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114TH CONGRESS
1ST SESSION

H. R. 2650

To restore equity, save coverage, and undo errors in the case of individuals who lose health insurance subsidies under *King* v. *Burwell*, and other individuals, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 4, 2015

Mr. TOM PRICE of Georgia introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committees on Ways and Means and Education and the Workforce, 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 restore equity, save coverage, and undo errors in the case of individuals who lose health insurance subsidies under *King* v. *Burwell*, and other individuals, 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,*
3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS; CONTIN-**
4 **GENCY AND LIMITATION ON APPLICATION.**
5 (a) SHORT TITLE.—This Act may be cited as the
6 "Restoring Equity, Saving Coverage, and Undoing Errors

1 Act of 2015'' or as the ''RESCUE America's Health Care
2 Act of 2015''.
3 (b) TABLE OF CONTENTS.—The table of contents of
4 this Act is as follows:

Sec. 1. Short title; table of contents; contingency and limitation on application.
Sec. 2. Refundable tax credit for health insurance coverage.
Sec. 3. Restoring to States the freedom and flexibility to regulate health insurance markets.
Sec. 4. Pool reform for individual membership expansion.
Sec. 5. Requirements for individual health insurance.

5 (c) CONTINGENCY AND LIMITATION ON APPLICA-
6 TION.—
7 (1) DEPENDENT UPON SUPREME COURT DE-
8 TERMINATION IN KING V. BURWELL.—The suc-
9 ceeding provisions of this Act (including the amend-
10 ments made by this Act) shall only apply if the Su-
11 preme Court determines that the premium tax credit
12 under section 36B of the Internal Revenue Code of
13 1986 is not available to individuals who are enrolled
14 in a qualified health plan offered through the feder-
15 ally operated Exchange established pursuant to sec-
16 tion 1321(c) of the Patient Protection and Afford-
17 able Care Act (42 U.S.C. 18041(c)).
18 (2) APPLICATION IN STATES WITHOUT A
19 STATE-OPERATED EXCHANGE.—In the case of a
20 State that has not established an Exchange under
21 section 1311 of the Patient Protection and Afford-
22 able Care Act (42 U.S.C. 18031) for which a pre-

1 mium tax credit is available pursuant to section
2 36B(b)(1)(A) of the Internal Revenue Code of 1986,
3 as interpreted by the Supreme Court, the succeeding
4 provisions of this Act (including the amendments
5 made by this Act) shall apply, subject to paragraphs
6 (1) and (4), to the State and to individuals residing
7 in the State as of the date on which such credit be-
8 comes no longer available to such individuals pursu-
9 ant to the Supreme Court determination described
10 in paragraph (1) (such date referred to in this Act
11 as the ''King v. Burwell effective date'') .

12 (3) OPTION OF APPLICATION IN STATES WITH
13 A STATE-OPERATED EXCHANGE.—In the case of a
14 State that has established an Exchange under sec-
15 tion 1311 of the Patient Protection and Affordable
16 Care Act (42 U.S.C. 18031) for which a premium
17 tax credit is available pursuant to section
18 36B(b)(1)(A) of the Internal Revenue Code of 1986,
19 as interpreted by the Supreme Court—

20 (A) the State may at any time terminate
21 operation of such Exchange; and

22 (B) if the State terminates operation of
23 any such Exchange established under such sec-
24 tion 1311, the provisions of this Act (including
25 the amendments made by this Act) shall apply,

1 subject to paragraphs (1) and (4), to the State
2 and to individuals residing in the State as of
3 the date on which the operation of such Ex-
4 change is terminated, but in no case shall such
5 provisions and amendments apply earlier than
6 the King v. Burwell effective date.

7 (4) NO APPLICATION TO STATES WITH AN EX-
8 CHANGE FOR WHICH PREMIUM CREDIT IS AVAIL-
9 ABLE.—The succeeding provisions of this Act (in-
10 cluding the amendments made by this Act) shall not
11 apply to a State and to individuals residing in a
12 State so long as there is operating in the State an
13 Exchange for which a premium tax credit is avail-
14 able pursuant to section 36B(b)(1)(A) of the Inter-
15 nal Revenue Code of 1986 to such individuals, as in-
16 terpreted by the Supreme Court.

17 **SEC. 2. REFUNDABLE TAX CREDIT FOR HEALTH INSUR-**
18 **ANCE COVERAGE.**

19 (a) IN GENERAL.—Subpart C of part IV of sub-
20 chapter A of chapter 1 of the Internal Revenue Code of
21 1986 is amended by inserting after section 36B the fol-
22 lowing new section:

23 **"SEC. 36C. HEALTH INSURANCE COVERAGE.**

24 "(a) IN GENERAL.—In the case of an individual,
25 there shall be allowed as a credit against the tax imposed

by subtitle A the aggregate monthly credit amounts determined under subsection (b) with respect to the taxpayer and the taxpayer's qualifying family members for eligible coverage months beginning during the taxable year.

"(b) MONTHLY CREDIT AMOUNTS.—

"(1) IN GENERAL.—The monthly credit amount with respect to any individual for any eligible coverage month is 1⁄12 of—

"(A) $900 in the case of an individual who has not attained age 18 as of the beginning of such month,

"(B) $1,200 in the case of an individual who has so attained age 18 but who has not so attained age 35,

"(C) $2,100 in the case of an individual who has so attained age 35, but who has not so attained age 50, and

"(D) $3,000 in the case of an individual who has so attained age 50.

"(2) INFLATION ADJUSTMENT.—In the case of any taxable year beginning in a calendar year after 2016, each dollar amount contained in paragraph (1) shall be increased by an amount equal to—

"(A) such dollar amount, multiplied by

1 “(B) the cost-of-living adjustment deter-
2 mined under section 1(f)(3) for the calendar
3 year in which the taxable year begins, deter-
4 mined by substituting ‘calendar year 2015’ for
5 ‘calendar year 1992’ in subparagraph (B)
6 thereof.

7 Any increase determined under the preceding sen-
8 tence shall be rounded to the nearest multiple of
9 $50.

10 “(c) ELIGIBLE COVERAGE MONTH.—For purposes of
11 this section, the term ‘eligible coverage month’ means,
12 with respect to any individual, any month if, as of the first
13 day of such month, the individual—

14 “(1) is covered by qualified health insurance,

15 “(2) does not have other specified coverage, and

16 “(3) is not imprisoned under Federal, State, or
17 local authority.

18 “(d) QUALIFYING FAMILY MEMBER.—For purposes
19 of this section, the term ‘qualifying family member’
20 means—

21 “(1) in the case of a joint return, the taxpayer’s
22 spouse, and

23 “(2) any dependent of the taxpayer.

24 “(e) QUALIFIED HEALTH INSURANCE.—For pur-
25 poses of this section, the term ‘qualified health insurance’

1 means health insurance coverage (other than excepted
2 benefits as defined in section 9832(c)) which constitutes
3 medical care.

4 ‘‘(f) OTHER SPECIFIED COVERAGE.—For purposes of
5 this section, an individual has other specified coverage for
6 any month if, as of the first day of such month—

7 ‘‘(1) COVERAGE UNDER MEDICARE, MEDICAID,
8 OR SCHIP.—Such individual—

9 ‘‘(A) is entitled to benefits under part A of
10 title XVIII of the Social Security Act or is en-
11 rolled under part B of such title, or

12 ‘‘(B) is enrolled in the program under title
13 XIX or XXI of such Act (other than under sec-
14 tion 1928 of such Act).

15 ‘‘(2) CERTAIN OTHER COVERAGE.—Such indi-
16 vidual—

17 ‘‘(A) is enrolled in a health benefits plan
18 under chapter 89 of title 5, United States Code,

19 ‘‘(B) is entitled to receive benefits under
20 chapter 55 of title 10, United States Code,

21 ‘‘(C) is entitled to receive benefits under
22 chapter 17 of title 38, United States Code,

23 ‘‘(D) is enrolled in a group health plan
24 (within the meaning of section 5000(b)(1))
25 which is subsidized by the employer, or

1 "(E) is a member of a health care sharing
2 ministry.
3 "(3) HEALTH CARE SHARING MINISTRY.—For
4 purposes of this subsection, the term 'health care
5 sharing ministry' means an organization—
6 "(A) which is described in section
7 501(c)(3) and is exempt from taxation under
8 section 501(a),
9 "(B) members of which share a common
10 set of ethical or religious beliefs and share med-
11 ical expenses among members in accordance
12 with those beliefs and without regard to the
13 State in which a member resides or is em-
14 ployed,
15 "(C) members of which retain membership
16 even after they develop a medical condition,
17 "(D) which (or a predecessor of which) has
18 been in existence at all times since December
19 31, 1999, and medical expenses of its members
20 have been shared continuously and without
21 interruption since at least December 31, 1999,
22 and
23 "(E) which conducts an annual audit
24 which is performed by an independent certified
25 public accounting firm in accordance with gen-

1 erally accepted accounting principles and which
2 is made available to the public upon request.
3 ''(g) SPECIAL RULES.—
4 ''(1) CREDIT IN EXCESS OF PREMIUMS ONLY
5 PAYABLE TO A HEALTH SAVINGS ACCOUNT.—
6 ''(A) IN GENERAL.—If the credit allowed
7 under subsection (a) (determined without re-
8 gard to clause (ii)) for any taxable year exceeds
9 the amount of premiums paid by the taxpayer
10 for coverage of the taxpayer and the taxpayer's
11 qualifying family members under qualified
12 health insurance for eligible coverage months
13 beginning in the taxable year—
14 ''(i) at the request of the taxpayer,
15 the Secretary shall pay the amount of such
16 excess to one or more health savings ac-
17 counts of the taxpayer or of any qualifying
18 family member of the taxpayer, and
19 ''(ii) the credit allowed under sub-
20 section (a) for such taxable year shall not
21 exceed the amount of such premiums.
22 ''(B) MEDICAL AND HEALTH SAVINGS AC-
23 COUNTS.—Amounts distributed from an Archer
24 MSA (as defined in section 220(d)) or from a
25 health savings account (as defined in section

1 223(d)) shall not be taken into account as pre-
2 miums paid under subparagraph (A).
3 "(C) INSURANCE WHICH COVERS OTHER
4 INDIVIDUALS.—For purposes of this paragraph,
5 rules similar to the rules of section 213(d)(6)
6 shall apply with respect to any contract for
7 qualified health insurance under which amounts
8 are payable for coverage of an individual other
9 than the taxpayer and qualifying family mem-
10 bers.
11 "(D) CONTRIBUTIONS TREATED AS ROLL-
12 OVERS, ETC.—
13 "(i) IN GENERAL.—Any amount paid
14 the Secretary to a health savings account
15 under this paragraph shall be treated for
16 purposes of this title in the same manner
17 as a rollover contribution described in sec-
18 tion 223(f)(5).
19 "(ii) COORDINATION WITH LIMITA-
20 TION ON ROLLOVERS.—Any amount de-
21 scribed in clause (i) shall not be taken into
22 account in applying section 223(f)(5)(B)
23 with respect to any other amount and the
24 limitation of section 223(f)(5)(B) shall not

1 apply with respect to the application of
2 clause (i).
3 "(iii) ESTABLISHMENT OF HSAS.—
4 Nothing in any provision of law shall be
5 construed—
6 "(I) to prevent an individual
7 from establishing a health savings ac-
8 count (as defined in section 223(d))
9 merely because such individual is not
10 an eligible individual (as defined in
11 section 223(c)), or
12 "(II) to prevent such an account
13 from being treated as a health savings
14 account merely because all or a sub-
15 stantial portion of the contributions to
16 such account are described in this
17 paragraph.
18 "(2) COORDINATION WITH ADVANCE PAYMENTS
19 OF CREDIT.—With respect to any taxable year—
20 "(A) the amount which would (but for this
21 subsection) be allowed as a credit to the tax-
22 payer under subsection (a) shall be reduced
23 (but not below zero) by the aggregate amount
24 paid on behalf of such taxpayer under section

1 7529 for months beginning in such taxable
2 year, and
3 "(B) the tax imposed by section 1 for such
4 taxable year shall be increased by the excess (if
5 any) of—
6 "(i) the aggregate amount paid on be-
7 half of such taxpayer under section 7529
8 for months beginning in such taxable year,
9 over
10 "(ii) the amount which would (but for
11 this subsection) be allowed as a credit to
12 the taxpayer under subsection (a).
13 "(3) COORDINATION WITH OTHER PROVI-
14 SIONS.—For purposes of any deduction allowed
15 under section 162(l), 213, or 224, and any credit al-
16 lowed under section 35, any health insurance pre-
17 miums which would (but for this paragraph) be
18 taken into account shall be reduced (but not below
19 zero) by the amount of the credit allowed under this
20 section (determined without regard to paragraphs
21 (1) and (2) of this subsection).
22 "(4) DENIAL OF CREDIT TO DEPENDENTS AND
23 NONPERMANENT RESIDENT ALIEN INDIVIDUALS.—
24 No credit shall be allowed under this section to any
25 individual who is—

1 "(A) not a citizen or lawful permanent
2 resident of the United States for the calendar
3 year in which the taxable year begins, or
4 "(B) a dependent with respect to another
5 taxpayer for a taxable year beginning in the
6 calendar year in which such individual's taxable
7 year begins.
8 "(5) REGULATIONS.—The Secretary may pre-
9 scribe such regulations and other guidance as may
10 be necessary or appropriate to carry out this section,
11 section 6050W, and section 7529.".
12 (b) ADVANCE PAYMENT OF CREDIT.—
13 (1) IN GENERAL.—Chapter 77 of the Internal
14 Revenue Code of 1986 (relating to miscellaneous
15 provisions) is amended by adding at the end the fol-
16 lowing:
17 **"SEC. 7529. ADVANCE PAYMENT OF CREDIT FOR HEALTH**
18 **INSURANCE COVERAGE.**
19 "(a) GENERAL RULE.—Not later than January 1,
20 2016, the Secretary shall establish a program for making
21 payments to providers of qualified health insurance (as de-
22 fined in section 36C(e)) on behalf of taxpayers eligible for
23 the credit under section 36C.
24 "(b) LIMITATION.—The aggregate payments made
25 under this section with respect to any taxpayer, deter-

1 mined as of any time during any calendar year, shall not
2 exceed the monthly credit amounts determined with re-
3 spect to such taxpayer under section 36C for months dur-
4 ing such calendar year which have ended as of such time.
5 "(c) APPLICATION OF RULE THAT CREDITS IN EX-
6 CESS OF PREMIUMS ONLY PAYABLE TO A HEALTH SAV-
7 INGS ACCOUNT.—Under rules similar to the rules of sec-
8 tion 36C(g)(1), any amount otherwise payable on behalf
9 of the taxpayer under subsection (a) with respect to any
10 eligible coverage month which is in excess of the amount
11 of premiums paid by the taxpayer for coverage of the tax-
12 payer and the taxpayer's qualifying family members under
13 qualified health insurance for such month shall be payable
14 only to one or more health savings accounts of the tax-
15 payer or of any qualifying family member of the taxpayer.
16 "(d) CERTIFICATION PROCESS AND PROOF OF COV-
17 ERAGE.—The Secretary shall establish a process under
18 which individuals are certified as eligible for payment
19 under this section. Such process shall include an initial
20 application by the taxpayer to determine eligibility and
21 thereafter continued eligibility shall be determined, to the
22 maximum extent feasible, by the Secretary on the basis
23 of information provided under section 6050X.
24 "(e) DEFINITIONS.—For purposes of this section,
25 terms used in this section which are also used in section

36C shall have the same meaning as when used in section 36C.''.

(2) INFORMATION REPORTING.—

(A) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61 of such Code (relating to information concerning transactions with other persons) is amended by adding at the end the following new section:

''SEC. 6050X. RETURNS RELATING TO CREDIT FOR HEALTH INSURANCE COVERAGE.

''(a) REQUIREMENT OF REPORTING.—Every person who provides qualified health insurance for any month of any calendar year with respect to any individual shall, at such time as the Secretary may prescribe, make the return described in subsection (b) with respect to each such individual. With respect to any individual with respect to whom payments under section 7529 are made by the Secretary, the Secretary may require that reporting under subsection (b) be made on a monthly basis.

''(b) FORM AND MANNER OF RETURNS.—A return is described in this subsection if such return—

''(1) is in such form as the Secretary may prescribe, and

''(2) contains, with respect to each policy of qualified health insurance—

1 "(A) the name, address, and TIN of each
2 individual covered under such policy,
3 "(B) the premiums paid with respect to
4 such policy, and
5 "(C) such other information as the Sec-
6 retary may prescribe.
7 "(c) STATEMENTS TO BE FURNISHED TO INDIVID-
8 UALS WITH RESPECT TO WHOM INFORMATION IS RE-
9 QUIRED.—Every person required to make a return under
10 subsection (a) shall furnish to each individual whose name
11 is required to be set forth in such return a written state-
12 ment showing—
13 "(1) the name and address of the person re-
14 quired to make such return and the phone number
15 of the information contact for such person, and
16 "(2) the information required to be shown on
17 the return with respect to such individual.
18 The written statement required under the preceding sen-
19 tence shall be furnished on or before January 31 of the
20 year following the calendar year to which such statement
21 relates.
22 "(d) DEFINITIONS.—For purposes of this section,
23 terms used in this section which are also used in section
24 36C shall have the same meaning as when used in section
25 36C.".

1 (B) ASSESSABLE PENALTIES.—
2 (i) Subparagraph (B) of section
3 6724(d)(1) of such Code is amended by
4 striking "or" at the end of clause (xxiv),
5 by striking "and" at the end of clause
6 (xxv) and inserting "or", and by inserting
7 after clause (xxv) the following new clause:
8 "(xxvi) section 6050X (relating to re-
9 turns relating to credit for health insur-
10 ance coverage), and".
11 (ii) Paragraph (2) of section 6724(d)
12 of such Code is amended by striking "or"
13 at the end of subparagraph (GG), by strik-
14 ing the period at the end of subparagraph
15 (HH) and inserting ", or", and by adding
16 after subparagraph (HH) the following
17 new subparagraph:
18 "(II) section 6050X (relating to returns
19 relating to credit for health insurance cov-
20 erage).".
21 (3) DISCLOSURE OF RETURN INFORMATION
22 FOR PURPOSES OF ADVANCE PAYMENT OF CREDIT
23 AS PREMIUMS FOR QUALIFIED HEALTH INSUR-
24 ANCE.—

1 (A) IN GENERAL.—Subsection (l) of sec-
2 tion 6103 of such Code is amended by adding
3 at the end the following new paragraph:
4 "(23) DISCLOSURE OF RETURN INFORMATION
5 RELATED TO PAYMENTS OF THE HEALTH INSUR-
6 ANCE COVERAGE CREDIT.—The Secretary may, on
7 behalf of taxpayers eligible for the credit under sec-
8 tion 36C, disclose to a provider of qualified health
9 insurance (as defined in section 36(e)) or a trustee
10 of a health savings account (and persons acting on
11 behalf of such provider or such trustee), return in-
12 formation with respect to any such taxpayer only to
13 the extent necessary (as prescribed by regulations
14 issued by the Secretary) to carry out sections
15 36C(g)(1) (relating to credit in excess of premiums
16 only payable to a health savings account) and 7529
17 (relating to advance payment of credit for health in-
18 surance coverage).".
19 (B) CONFIDENTIALITY OF INFORMA-
20 TION.—Paragraph (3) of section 6103(a) of
21 such Code is amended by striking "or (21)"
22 and inserting "(21), or (22)".
23 (C) UNAUTHORIZED DISCLOSURE.—Para-
24 graph (2) of section 7213(a) of such Code is

1 amended by striking "or (21)" and inserting
2 "(21), or (22)".
3 (4) EFFECTIVE DATE.—Subject to section 1(c),
4 the amendments made by this section shall take ef-
5 fect on the date of the enactment of this Act.
6 (c) CONFORMING AMENDMENTS.—
7 (1) Paragraph (2) of section 1324(b) of title
8 31, United States Code, is amended by inserting
9 "36C," after "36B,".
10 (2) The table of sections for subpart C of part
11 IV of subchapter A of chapter 1 of the Internal Rev-
12 enue Code of 1986 is amended by inserting after the
13 item relating to section 36B the following new item:

"Sec. 36C. Health insurance coverage.".

14 (3) The table of sections for subpart B of part
15 III of subchapter A of chapter 61 of such Code is
16 amended by adding at the end the following new
17 item:

"Sec. 6050X. Returns relating to credit for health insurance coverage.".

18 (4) The table of sections for chapter 77 of such
19 Code is amended by adding at the end the following
20 new item:

"Sec. 7529. Advance payment of credit for health insurance coverage.".

21 (d) EFFECTIVE DATE.—Subject to section 1(c), the
22 amendments made by this section shall apply with respect

1 to coverage months beginning on or after the King v.
2 Burwell effective date.

3 **SEC. 3. RESTORING TO STATES THE FREEDOM AND FLEXI-**
4 **BILITY TO REGULATE HEALTH INSURANCE**
5 **MARKETS.**

6 (a) ELIMINATION OF PPACA RESTRICTIONS ON THE
7 INSURANCE MARKET.—Any provision of title I of the Pa-
8 tient Protection and Affordable Care Act (Public Law
9 111–148) or of the Health Care and Education Reconcili-
10 ation Act of 2010 (Public Law 111–152) amending title
11 XXVII of the Public Health Service Act (42 U.S.C. 300gg
12 et seq.), or amending the Internal Revenue Code of 1986
13 or the Employee Retirement Income Security Act of 1974
14 in order to incorporate or apply such an amendment to
15 such title XXVII, is repealed and the provisions of law
16 amended by such provisions of title I of the Patient Pro-
17 tection and Affordable Care Act and the Health Care and
18 Education Reconciliation Act of 2010 are restored or re-
19 vived as if such title and Act had not been enacted.

20 (b) HSAS AND FSAS.—Any provision of, or amend-
21 ment made by, the Patient Protection and Affordable Care
22 Act (Public Law 111–148) or the Health Care and Edu-
23 cation Reconciliation Act of 2010 (Public Law 111–152)
24 applying a requirement or restriction on a health savings
25 account (within the meaning of section 223(d) of the In-

1 ternal Revenue Code of 1986) or a health flexible spending
2 arrangement (within the meaning of section 106(c) of the
3 Internal Revenue Code of 1986) is repealed and the provi-
4 sions of law amended by such provisions of the Patient
5 Protection and Affordable Care Act and the Health Care
6 and Education Reconciliation Act of 2010 are restored or
7 revived as if such Acts had not been enacted.

8 (c) EXPANDED HEALTH PLAN SELECTION.—

9 (1) IN GENERAL.—Section 1301(a)(1) of the
10 Patient Protection and Affordable Care Act (42
11 U.S.C. 18021(a)(1)) is amended by striking ‘‘a
12 health plan that’’ and all that follows through the
13 period at the end and inserting ‘‘any health plan (as
14 defined in subsection (b)).’’.

15 (2) DIRECT PRIMARY CARE MEDICAL HOME
16 PLANS.—Section 1301(a)(3) of such Act (42 U.S.C.
17 18021(a)(3)) is amended by striking ‘‘medical home
18 plan that meets criteria’’ and all that follows
19 through the period at the end and inserting ‘‘medical
20 home plan.’’.

21 (3) STAND-ALONE DENTAL BENEFITS.—Section
22 1311(d)(2)(B)(ii) of such Act (42 U.S.C.
23 18031(d)(2)(B)(ii)) is amended by striking ‘‘health
24 plan) if the plan’’ and all that follows through the
25 period at the end and inserting ‘‘health plan).’’.

1 (4) CONFORMING AMENDMENTS.—The fol-
2 lowing provisions of the Patient Protection and Af-
3 fordable Care Act (Public Law 111–148) shall have
4 no force or effect after the date of the enactment of
5 this Act:
6 (A) Section 1301(b)(1)(B) of such Act (42
7 U.S.C. 18021(b)(1)(B)).
8 (B) Paragraphs (1), (2), and (6) of section
9 1311(c) of such Act (42 U.S.C. 18031(c)).
10 (C) Section 1311(d)(4)(A) of such Act (42
11 U.S.C. 18031(d)(4)(A)).
12 (D) Section 1311(e) of such Act (42
13 U.S.C. 18031(e)).
14 (E) Section 1311(j) of such Act (42 U.S.C.
15 18031(j)).
16 (F) Subparagraphs (B) and (D) of section
17 1321(a)(1) of such Act (42 U.S.C.
18 18041(a)(1)).
19 **SEC. 4. POOL REFORM FOR INDIVIDUAL MEMBERSHIP EX-**
20 **PANSION.**
21 The Public Health Service Act is further amended by
22 adding at the end the following:

"TITLE XXXIV—POOL REFORM FOR INDIVIDUAL MEMBERSHIP EXPANSION

"SEC. 3400. PURPOSE.

"The purpose of this title is to provide, through the establishment of individual health pools (or IHPs), for the reform of, and expansion of enrollment in, health insurance coverage for individuals and small employers.

"SEC. 3401. DEFINITION OF INDIVIDUAL HEALTH POOL (IHP).

"(a) IN GENERAL.—For purposes of this title, the terms 'individual health pool' and 'IHP' mean a legal nonprofit entity that meets the following requirements:

"(1) ORGANIZATION.—The IHP—

"(A) has been formed and maintained in good faith for a purpose that includes the formation of a risk pool in order to offer health insurance coverage to its members;

"(B) does not condition membership in the IHP on any health status-related factor relating to an individual (including an employee of an employer or a dependent of an employee);

"(C) does not make health insurance coverage offered through the IHP available other than in connection with a member of the IHP;

1 "(D) is not a health insurance issuer; and
2 "(E) does not receive any consideration di-
3 rectly or indirectly from any health insurance
4 issuer in connection with the enrollment of any
5 individuals, or employees of employers, in any
6 health insurance coverage, except in conjunction
7 with services offered through the IHP.
8 "(2) OFFERING HEALTH BENEFITS COV-
9 ERAGE.—
10 "(A) DIFFERENT GROUPS.—The IHP, in
11 conjunction with those health insurance issuers
12 that offer health benefits coverage through the
13 IHP, makes available health benefits coverage
14 in the manner described in subsection (b) to all
15 members of the IHP and the dependents of
16 such members (and, in the case of small em-
17 ployers, employees and their dependents) in the
18 manner described in subsection (c)(2) at rates
19 that are established by the health insurance
20 issuer on a policy or product specific basis and
21 that may vary for individuals covered through
22 an IHP.
23 "(B) NONDISCRIMINATION IN COVERAGE
24 OFFERED.—

1 "(i) IN GENERAL.—Subject to clause
2 (ii), the IHP may not offer health benefits
3 coverage to a member of an IHP unless
4 the same coverage is offered to all such
5 members of the IHP.
6 "(ii) CONSTRUCTION.—Nothing in
7 this title shall be construed as requiring or
8 permitting a health insurance issuer to
9 provide coverage outside the service area of
10 the issuer, as approved under State law, or
11 preventing a health insurance issuer from
12 underwriting or from excluding or limiting
13 the coverage on any individual, subject to
14 the requirement of section 2741 (relating
15 to guaranteed availability of individual
16 health insurance coverage to certain indi-
17 viduals with prior group coverage).
18 "(C) NO ASSUMPTION OF INSURANCE RISK
19 BY IHP.—The IHP provides health benefits cov-
20 erage only through contracts with health insur-
21 ance issuers and does not assume insurance
22 risk with respect to such coverage.
23 "(3) GEOGRAPHIC AREAS.—Nothing in this title
24 shall be construed as preventing the establishment
25 and operation of more than one IHP in a geographic

area or as limiting the number of IHPs that may operate in any area.

"(4) PROVISION OF ADMINISTRATIVE SERVICES TO PURCHASERS.—The IHP may provide administrative services for members. Such services may include accounting, billing, and enrollment information.

"(b) HEALTH BENEFITS COVERAGE REQUIREMENTS.—

"(1) COMPLIANCE WITH CONSUMER PROTECTION REQUIREMENTS.—Except as provided in section 3402, any health benefits coverage offered through an IHP—

"(A) shall be issued by a health insurance issuer that meets all applicable State standards relating to consumer protection;

"(B) shall be approved or otherwise permitted to be offered under State law; and

"(C) may not impose any exclusion of a specific disease from such coverage.

"(2) WELLNESS BONUSES FOR HEALTH PROMOTION.—Nothing in this title shall be construed as precluding a health insurance issuer offering health benefits coverage through an IHP from establishing premium discounts or rebates for members or from

modifying otherwise applicable copayments or deductibles in return for adherence to programs of health promotion and disease prevention so long as such programs are agreed to in advance by the IHP and comply with all other provisions of this title and do not discriminate among similarly situated members.

"(c) MEMBERS; HEALTH INSURANCE ISSUERS.—

"(1) MEMBERS.—

"(A) IN GENERAL.—Under rules established to carry out this title, with respect to an individual or small employer who is a member of an IHP, the individual may enroll for health benefits coverage (including coverage for dependents of such individual) or employer may enroll employees for health benefits coverage (including coverage for dependents of such employees) offered by a health insurance issuer through the IHP.

"(B) RULES FOR ENROLLMENT.—Nothing in this paragraph shall preclude an IHP from establishing rules of enrollment and reenrollment of members. Such rules shall be applied consistently to all members within the IHP and

shall not be based in any manner on health status-related factors.

"(2) HEALTH INSURANCE ISSUERS.—The contract between an IHP and a health insurance issuer shall provide, with respect to a member enrolled with health benefits coverage offered by the issuer through the IHP, for the payment to the issuer of the premiums (if any) collected by the IHP for health insurance coverage offered by the issuer.

"SEC. 3402. APPLICATION OF CERTAIN LAWS AND REQUIREMENTS.

"(a) PREEMPTION OF STATE LAWS RESTRICTING FORMATION OF IHPS.—Any State law or regulation relating to the composition or organization of an IHP is preempted to the extent the law or regulation is inconsistent with the provisions of this title.

"(b) PREEMPTION OF STATE REQUIREMENTS RELATING TO HEALTH BENEFIT COVERAGE.—

"(1) BENEFIT REQUIREMENTS.—

"(A) IN GENERAL.—Subject to subparagraph (B), State laws are superseded, and shall not apply to health benefits coverage made available through an IHP, insofar as such laws impose benefit requirements for such coverage, including (but not limited to) requirements re-

1 lating to coverage of specific providers, specific
2 services or conditions, or the amount, duration,
3 or scope of benefits.

4 ‘‘(B) EXCEPTION FOR FEDERALLY IM-
5 POSED REQUIREMENTS AND FOR REQUIRE-
6 MENTS PROHIBITING DISEASE-SPECIFIC EXCLU-
7 SIONS.—Subparagraph (A) shall not apply to a
8 requirement to the extent the requirement—

9 ‘‘(i) implements title XXVII or other
10 Federal law; or

11 ‘‘(ii) prohibits imposition of an exclu-
12 sion of a specific disease from health bene-
13 fits coverage.

14 ‘‘(2) OTHER REQUIREMENTS PREVENTING OF-
15 FERING OF COVERAGE THROUGH AN IHP.—State
16 laws are superseded, and shall not apply to health
17 benefits coverage made available through an IHP,
18 insofar as such laws impose any other requirements
19 (including limitations on compensation arrange-
20 ments) that, directly or indirectly, preclude (or have
21 the effect of precluding) the offering of such cov-
22 erage through an IHP, if the IHP meets the re-
23 quirements of this title.

24 ‘‘(c) PREEMPTION OF STATE PREMIUM RATING RE-
25 QUIREMENTS.—State laws are superseded, and shall not

1 apply to the premiums imposed for health benefits cov-
2 erage made available through an IHP, insofar as such
3 laws impose restrictions on the variation of premiums
4 among such coverage offered to members of the IHP.

5 **"SEC. 3403. DEFINITIONS.**

6 ''For purposes of this title:

7 ''(1) DEPENDENT.—The term 'dependent', as
8 applied to health insurance coverage offered by a
9 health insurance issuer licensed (or otherwise regu-
10 lated) in a State, shall have the meaning applied to
11 such term with respect to such coverage under the
12 laws of the State relating to such coverage and such
13 an issuer. Such term may include the spouse and
14 children of the individual involved.

15 ''(2) HEALTH BENEFITS COVERAGE.—The term
16 'health benefits coverage' has the meaning given the
17 term 'health insurance coverage' in section
18 2791(b)(1), and does not include excepted benefits
19 (as defined in section 2791(c)).

20 ''(3) HEALTH INSURANCE ISSUER.—The term
21 'health insurance issuer' has the meaning given such
22 term in section 2791(b)(2).

23 ''(4) HEALTH STATUS-RELATED FACTOR.—The
24 term 'health status-related factor' has the meaning
25 given such term in section 2791(d)(9).

1 "(5) MEMBER.—The term 'member' means,
2 with respect to an IHP, an individual or small em-
3 ployer who is a member of the legal entity described
4 in section 3401(a)(1) to which the IHP is offering
5 coverage.

6 "(6) SMALL EMPLOYER.—The term 'small em-
7 ployer' has the meaning given such term in section
8 712(c)(1)(B) of the Employee Retirement and In-
9 come Security Act of 1974.".

10 **SEC. 5. REQUIREMENTS FOR INDIVIDUAL HEALTH INSUR-**
11 **ANCE.**

12 (a) IN GENERAL.—Section 2741 of the Public Health
13 Service Act (42 U.S.C. 300gg–41), as restored and revived
14 by section 3 of this Act, is amended—

15 (1) in subsection (a)—

16 (A) in the heading, by striking "TO CER-
17 TAIN INDIVIDUALS WITH PRIOR GROUP COV-
18 ERAGE";

19 (B) in paragraph (1), by striking "and sec-
20 tion 2744";

21 (C) in paragraph (1)(B), by inserting "un-
22 less such exclusion complies with paragraph
23 (2)" before the period; and

24 (D) by striking paragraph (2) and insert-
25 ing the following new paragraphs:

1 “(2) LIMITATION ON PREEXISTING CONDITION
2 EXCLUSION PERIOD.—
3 “(A) LIMITATION.—A health insurance
4 issuer offering health insurance coverage in the
5 individual market may not, with respect to an
6 enrollee in such coverage, impose any pre-
7 existing condition exclusion if such enrollee has
8 at least 18 months of continuous creditable cov-
9 erage (as defined in section 2701(c)(1)) imme-
10 diately preceding the enrollment date.
11 “(B) IMPOSITION OF EXCLUSION.—Not-
12 withstanding paragraph (1)(B), a health insur-
13 ance issuer offering health insurance coverage
14 in the individual market may, with respect to
15 an enrollee in such coverage who is not de-
16 scribed in subparagraph (A), impose a pre-
17 existing condition exclusion only if—
18 “(i) such exclusion relates to a condi-
19 tion (whether physical or mental), regard-
20 less of the cause of the condition, for which
21 medical advice, diagnosis, care, or treat-
22 ment was recommended or received within
23 the 6-month period ending on the enroll-
24 ment date;

1 "(ii) such exclusion extends for a pe-
2 riod of not more than 18 months after the
3 enrollment date; and
4 "(iii) the period of any such pre-
5 existing condition exclusion is reduced by
6 the aggregate of the periods of creditable
7 coverage (if any, as defined in section
8 2701(c)(1)) applicable to the enrollee as of
9 the enrollment date.
10 "(C) PREMIUM SURCHARGE.—Notwith-
11 standing paragraph (6), with respect to an en-
12 rollee described in subparagraph (B), a health
13 insurance issuer may charge a premium for the
14 coverage involved that does not exceed 150 per-
15 cent of the applicable standard rate, for not to
16 exceed 24 months (or 36 months if the health
17 insurance issuer does not impose any pre-
18 existing condition exclusion with respect to such
19 enrollee), reduced by the aggregate of the peri-
20 ods of creditable coverage (if any, as defined in
21 section 2701(c)(1)) applicable to the enrollee as
22 of the enrollment date. For purposes of this
23 subsection, the term 'applicable standard rate'
24 means the standard premium rate that the
25 issuer charges for the coverage involved with re-

1 spect to an individual described in subpara-
2 graph (A) with the same rating characteristics
3 or rating factors as the enrollee described in
4 subparagraph (B), provided that any variations
5 in standard premium rates are based on the
6 uniform application of rating characteristics or
7 rating factors that are permitted by State law
8 and are not otherwise prohibited by paragraph
9 (6).

10 "(3) EXCEPTIONS.—Notwithstanding para-
11 graph (2), and subject to subparagraph (D), a
12 health insurance issuer offering health insurance
13 coverage in the individual market, may not impose
14 any of the following preexisting condition exclusions:

15 "(A) EXCLUSION NOT APPLICABLE TO
16 CERTAIN NEWBORNS.—In the case of an indi-
17 vidual who, as of the last day of the 30-day pe-
18 riod beginning with the date of birth, is a de-
19 pendent of an enrollee in such coverage.

20 "(B) EXCLUSION NOT APPLICABLE TO
21 CERTAIN ADOPTED CHILDREN.—In the case of
22 a child who is adopted or placed for adoption
23 before attaining 18 years of age and who, as of
24 the last day of the 30-day period beginning on
25 the date of the adoption or placement for adop-

1 tion, is a dependent of an enrollee in such cov-
2 erage. The previous sentence shall not apply to
3 coverage before the date of such adoption or
4 placement for adoption.

5 "(C) EXCLUSION NOT APPLICABLE TO
6 PREGNANCY.—Relating to pregnancy as a pre-
7 existing condition.

8 "(D) LOSS IF BREAK IN COVERAGE.—Sub-
9 paragraphs (A) and (B) shall no longer apply
10 to an individual after the end of the first 63-
11 day period during all of which the individual
12 was not covered under any creditable coverage.

13 "(4) OPEN ENROLLMENT PERIODS.—A health
14 insurance issuer offering health insurance coverage
15 in the individual market may limit the applicability
16 of the provisions of paragraph (1) to scheduled open
17 enrollment periods, provided that—

18 "(A) any such open enrollment period shall
19 not be less than 30 days;

20 "(B) any period between scheduled open
21 enrollment periods shall not exceed 24 months;
22 and

23 "(C) such limitation shall not apply to any
24 individual who qualifies for a special enrollment
25 period under paragraph (5).

1 ‘‘(5) SPECIAL ENROLLMENT PERIODS.—Subject
2 to subparagraphs (E) and (F), a health insurance
3 issuer offering health insurance coverage in the indi-
4 vidual market shall permit an individual who is an
5 eligible individual or a dependent to enroll in cov-
6 erage during a special enrollment period if the indi-
7 vidual experiences any of the following qualifying
8 events:

9 ‘‘(A) FOR DEPENDENT BENEFICIARIES.—
10 The individual becomes, by reason of marriage,
11 birth, adoption or placement for adoption, a de-
12 pendent of an individual enrolled in a plan of-
13 fered by the health insurance issuer and such
14 individual otherwise qualifies, under the terms
15 of the plan, as eligible for coverage as a depend-
16 ent of such enrollee.

17 ‘‘(B) LOSS OF GROUP COVERAGE.—The in-
18 dividual loses coverage under a group health
19 plan as a result of—

20 ‘‘(i) loss of eligibility for the coverage
21 (including as a result of legal separation,
22 divorce, death, attaining an age at which
23 eligibility terminates, termination of em-
24 ployment, or reduction in the number of
25 hours of employment); or

1 "(ii) termination of the coverage by
2 the plan sponsor.
3 "(C) LOSS OF INDIVIDUAL COVERAGE.—
4 The individual loses individual market coverage
5 as a result of—
6 "(i) discontinuation of a plan as a re-
7 sult of a health insurance issuer ceasing to
8 offer coverage in the individual market in
9 accordance with section 2742(c)(2) (42
10 U.S.C. 300gg–42(c)(2)) of this title;
11 "(ii) expiration of COBRA, or other,
12 continuation coverage;
13 "(iii) ceasing to qualify, under the
14 terms of the coverage, as a dependent (in-
15 cluding as a result of legal separation, di-
16 vorce, death, or attaining an age at which
17 eligibility terminates); and
18 "(iv) permanently moving outside the
19 State in which the coverage was issued, or
20 in the case of a network plan, outside the
21 plan's service area.
22 "(D) LOSS OF ELIGIBILITY FOR A GOV-
23 ERNMENT COVERAGE PROGRAM.—The indi-
24 vidual loses coverage by ceasing to be eligible
25 for coverage under any of the following:

1 "(i) Part A or part B of title XVIII
2 of the Social Security Act (42 U.S.C.
3 1395c et seq.; 1395j et seq.).
4 "(ii) Title XIX of the Social Security
5 Act (42 U.S.C. 1396 et seq.), other than
6 coverage consisting solely of benefits under
7 section 1928 (42 U.S.C. 1396s).
8 "(iii) Title XXI of the Social Security
9 Act (42 U.S.C. 1397aa et seq.).
10 "(iv) Chapter 55 of title 10.
11 "(v) Chapter 89 of title 5.
12 "(vi) A State health benefits risk pool.
13 "(E) LOSS OF COVERAGE DESCRIBED.—
14 For purposes of this paragraph, loss of cov-
15 erage shall not include any of the following:
16 "(i) Voluntary termination of coverage
17 by an individual, except if such termination
18 is the result of circumstances described in
19 subparagraph (C)(iv).
20 "(ii) Termination of coverage by the
21 issuer or the plan sponsor of the coverage
22 for any reason described in paragraph (1)
23 or (2) of section 2742(b) (300gg–42(b)) of
24 this title.

1 "(iii) Loss of any coverage that con-
2 sists solely of coverage of excepted benefits
3 (as defined in section 300gg–91(c) of this
4 title).
5 "(F) LIMITATION ON SPECIAL ENROLL-
6 MENT PERIOD.—Any special enrollment period
7 shall not be less than 60 days and shall begin
8 on the date of the qualifying event.
9 "(6) STANDARD PREMIUM RATES.—With re-
10 spect to the premium rate charged by a health insur-
11 ance issuer for health insurance coverage offered in
12 the individual market, such rate, with respect to the
13 particular plan or coverage involved, shall not vary
14 based on any of the following health status-related
15 factors in relation to an eligible individual or de-
16 pendent:
17 "(A) Health status.
18 "(B) Medical condition (including both
19 physical and mental illnesses).
20 "(C) Claims experience.
21 "(D) Receipt of health care.
22 "(E) Medical history.
23 "(F) Genetic information.

1 "(G) Evidence of insurability (including
2 conditions arising out of acts of domestic vio-
3 lence).

4 "(H) Disability.";

5 (2) by amending subsection (b) to read as fol-
6 lows:

7 "(b) DEFINITIONS.—For purposes of this section:

8 "(1) ELIGIBLE INDIVIDUAL.—The term 'eligible
9 individual' means an individual who is eligible under
10 applicable State law to purchase individual health in-
11 surance coverage in the State.

12 "(2) DEPENDENT.—The term 'dependent'
13 means an individual who, under the terms of the
14 coverage and applicable State law, qualifies to enroll
15 in such coverage as a dependent of an individual de-
16 scribed in paragraph (1)."; and

17 (3) by striking subsection (c) and redesignating
18 subsection (d) and the first subsection (e) as sub-
19 sections (c) and (d), respectively.

20 (b) CONFORMING AMENDMENT.—Section 2744 of the
21 Public Health Service Act (42 U.S.C. 300gg–44), as re-
22 stored and revived by section 3 of this Act, is repealed.

23 (c) EFFECTIVE DATE.—Subject to section 1(c), the
24 amendments made by this section shall apply with respect

1 to health insurance coverage offered for plan years begin-
2 ning on or after the King v. Burwell effective date.

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