

114TH CONGRESS
1ST SESSION

H. R. 3241

To amend title I of the Patient Protection and Affordable Care Act to authorize the establishment of, and provide support for, State-based universal health care systems that provide comprehensive health benefits to State residents, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 28, 2015

Mr. McDERMOTT introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committees on Ways and Means, Oversight and Government Reform, Armed Services, 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

A BILL

To amend title I of the Patient Protection and Affordable Care Act to authorize the establishment of, and provide support for, State-based universal health care systems that provide comprehensive health benefits to State residents, 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; PURPOSE.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “State-Based Universal Health Care Act of 2015”.

1 (b) PURPOSE.—The purpose of this Act is to estab-
2 lish a flexible framework under which each State can pro-
3 vide comprehensive universal health coverage to all of its
4 residents.

5 **SEC. 2. WAIVER FOR STATE UNIVERSAL HEALTH CARE.**

6 (a) IN GENERAL.—Subtitle D of title I of the Patient
7 Protection and Affordable Care Act (Public Law 111–
8 148) is amended by inserting after section 1332 (42
9 U.S.C. 18052) the following new section:

10 **“SEC. 1332A. WAIVER FOR STATE UNIVERSAL HEALTH**
11 **CARE.**

12 “(a) APPLICATION.—

13 “(1) IN GENERAL.—A State may apply to the
14 Secretary (as defined in subsection (g)(3)) for the
15 waiver of so much of the requirements described in
16 paragraph (2) with respect to health benefits cov-
17 erage within that State for plan years beginning on
18 or after January 1, 2016, as is necessary to imple-
19 ment a comprehensive State universal health care
20 plan in the State under this section. Such applica-
21 tion shall—

22 “(A) be filed at such time and in such
23 manner as the Secretary may require;

24 “(B) contain such information as the Sec-
25 retary may require, including—

1 “(i) a comprehensive description of
2 the State legislation and program to imple-
3 ment a plan meeting the requirements for
4 a waiver under this section; and

5 “(ii) a 10-fiscal-year budget plan for
6 such plan that is budget neutral for the
7 Federal Government; and

8 “(C) provide an assurance that the State
9 has enacted the law described in subsection
10 (b)(2).

11 “(2) REQUIREMENTS.—The requirements de-
12 scribed in this paragraph with respect to health ben-
13 efits coverage within the State for plan years begin-
14 ning on or after January 1, 2016, are as follows:

15 “(A) Parts I, II, and III of subtitle D.

16 “(B) Section 1402.

17 “(C) Sections 36B, 4980H, and 5000A of
18 the Internal Revenue Code of 1986.

19 “(D) Title XI of the Social Security Act.

20 “(E) Title XVIII of the Social Security
21 Act.

22 “(F) Title XIX of the Social Security Act.

23 “(G) Title XXI of the Social Security Act.

24 “(H) Chapter 89 of title 5 of the United
25 States Code.

1 “(I) Chapter 55 of title 10, United States
2 Code, including coverage under the TRICARE
3 program.

4 “(J) Section 514 of the Employee Retirement
5 Income Security Act of 1974.

6 “(3) PASS THROUGH OF FUNDING.—With re-
7 spect to a State waiver under paragraph (1), under
8 which the State assumes responsibility for health
9 coverage under a specified Federal health program,
10 including under each of the Federal health care or
11 subsidy programs specified in subparagraphs (B),
12 (C), (E), (F), (G), and (H) of paragraph (2), the
13 Secretary shall not spend Federal health funds that
14 would otherwise have been spent for such program
15 and shall provide for an alternative means by which
16 the aggregate amount of such funds shall be paid to
17 the State for purposes of implementing the State
18 plan under the waiver. Such amount shall be deter-
19 mined annually by the Secretary, taking into ac-
20 count the amount that would otherwise have been
21 spent under such Federal health program with re-
22 spect to residents of such State, if such waiver did
23 not apply. Such amount shall include funds equal to
24 the amount of premium tax credits, cost-sharing re-
25 ductions, or small-business credits under sections

1 36B and 45R of the Internal Revenue Code of 1986
2 or under section 1402 that would have been avail-
3 able to individuals and businesses in the State if
4 such waiver did not apply.

5 “(4) WAIVER CONSIDERATION AND TRANS-
6 PARENCY.—

7 “(A) IN GENERAL.—An application for a
8 waiver under this section shall be considered by
9 the Secretary in accordance with the regula-
10 tions described in subparagraph (B).

11 “(B) REGULATIONS.—Not later than 180
12 days after the date of enactment of the State-
13 Based Universal Health Care Act of 2015, the
14 Secretary shall promulgate regulations relating
15 to waivers under this section that provide—

16 “(i) a process for public notice and
17 comment at the State level, including pub-
18 lic hearings, sufficient to ensure a mean-
19 ingful level of public input;

20 “(ii) a process for the submission of
21 an application that ensures the disclosure
22 of—

23 “(I) the provisions of law that
24 the State involved seeks to waive; and

1 “(II) the specific plans of the
2 State to ensure that the waiver will be
3 in compliance with subsection (b);

4 “(iii) a process for providing public
5 notice and comment after the application is
6 received by the Secretary, that is sufficient
7 to ensure a meaningful level of public
8 input and that does not impose require-
9 ments that are in addition to, or duplica-
10 tive of, requirements imposed under the
11 Administrative Procedure Act, or require-
12 ments that are unreasonable or unneces-
13 sarily burdensome with respect to State
14 compliance;

15 “(iv) a process for the submission to
16 the Secretary of periodic reports by the
17 State concerning the implementation of the
18 program under the waiver; and

19 “(v) a process for the periodic evalua-
20 tion by the Secretary with respect to waiv-
21 ers granted under this section.

22 “(C) REPORT.—The Secretary shall annu-
23 ally report to Congress concerning actions
24 taken by the Secretary with respect to applica-

1 tions for waivers, and programs conducted
2 through waivers granted, under this section.

3 “(b) GRANTING OF WAIVERS.—

4 “(1) IN GENERAL.—The Secretary may grant a
5 request for a waiver under subsection (a)(1) only if
6 the Secretary determines that the State plan—

7 “(A) will provide health benefits coverage
8 to State residents that is at least as comprehen-
9 sive as the health benefits coverage that such
10 residents would have received under the speci-
11 fied Federal health program for which such
12 residents would have been eligible, absent such
13 waiver;

14 “(B) will provide coverage and cost sharing
15 protections against excessive out-of-pocket
16 spending to State residents that are at least as
17 affordable as the coverage and cost sharing pro-
18 tections under the specified Federal health pro-
19 gram for which such residents would have been
20 eligible, absent such waiver;

21 “(C) will provide coverage to substantially
22 all residents of the State, including substan-
23 tially all those otherwise covered under the Fed-
24 eral health care or subsidy programs specified
25 in subparagraphs (B), (C), (E), (F), (G), and

1 (H) of subsection (a)(2), except individuals who
2 are eligible for benefits through the Indian
3 Health Service or for benefits and services
4 under title 38, United States Code;

5 “(D) will be publicly administered by an
6 agency of the State; and

7 “(E) will not increase the Federal deficit.

8 Subparagraph (D) shall not be construed as limiting
9 a State from contracting with one or more private
10 entities to administer the plan.

11 “(2) REQUIREMENT TO ENACT A LAW.—

12 “(A) IN GENERAL.—A law described in
13 this paragraph is a State law that provides for
14 State actions under a waiver under this section,
15 including the implementation of the State plan
16 under subsection (a)(1)(B).

17 “(B) TERMINATION OF OPT OUT.—A State
18 may repeal a law described in subparagraph (A)
19 and terminate the authority provided under the
20 waiver with respect to the State.

21 “(c) SCOPE OF WAIVER.—

22 “(1) IN GENERAL.—The Secretary shall deter-
23 mine the scope of a waiver of a requirement de-
24 scribed in subsection (a)(2) granted to a State under
25 subsection (a)(1).

1 “(2) LIMITATION.—Under this section, the Sec-
2 retary may not waive any Federal law or require-
3 ment that is not listed in subsection (a)(2).

4 “(d) DETERMINATIONS BY SECRETARY.—

5 “(1) TIME FOR DETERMINATION.—The Sec-
6 retary shall make a determination under subsection
7 (a)(1) not later than 180 days after the receipt of
8 an application from a State under such subsection.

9 “(2) EFFECT OF DETERMINATION.—

10 “(A) GRANTING OF WAIVERS.—If the Sec-
11 retary determines to grant a waiver under sub-
12 section (a)(1), the Secretary shall notify the
13 State involved of such determination and the
14 terms and effectiveness of such waiver.

15 “(B) DENIAL OF WAIVER.—If the Sec-
16 retary determines a waiver should not be grant-
17 ed under subsection (a)(1), the Secretary shall
18 notify the State involved and the appropriate
19 committees of Congress of such determination
20 and the reasons therefor.

21 “(e) TERM OF WAIVER.—No waiver under this sec-
22 tion may extend over a period of longer than 5 years un-
23 less the State requests continuation of such waiver, and
24 such request shall be deemed granted unless the Secretary,
25 within 90 days after the date of its submission to the Sec-

1 retary, either denies such request in writing or informs
2 the State in writing with respect to any additional infor-
3 mation which is needed in order to make a final deter-
4 mination with respect to the request.

5 “(f) ASSURING COORDINATION.—

6 “(1) IN GENERAL.—Not later than 180 days
7 after the enactment of the State-Based Universal
8 Health Care Act of 2015, the Secretary of Health
9 and Human Services, the Secretary of the Treasury,
10 the Director of the Office of Personnel Management,
11 the Secretary of Defense, and the Secretary of
12 Labor shall, through the execution of an interagency
13 memorandum of understanding among such Secre-
14 taries and the Director—

15 “(A) develop a process for coordinating
16 and consolidating the State waiver processes
17 applicable under the provisions of this section,
18 and the existing waiver processes applicable
19 under—

20 “(i) titles XI, XVIII, XIX, and XXI
21 of the Social Security Act; and

22 “(ii) any other Federal law relating to
23 the provision of health care items or serv-
24 ices; and

25 “(B) ensure that—

1 “(i) regulations (including regulations
2 required under subsection (a)(4)(B)), rul-
3 ings, and interpretations issued by such
4 Secretaries and the Director relating to the
5 same matter over which two or more such
6 Secretaries or Director have responsibility
7 under this section are administered so as
8 to have the same effect at all times; and

9 “(ii) coordination of policies relating
10 to the granting, implementation, and con-
11 tinuation of waivers through such Secre-
12 taries and Director in order to have a co-
13 ordinated strategy that avoids duplication
14 of effort by the States or Secretaries and
15 Director and ensures clarity about waiver
16 application status and approval.

17 “(2) SINGLE APPLICATION.—The process under
18 paragraph (1)(A) shall permit a State to submit a
19 single application for a waiver under all of the provi-
20 sions of this section and the provisions of law listed
21 under clauses (i) and (ii) of such paragraph.

22 “(3) SUBMISSION OF CONFORMING AMEND-
23 MENTS.—The Secretary of Health and Human Serv-
24 ices, in coordination with the other Secretaries (in-
25 cluding the Director of the Office of Personnel Man-

1 agement), shall submit to Congress such rec-
2 ommendations for such technical and conforming
3 amendments to law as may be appropriate to assist
4 in the implementation of this section.

5 “(g) DEFINITIONS.—In this section:

6 “(1) HEALTH BENEFITS COVERAGE.—The term
7 ‘health benefits coverage’—

8 “(A) means—

9 “(i) health insurance coverage, as
10 such term is defined in section 2791(b) of
11 the Public Health Service Act (42 U.S.C.
12 300gg–91(b)); and

13 “(ii) coverage under a group health
14 plan, as such term is defined in section
15 2791(a) of the Public Health Service Act
16 (42 U.S.C. 300gg–91(a)); and

17 “(B) includes any medical coverage or
18 health benefits provided under any specified
19 Federal health program described in subpara-
20 graphs (A) through (E) of paragraph (4).

21 “(2) RESIDENT.—With respect to a State, the
22 term ‘resident’ means an individual who is a citizen
23 or national of the United States or an alien lawfully
24 residing in the State, and whose primary residence
25 (as defined by the State) is located in the State.

1 “(3) SECRETARY.—The term ‘Secretary’
2 means—

3 “(A) the Secretary of Health and Human
4 Services with respect to waivers relating to the
5 provisions described in subparagraphs (A), (B),
6 and (D) through (G) of paragraph (2) of sub-
7 section (a);

8 “(B) the Secretary of the Treasury with
9 respect to waivers relating to the provisions de-
10 scribed in subparagraph (C) of such paragraph;

11 “(C) the Director of the Office of Per-
12 sonnel Management with respect to waivers re-
13 lating to the provisions described in subpara-
14 graph (H) of such paragraph;

15 “(D) the Secretary of Defense with respect
16 to waivers relating to the provisions described
17 in subparagraph (I) of such paragraph; and

18 “(E) the Secretary of Labor with respect
19 to waivers relating to the provisions described
20 in subparagraph (J) of such paragraph.

21 “(4) SPECIFIED FEDERAL HEALTH PROGRAM.—
22 The term ‘specified Federal health program’ means
23 all of the following programs:

24 “(A) The Medicare program under title
25 XVIII of the Social Security Act.

1 “(B) The Medicaid program under title
2 XIX of the Social Security Act.

3 “(C) The Children’s Health Insurance Pro-
4 gram under title XXI of the Social Security
5 Act.

6 “(D) The Federal Employees Health Bene-
7 fits Plan under chapter 89 of title 5 of the
8 United States Code.

9 “(E) Medical coverage under chapter 55 of
10 title 10, United States Code, including coverage
11 under the TRICARE program.

12 “(F) An Exchange established under this
13 subtitle.

14 “(G) Subsidies under section 1402.

15 “(H) Tax credits under sections 36B and
16 45R of the Internal Revenue Code of 1986.”.

17 (b) CLERICAL AMENDMENT.—The table of contents
18 in section 1(b) of such Act is amended by inserting after
19 the item relating to section 1332 the following new item:

“Sec. 1332A. Waiver for State universal health care.”.

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