

115TH CONGRESS
1ST SESSION

S. 1667

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

JULY 27, 2017

Mrs. FEINSTEIN (for herself and Ms. DUCKWORTH) 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 “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 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 2794 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 potentially excessive, unjustified, or unfairly discriminatory rate”;

1 (ii) by striking “the increase” and in-
 2 serting “the rate”; and

3 (iii) by striking “such increases” and
 4 inserting “such rates”; and

5 (2) in subsection (b)—

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

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

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

13 (1) in section 2723 (42 U.S.C. 300gg–22)—

14 (A) in subsection (a)—

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

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

19 (B) in subsection (b)—

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

22 (ii) in paragraph (2)—

23 (I) in subparagraph (A), by in-
 24 serting “or section 2794 that is” after

25 “this part”; and

1 (II) in subparagraph (C)(ii), by
 2 inserting “or section 2794” after
 3 “this part”; and

4 (2) in section 2761 (42 U.S.C. 300gg–61)—

5 (A) in subsection (a)—

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

8 (ii) in paragraph (2)—

9 (I) by inserting “or section
 10 2794” after “set forth in this part”;
 11 and

12 (II) by inserting “and section
 13 2794” after “the requirements of this
 14 part”; and

15 (B) in subsection (b)—

16 (i) by inserting “and section 2794”
 17 after “this part”; and

18 (ii) by inserting “and section 2794”
 19 after “part A”.

20 (d) APPLICABILITY TO GRANDFATHERED PLANS.—

21 Section 1251(a)(4)(A) of the Patient Protection and Af-
 22 fordable Care Act (Public Law 111–148) is amended by
 23 adding at the end the following:

1 “(v) Section 2794 (relating to reason-
2 ableness of rates with respect to health in-
3 surance coverage).”.

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

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

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