

114TH CONGRESS
2D SESSION

S. 3481

To address payment for claims relating to certain provisions of the Patient Protection and Affordable Care Act.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 17, 2016

Mr. SASSE (for himself, Mr. RUBIO, Mr. BARRASSO, and Mr. LEE) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To address payment for claims relating to certain provisions of the Patient Protection and Affordable Care Act.

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 “HHS Slush Fund
5 Elimination Act”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

8 (1) Congress, as demonstrated in the Consoli-
9 dated and Further Continuing Appropriations Act,
10 2015 (Public Law 113–235; 128 Stat. 2130) and

1 the Consolidated Appropriations Act, 2016 (Public
2 Law 114–113; 129 Stat. 2242), does not support
3 the use of taxpayer funding for payments made
4 under the risk corridor program under section 1342
5 of the Patient Protection and Affordable Care Act
6 (42 U.S.C. 18062);

7 (2) on September 9, 2016, the Department of
8 Health and Human Services issued a memo that en-
9 couraged the settlement of civil actions relating to
10 the risk corridor program;

11 (3) a 1998 legal opinion from the Office of
12 Legal Counsel states “The Judgment Fund does not
13 become available simply because an agency may have
14 insufficient funds at a particular time to pay a judg-
15 ment”;

16 (4) the Congressional Research Service has con-
17 cluded that “the Judgment Fund would not appear
18 to be available to pay for such judgments under cur-
19 rent law”; and

20 (5) Congress wants to prohibit the Department
21 of Health and Human Services from illegally paying
22 claims or settlements, specifically through the Judg-
23 ment Fund, to insurers for the risk corridor pro-
24 gram.

1 **SEC. 3. JUDGMENTS, AWARDS, AND COMPROMISE SETTLE-**
2 **MENTS.**

3 (a) DEFINITION.—In this section, the term “covered
4 provision” means section 1341 or 1342 of the Patient Pro-
5 tection and Affordable Care Act (42 U.S.C. 18061 and
6 18062).

7 (b) PAYMENTS.—Notwithstanding section 1304 of
8 title 31, United States Code, or any other provision of
9 law—

10 (1) except as provided in paragraph (2), no
11 Federal funds, including amounts appropriated
12 under such section 1304, may be used to pay any
13 final judgment, award, or compromise settlement re-
14 lating to a covered provision (including interest and
15 costs); and

16 (2) amounts owed by the United States Govern-
17 ment for a final judgment, award, or compromise
18 settlement relating to a covered provision (including
19 interest and costs) shall be paid from amounts ap-
20 propriated to the Secretary of Health and Human
21 Services under section 1342(b)(2) of the Patient
22 Protection and Affordable Care Act (42 U.S.C.
23 18062(b)(2)).

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