual who is a
7 participant in a group health plan, who is an
8 alien residing outside the United States, a na-
9 tional of the United States, lawful permanent
10 resident, or nonimmigrant for whom there is a
11 good faith expectation by the plan sponsor of
12 the plan that, in connection with the individ-
13 ual’s employment, the individual is abroad for a
14 total of not less than 180 days during any pe-
15 riod of 12 consecutive months.

16 (B) OTHER INDIVIDUALS ABROAD.—An in-
17 dividual, such as a student or religious mis-
18 sionary, who is abroad, and who is a member
19 of a group determined appropriate by the Sec-
20 retary of Health and Human Services, in con-
21 sultation with the Secretary of the Treasury
22 and the Secretary of Labor.

23 (4) QUALIFYING MINIMUM VALUE DOMESTIC
24 GROUP HEALTH PLAN.—The term “qualifying min-
25 imum value domestic group health plan” means a

1 group health plan that is offered in the United
2 States that meets the following requirements:

3 (A) Substantially all of the primary enroll-
4 ees in the plan are not qualified expatriates,
5 with respect to such plan.

6 (B) Substantially all of the benefits pro-
7 vided under the plan are not excepted benefits
8 described in section 9832(c) of the Internal
9 Revenue Code of 1986.

10 (C) The application of section
11 36B(c)(2)(C)(ii) of such Code to such plan
12 would not prevent an employee eligible for cov-
13 erage under such plan from being treated as eli-
14 gible for minimum essential coverage for pur-
15 poses of section 36B(c)(2)(B) of such Code.

16 (5) ABROAD.—

17 (A) UNITED STATES NATIONALS.—

18 (i) IN GENERAL.—Except as provided
19 in clause (ii), for purposes of applying
20 paragraph (3) to a national of the United
21 States, the term “abroad” means outside
22 the 50 States, the District of Columbia,
23 and Puerto Rico.

24 (ii) SPECIAL RULE.—For purposes of
25 applying paragraph (3) to a national of the

1 United States who resides in the United
2 States Virgin Islands, the Commonwealth
3 of the Northern Mariana Islands, Amer-
4 ican Samoa, or Guam, the term “abroad”
5 means outside of the 50 States, the Dis-
6 trict of Columbia, Puerto Rico, and such
7 territory or possession.

8 (B) FOREIGN CITIZENS.—For purposes of
9 applying paragraph (3) to an individual who is
10 not a national of the United States, the term
11 “abroad” means outside of the country of which
12 that individual is a citizen.

13 (6) UNITED STATES.—The term “United
14 States” means the 50 States, the District of Colum-
15 bia, Puerto Rico, the United States Virgin Islands,
16 the Commonwealth of the Northern Mariana Is-
17 lands, American Samoa, and Guam.

18 (7) MISCELLANEOUS TERMS.—

19 (A) GROUP HEALTH PLAN; HEALTH IN-
20 SURANCE COVERAGE; HEALTH INSURANCE
21 ISSUER; PLAN SPONSOR.—The terms “group
22 health plan”, “health insurance coverage”,
23 “health insurance issuer”, and “plan sponsor”
24 have the meanings given those terms in section
25 2791 of the Public Health Service Act (42

1 U.S.C. 300gg–91), except that in applying such
2 terms under this section the term “health in-
3 surance issuer” includes a foreign corporation
4 which is predominantly engaged in an insurance
5 business and which would be subject to tax
6 under subchapter L of chapter 1 of the Internal
7 Revenue Code of 1986 if it were a domestic cor-
8 poration.

9 (B) FOREIGN STATE; NATIONAL OF THE
10 UNITED STATES; NONIMMIGRANT; RESIDE; LAW-
11 FUL PERMANENT RESIDENT.—The terms “na-
12 tional of the United States”, and “non-
13 immigrant” have the meaning given such terms
14 in section 101(a) of the Immigration and Na-
15 tionality Act (8 U.S.C. 1101(a)), the term “re-
16 side” means having a residence (within the
17 meaning of such term in such section), and the
18 term “lawful permanent resident” means an
19 alien lawfully admitted for permanent residence
20 (as defined in such section).

Passed the House of Representatives April 29, 2014.

Attest:

KAREN L. HAAS,

Clerk.