

115TH CONGRESS  
1ST SESSION

# H. R. 3450

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

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## IN THE HOUSE OF REPRESENTATIVES

JULY 27, 2017

Ms. SCHAKOWSKY (for herself, Mr. DEUTCH, Ms. NORTON, Mr. GRIJALVA, Mr. POCAN, and Ms. MICHELLE LUJAN GRISHAM of New Mexico) introduced the following bill; which was referred to the Committee on Energy and Commerce

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## 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 “Protecting Consumers  
5       from Unreasonable Rates 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        termine, after the date of enactment of this section  
2        and periodically thereafter, the following:

3                “(A) In which markets in each State the  
4                State insurance commissioner or relevant State  
5                regulator shall undertake the corrective actions  
6                under paragraph (4), based on the Secretary’s  
7                determination that the State regulator is ade-  
8                quately undertaking and utilizing such actions  
9                in that market.

10              “(B) In which markets in each State the  
11              Secretary shall undertake the corrective actions  
12              under paragraph (4), in cooperation with the  
13              relevant State insurance commissioner or State  
14              regulator, based on the Secretary’s determina-  
15              tion that the State is not adequately under-  
16              taking and utilizing such actions in that mar-  
17              ket.

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

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

“(A) denying rates;

“(B) modifying rates; or

“(C) requiring rebates to consumers.

“(5) NONCOMPLIANCE.—Failure to comply with any corrective action taken by the Secretary under this subsection may result in the application of civil monetary penalties under section 2723 and, if the Secretary determines appropriate, make the plan involved ineligible for classification as a qualified health plan.”.

(b) CLARIFICATION OF REGULATORY AUTHORITY.—

Such section is further amended—

(1) in subsection (a)—

(A) in the heading, by striking “PREMIUM” and inserting “RATE”;

(B) in paragraph (1), by striking “unreasonable increases in premiums” and inserting “potentially excessive, unjustified, or unfairly discriminatory rates, including premiums,”; and

(C) in paragraph (2)—

(i) by striking “an unreasonable premium increase” and inserting “a poten-

1 tially excessive, unjustified, or unfairly dis-  
 2 criminatory rate”;

3 (ii) by striking “the increase” and in-  
 4 serting “the rate”; and

5 (iii) by striking “such increases” and  
 6 inserting “such rates”; and

7 (2) in subsection (b)—

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

10 (B) in paragraph (2)(B), by striking “pre-  
 11 mium” and inserting “rate”.

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

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

18 (A) in subsection (a)—

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

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

23 (B) in subsection (b)—

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

1 (ii) in paragraph (2)—

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

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

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

9 (A) in subsection (a)—

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

12 (ii) in paragraph (2)—

13 (I) by inserting “or section  
 14 2794” after “set forth in this part”;  
 15 and

16 (II) by inserting “and section  
 17 2794” after “the requirements of this  
 18 part”; and

19 (B) in subsection (b)—

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

22 (ii) by inserting “and section 2794”  
 23 after “part A”.

24 (d) APPLICABILITY TO GRANDFATHERED PLANS.—

25 Section 1251(a)(4)(A) of the Patient Protection and Af-

1    affordable Care Act (Public Law 111–148), as added by sec-  
2    tion 2301 of the Health Care and Education Reconcili-  
3    ation Act of 2010 (Public Law 111–152), is amended by  
4    adding at the end the following:

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

8           (e) AUTHORIZATION OF APPROPRIATIONS.—There  
9    are authorized to be appropriated to carry out this Act,  
10 such sums as may be necessary.

11          (f) EFFECTIVE DATE.—The amendments made by  
12 this section shall take effect on the date of enactment of  
13 this Act and shall be implemented with respect to health  
14 plans beginning not later than January 1, 2018.

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