I

113TH CONGRESS
1ST SESSION

H. R. 567

To amend the Social Security Act to replace the Medicaid program and the Children's Health Insurance program with a block grant to the States, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 6, 2013

Mr. ROKITA (for himself, Mr. LAMBORN, Mr. GARRETT, Mr. SCALISE, Mr. MULVANEY, Mr. HUELSKAMP, Mr. BROUN of Georgia, Mr. WESTMORELAND, Mr. RADEL, Mr. ROSS, Mr. POE of Texas, Mr. HOLDING, Mr. HENSARLING, Mr. DUNCAN of South Carolina, Mr. COTTON, Mr. CULBERSON, Mr. HUIZENGA of Michigan, Mrs. BLACK, Mr. BUCSHON, Mr. BISHOP of Utah, Mr. STEWART, Mr. FLEMING, Mr. PEARCE, Mr. AUSTIN SCOTT of Georgia, Mr. LAMALFA, Mr. MARCHANT, Mr. ROE of Tennessee, Mr. PALAZZO, Mrs. LUMMIS, Mrs. BLACKBURN, Mr. FLORES, Mr. GOHMERT, Mr. AMODEI, Mr. MCHENRY, and Mr. SCHWEIKERT) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committees on Ways and Means, Education and the Workforce, the Judiciary, Natural Resources, House Administration, Rules, and Appropriations, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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A BILL

To amend the Social Security Act to replace the Medicaid program and the Children's Health Insurance program with a block grant to the States, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''State Health Flexibility Act of 2013''.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

SEC. 2. HEALTH GRANTS TO THE STATES FOR HEALTH CARE SERVICES TO INDIGENT INDIVIDUALS.

(a) HEALTH CARE BLOCK GRANT TO STATES.—The Social Security Act is amended by adding at the end the following new title:

''TITLE XXII—BLOCK GRANTS TO STATES FOR HEALTH CARE SERVICES TO INDIGENT INDIVIDUALS

''SEC. 2201. PURPOSE.

''The purpose of this title is to provide Federal financial assistance to the States, in the form of a single grant, to allow the States maximum flexibility in providing, and financing the provision of, health-care-related items and services to indigent individuals.

"SEC. 2202. GRANTS TO STATES.

"(a) IN GENERAL.—Subject to the requirements of this title, each State is entitled to receive from the Secretary of the Treasury a grant for each quarter of fiscal years 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021, 2022, and 2023, in an amount that is equal to 25 percent of the total amount received by a State under title XIX and title XXI for fiscal year 2012.

"(b) APPROPRIATION.—Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated for fiscal years 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021, 2022, and 2023 such sums as are necessary for grants under this section.

"(c) REQUIREMENTS RELATING TO INTERGOVERNMENTAL FINANCING.—The Secretary of the Treasury shall make the transfer of funds under grants under subsection (a) directly to each State in accordance with the requirements of section 6503 of title 31, United States Code.

"(d) EXPENDITURE OF FUNDS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), amounts received by a State under this title for any fiscal year shall be expended by the

State in such fiscal year or in the succeeding fiscal year.

"(2) USE OF RAINY DAY FUND PERMITTED.—Of the amounts received by a State under this title, the State may set aside, in a separate account, such amounts as the State deems necessary to provide, without fiscal limitation, health-care-related items and services for indigent individuals during—

"(A) periods of unexpectedly high rates of unemployment; or

"(B) periods related to circumstances that are not described in subparagraph (A) and that cause unexpected increases in the need for such items and services for such individuals.

"(3) FUNDS REMAINING AFTER FISCAL YEAR 2022.—If, after fiscal year 2023, a State has funds in the account under paragraph (2), the State may only expend such funds if such funds are used in a manner that is permitted under subsection (e), as such subsection is in effect on September 30, 2023.

"(e) USE OF FUNDS.—A State may only use the amounts received under subsection (a) as follows:

"(1) GENERAL PURPOSE.—For the purpose under section 2201, including the provision of health-care-related items and services as required under section 2205. Nothing in this title shall be construed as limiting the flexibility of a State to determine which providers of such items and services qualify to receive payment from a grant made to the State under this title.

"(2) FUNDING FOR RISK ADJUSTMENT MECHANISMS.—To fund qualified high risk pools, reinsurance pools, or other risk-adjustment mechanisms used for the purpose of subsidizing the purchase of private health insurance for the high-risk population.

"(3) AUTHORITY TO USE PORTION OF FEDERAL ASSISTANCE FOR OTHER WELFARE-RELATED PROGRAMS.—

"(A) IN GENERAL.—Subject to the limit under subparagraph (B), to carry out a State program pursuant to any or all of the following provisions of law:

"(i) Part A of title IV of this Act.

"(ii) Section 1616 of this Act.

"(iii) The Food and Nutrition Act of 2008.

"(B) LIMITATION.—A State may not use more than 30 percent of the amount received under subsection (a) for a fiscal year to carry out a State program, or programs, under subparagraph (A).

"(C) REQUIREMENTS ON FUNDS.—Any amounts that are used under subparagraph (A)—

"(i) shall not be subject to any of the requirements of subsection (d), subsection (f), section 2204, or section 2205; and

"(ii) shall be subject to—

"(I) the audit requirements under section 2203; and

"(II) any requirements that apply to Federal funds provided directly for such State program.

"(f) MAINTENANCE OF CURRENT LAW RESTRICTIONS ON USE OF FEDERAL FUNDS.—

"(1) IN GENERAL.—

"(A) NO FUNDING FOR ABORTIONS.—None of the funds appropriated in this title shall be expended for any abortion.

"(B) NO FUNDS FOR COVERAGE OF ABORTION.—None of the funds appropriated in this title shall be expended for health benefits coverage that includes coverage of abortion.

"(C) HEALTH BENEFITS COVERAGE DEFINED.—For purposes of this subsection, the term 'health benefits coverage' means the package of services covered by a managed care provider or organization pursuant to a contract or other arrangement.

"(2) EXCEPTIONS.—The limitations established in paragraph (1) shall not apply to an abortion—

"(A) if the pregnancy is the result of an act of rape or incest; or

"(B) in the case where a woman suffers from a physical disorder, physical injury, or physical illness that would, as certified by a physician, place the woman in danger of death unless an abortion is performed, including a life-endangering physical condition caused by or arising from the pregnancy itself.

"(3) STATE FUNDS USED IN CONJUNCTION WITH FEDERAL FUNDS.—The limitations established in paragraph (1) shall apply to any State funds used in conjunction with Federal funds appropriated under this title to provide, or finance the provision of, health-care-related items and services to indigent individuals pursuant to section 2201 or subsections (d)(2), (e)(1), or (e)(2) of this section.

"(4) OPTION TO PURCHASE SEPARATE COVERAGE OR PLAN.—Nothing in this subsection shall be construed as prohibiting a State from purchasing separate coverage for abortions for which funding is prohibited under this subsection, or a health plan that includes such abortions, so long as such coverage or plan is paid for entirely using funds not provided by this title.

"(5) OPTION TO OFFER COVERAGE OR PLAN.—Nothing in this subsection shall restrict any health insurance issuer from offering separate coverage for abortions for which funding is prohibited under this subsection, or a health plan that includes such abortions, so long as—

"(A) premiums for such separate coverage or plan are paid entirely with funds not provided by this title; and

"(B) administrative costs and all services offered through such separate coverage or plan are paid for using only premiums collected for such coverage or plan.

"(6) CONSCIENCE PROTECTIONS.—

"(A) None of the funds appropriated in this Act may be made available to a Federal agency or program, or to a State or local government, if such agency, program, or government subjects any institutional or individual health care entity to discrimination on the basis that the health care entity does not provide, pay for, provide coverage of, or refer for abortions.

"(B) In this paragraph, the term 'health care entity' includes an individual physician or other health care professional, a hospital, a provider-sponsored organization, a health maintenance organization, a health insurance plan, or any other kind of health care facility, organization, or plan.

"(g) NO FUNDING FOR ILLEGAL ALIENS.—Except as provided under this section and section 2205, no funds appropriated in this title may be used to provide health-care-related items and services to an alien who is not lawfully admitted for permanent residence or otherwise permanently residing in the United States under color of law.

"(h) NONENTITLEMENT.—Nothing in this title shall be construed as providing an individual with an entitlement to health-care-related items and services under this title.

"SEC. 2203. ADMINISTRATIVE AND FISCAL ACCOUNTABILITY.

"(a) AUDITS.—

"(1) CONTRACT WITH APPROVED AUDITING ENTITY.—Not later than October 1, 2014, and annually thereafter, a State shall contract with an approved auditing entity (as defined under paragraph (3)(B)) for purposes of conducting an audit under paragraph (2) (with respect to the fiscal year ending September 30 of such year).

"(2) AUDIT REQUIREMENT.—Under a contract under paragraph (1), an approved auditing entity shall conduct an audit of the expenditures or transfers made by a State from amounts received under a grant under this title, or from State funds described in section 2202(f)(3), with respect to the fiscal year which such audit covers, to determine the extent to which such expenditures and transfers were expended in accordance with this title.

"(3) ENTITY CONDUCTING AUDIT.—

"(A) IN GENERAL.—With respect to a State, the audit under paragraph (2) shall be conducted by an approved auditing entity in accordance with generally accepted auditing principles.

"(B) APPROVED AUDITING ENTITY.—For purposes of this section, the term 'approved auditing entity' means, with respect to a State, an entity that is—

"(i) approved by the Secretary of the Treasury;

"(ii) approved by the chief executive officer of the State; and

"(iii) independent of any Federal, State, or local agency.

"(4) SUBMISSION OF AUDIT.—Not later than December 31, 2014, and annually thereafter, a State shall submit the results of the audit under paragraph (2) (with respect to the fiscal year ending on September 30 of such year) to the State legislature and to the Secretary of the Treasury.

"(5) ADDITIONAL ACCOUNTING REQUIREMENTS.—The provisions of chapter 75 of title 31, United States Code, shall apply to the audit requirements of this section.

"(b) REIMBURSEMENT AND PENALTY.—

"(1) IN GENERAL.—If, through an audit conducted under subsection (a), an approved auditing entity finds that any amounts paid to a State under a grant under this title were not expended in accordance with this title—

"(A) the State shall pay to the Treasury of the United States any such amount, plus 10 percent of such amount as a penalty; or

"(B) the Secretary of the Treasury shall offset such amount plus the 10 percent penalty against any other amount in any other fiscal year that the State may be entitled to receive under a grant under this title.

"(2) MISUSE OF STATE FUNDS.—If, through an audit conducted under subsection (a), an approved auditing entity finds that a State violated the requirements of section 2202(f)(3), the State shall pay to the Treasury of the United States 100 percent of the amount of State funds that were used in violation of section 2202(f)(3) as a penalty. Insofar as a State fails to pay any such penalty, the Secretary of the Treasury shall offset the amount not so paid against the amount of any grant otherwise payable to the State under this title.

"(c) ANNUAL REPORTING REQUIREMENTS.—

"(1) IN GENERAL.—Not later than January 31, 2015, and annually thereafter, each State shall submit to the Secretary of the Treasury and the State legislature a report on the activities carried out by the State during the most recently completed fiscal year with funds received by the State under a grant under this title for such fiscal year.

"(2) CONTENT.—A report under paragraph (1) shall, with respect to a fiscal year—

"(A) contain the results of the audit conducted by an approved auditing entity for a State for such fiscal year, in accordance with the requirements of subsection (a) of this section;

"(B) specify the amount of the grant made to the State under this title that is used to carry out a program under section 2202(e)(3); and

"(C) be in such form and contain such other information as the State determines is necessary to provide—

"(i) an accurate description of the activities conducted by the State for the purpose described under section 2201 and any other use of funds permitted under subsections (d) and (e) of section 2202; and

"(ii) a complete record of the purposes for which amounts were expended in accordance with this title.

"(3) CONFORMITY WITH ACCOUNTING PRINCIPALS.—Any financial information in the report under paragraph (1) shall be prepared and reported in accordance with generally accepted accounting principles, including the provisions of chapter 75 of title 31, United States Code.

"(4) PUBLIC AVAILABILITY.—A State shall make copies of the reports required under this section available on a public Web site and shall make copies available in other formats upon request.

"(d) FAILURE TO COMPLY WITH REQUIREMENTS.—The Secretary of the Treasury shall not make any payment to a State under a grant authorized by section 2202(a)—

"(1) if an audit for a State is not submitted as required under subsection (a), during the period between the date such audit is due and the date on which such audit is submitted;

"(2) if a State fails to submit a report as required under subsection (c), during the period between the date such report is due and the date on which such report is submitted; or

"(3) if a State violates a requirement of section 2202(f), during the period beginning on the date the Secretary becomes aware of such violation and the date on which such violation is corrected by the State.

"(e) ADMINISTRATIVE SUPERVISION AND OVERSIGHT.—

"(1) LIMITED ROLE FOR SECRETARY OF TREASURY AND THE ATTORNEY GENERAL.—

"(A) TREASURY.—The authority of the Secretary of the Treasury under this title is limited to—

"(i) promulgating regulations, issuing rules, or publishing guidance documents to the extent necessary for purposes of implementing subsection (a)(3)(B), subsection (b), and subsection (d);

"(ii) making quarterly payments to the States under grants under this title in accordance with section 2202(a);

"(iii) approving entities under subsection (a)(3)(B) for purposes of the audits required under subsection (a);

"(iv) withholding payment to a State of a grant under subsection (d) or offsetting a payment of such a grant to a State under subsection (b); and "(v) exercising the authority relating to nondiscrimination that is specified in section 2204(b).

"(B) ATTORNEY GENERAL.—The authority of the Attorney General to supervise the amounts received by a State under this title is limited to the authority under section 2204(c).

"(2) FEDERAL SUPERVISION.—

"(A) IN GENERAL.—Except as provided under paragraph (1), an administrative officer, employee, department, or agency of the United States (including the Secretary of Health and Human Services) may not—

"(i) supervise—

"(I) the amounts received by the States under this title; or

"(II) the use of such amounts by the States; or

"(ii) promulgate regulations or issue rules in accordance with this title.

"(B) LIMITATION ON SECRETARY OF HEALTH AND HUMAN SERVICES.—The Secretary of Health and Human Services shall have no authority over any provision of this title.

"(f) RESERVATION OF STATE POWERS.—Nothing in this section shall be construed to limit the power of a State, including the power of a State to pursue civil and criminal penalties under State law against any individual or entity that misuses, or engages in fraud or abuse related to, the funds provided to a State under this title.

"SEC. 2204. NONDISCRIMINATION PROVISIONS.

"(a) NO DISCRIMINATION AGAINST INDIVIDUALS.—No individual shall be excluded from participation in, denied the benefits of, or subjected to discrimination under, any program or activity funded in whole or in part with amounts paid to a State under this title on the basis of such individual's—

"(1) disability under section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794);

"(2) sex under title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.); or

"(3) race, color, or national origin under title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.).

"(b) COMPLIANCE.—

"(1) If the Secretary of the Treasury determines that a State or an entity that has received funds from amounts paid to a State under a grant under this title has failed to comply with a provision of law referred to in subsection (a), the Secretary of the Treasury shall notify the chief executive officer of the State of such failure to comply and shall request that such chief executive officer secure such compliance.

"(2) If, not later than 60 days after receiving notification under paragraph (1), the chief executive officer of a State fails or refuses to secure compliance with the provision of law referred to in such notification, the Secretary of the Treasury may—

"(A) refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted; or

"(B) exercise the powers and functions provided under section 505 of the Rehabilitation Act of 1973 (29 U.S.C. 794a), title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.), or title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) (as applicable).

"(c) CIVIL ACTIONS.—If a matter is referred to the Attorney General under subsection (b)(2)(A), or the Attorney General has reason to believe that a State or entity has failed to comply with a provision of law referred to in subsection (a), the Attorney General may bring a civil action in an appropriate district court of the United States for such relief as may be appropriate, including injunctive relief.

"SEC. 2205. EMERGENCY ASSISTANCE.

"(a) IN GENERAL.—A State that receives a grant under this title for a fiscal year shall provide payment for health-care-related items and services provided to a citizen, legal resident, or an alien who is not lawfully admitted for permanent residence or otherwise permanently residing in the United States under color of law, consistent with the requirements of section 1867, if—

"(1) such health-care-related items and services are—

"(A) necessary for the treatment of an emergency medical condition; and

"(B) health-care-related items and services that such State would provide payment for under this title, if provided to an indigent individual;

"(2) the individual meets all necessary eligibility requirements for health-care-related items and services under the State program funded under this title, except for any requirement related to immigration status; and

"(3) such items and services are not related to an organ transplant procedure.

"(b) EMERGENCY MEDICAL CONDITION.—For purposes of this section, the term 'emergency medical condition' means a medical condition (including emergency labor and delivery) manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in—

"(1) placing the patient's health in serious jeopardy;

"(2) serious impairment to bodily functions; or

"(3) serious dysfunction of any bodily organ or part.

"SEC. 2206. DEFINITIONS.

"For purposes of this title:

"(1) HEALTH-CARE-RELATED ITEMS AND SERVICES.—The term 'health-care-related items and services' shall be defined by a State with respect to use of such term for purposes of the application of this title to the State.

"(2) HIGH-RISK POPULATION.—The term 'high-risk population' means individuals who are described in one of the following subparagraphs:

"(A) Individuals who, by reason of the existence or history of a medical condition, are able to acquire health coverage only at rates which are at least 150 percent of the standard risk rates for such coverage.

"(B) Individuals who are provided health coverage by a qualified high risk pool.

"(3) INDIGENT INDIVIDUAL.—The term 'indigent individual' shall be defined by a State with respect to use of such term for purposes of the application of this title to the State.

"(4) QUALIFIED HIGH RISK POOL.—The term 'qualified high risk pool' has the meaning given such term in section 2745(g)(1)(A) of the Public Health Service Act.

"(5) RISK-ADJUSTMENT MECHANISM DEFINED.—For purposes of this section, the term 'risk-adjustment mechanism' means any risk-spreading mechanism to subsidize the purchase of private health insurance for the high-risk population, including a qualified high risk pool.".

(b) REPORT ON REDUCTION OF FEDERAL ADMINISTRATIVE EXPENDITURES.—Beginning not later than October 31, 2014, and annually thereafter until October 31, 2023, the Secretary of Health and Human Services, in consultation with the Secretary of the Treasury, shall submit a report to the Committee on Energy and Commerce in the House of Representatives and the Finance Committee in the Senate containing a description of the total reduction in Federal expenditures required to administer and provide oversight for the programs to provide health-care-related items and services to indigent individuals under this Act, compared to the expenditures required to administer and provide oversight for the programs under titles XIX and XXI of the Social Security Act, as in effect on September 30, 2012.

(c) STATE DEFINED.—Section 1101(a)(1) of the Social Security Act (42 U.S.C. 1301(a)(1)) is amended—

(1) in the first sentence, by striking ''and XXI'' and inserting ''XXI, and XXII''; and

(2) in the fourth sentence, by striking ''and XXI'' and inserting '', XXI, and XXII''.

SEC. 3. REPEAL OF PPACA, HCERA, AND THE FEDERAL REQUIREMENTS OF MEDICAID AND CHIP.

(a) PPACA.—The Patient Protection and Affordable Care Act (Public Law 111–148) is repealed, and the provisions of law amended or repealed by such Act are restored or revived as if such Act had not been enacted.

(b) HCERA.—Title I and subtitle B of title II of the Health Care and Education Reconciliation Act of 2010

(Public Law 111–152) are repealed, and the provisions of law amended or repealed by such title or subtitle, respectively, are restored or revived as if such title and subtitle had not been enacted.

(c) MEDICAID AND CHIP.—Titles XIX and XXI of the Social Security Act are repealed.

SEC. 4. SEVERABILITY.

If any provision of this Act, or the application of such provision to any person or circumstance, is found to be unconstitutional, the remainder of this Act, or the application of that provision to other persons or circumstances, shall not be affected.

SEC. 5. EFFECTIVE DATE.

This Act and the amendments made by this Act shall take effect with respect to items and services furnished on or after October 1, 2013.

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