

113<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 4414

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## 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:

*Clerk.*

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