

114TH CONGRESS
1ST SESSION

S. 254

To lower health premiums and increase choice for small businesses.

IN THE SENATE OF THE UNITED STATES

JANUARY 26, 2015

Mr. PORTMAN (for himself, Ms. AYOTTE, Mr. MCCAIN, and Mr. SCOTT) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To lower health premiums and increase choice for small
businesses.

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.**

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “Small Business Health Relief Act of 2015”.

6 (b) **TABLE OF CONTENTS.**—The table of contents for
7 this Act is as follows:

Sec. 1. Short title; table of contents.

**TITLE I—MAKING COVERAGE AFFORDABLE FOR SMALL
BUSINESSES**

Sec. 101. Protecting American jobs and wages.

Sec. 102. Increasing flexibility for small businesses.

- Sec. 103. Increasing choices for Americans.
 Sec. 104. Protecting patients from higher premiums.
 Sec. 105. Ensuring affordable coverage.

TITLE II—INCREASING CONSUMER CONTROL

- Sec. 201. Repeal of restriction on over-the-counter medicines.
 Sec. 202. Repeal of the annual cap.

TITLE III—ALLOWING INDIVIDUALS TO KEEP COVERAGE THEY
 LIKE

- Sec. 301. Allowing individuals to keep the coverage they have if they like it.

1 **TITLE I—MAKING COVERAGE AF-**
 2 **FORDABLE FOR SMALL BUSI-**
 3 **NESSES**

4 **SEC. 101. PROTECTING AMERICAN JOBS AND WAGES.**

5 (a) REPEAL OF SHARED RESPONSIBILITY PAYMENT
 6 FOR EMPLOYERS REGARDING HEALTH COVERAGE.—

7 (1) IN GENERAL.—Chapter 43 of the Internal
 8 Revenue Code of 1986 is amended by striking sec-
 9 tion 4980H.

10 (2) CONFORMING AMENDMENTS.—

11 (A) The table of sections for chapter 43 of
 12 the Internal Revenue Code of 1986 is amended
 13 by striking the item relating to section 4980H.

14 (B) Section 1311(d)(4)(I) of the Patient
 15 Protection and Affordable Care Act is amended
 16 by inserting “and” at the end of clause (i) and
 17 by striking clause (ii).

18 (C) Section 1332(a)(2)(D) of such Act is
 19 amended by striking “36B, 4980H, and
 20 5000A” and inserting “36B and 5000A”.

1 (D) Section 1411(e)(4)(B) of such Act is
2 amended by striking clause (iii).

3 (E) Section 1411(f) of such Act is amend-
4 ed to read as follows:

5 “(f) APPEALS AND REDETERMINATIONS.—The Sec-
6 retary, in consultation with the Secretary of the Treasury,
7 the Secretary of Homeland Security, and the Commis-
8 sioner of Social Security, shall establish procedures by
9 which the Secretary or one of such other Federal offi-
10 cers—

11 “(1) hears and makes decisions with respect to
12 appeals of any determination under subsection (e);
13 and

14 “(2) redetermines eligibility on a periodic basis
15 in appropriate circumstances.”.

16 (F) Section 1411 of such Act is amended
17 by striking subsection (i).

18 (G) Section 1412(a)(2) of such Act is
19 amended to read as follows:

20 “(2) the Secretary notifies the Exchange and
21 the Secretary of the Treasury of the advance deter-
22 minations; and”.

23 (H) Section 1513 of such Act is amended
24 by striking subsection (c).

1 (3) EFFECTIVE DATE.—The amendments made
2 by this subsection shall apply to months after De-
3 cember 31, 2013.

4 (b) REPEAL OF REPORTING OF EMPLOYER HEALTH
5 INSURANCE COVERAGE.—

6 (1) IN GENERAL.—Subpart D of part III of
7 subchapter A of chapter 61 of the Internal Revenue
8 Code of 1986 is amended by striking section 6056.

9 (2) CONFORMING AMENDMENTS.—

10 (A) Section 6724(d)(1)(B) of the Internal
11 Revenue Code of 1986 is amended by inserting
12 “or” at the end of clause (xxiii), by striking “,
13 or” at the end of clause (xxiv) and inserting a
14 period, and by striking clause (xxv).

15 (B) Section 6724(d)(2) of such Code is
16 amended by inserting “or” at the end of sub-
17 paragraph (FF), by striking “, or” at the end
18 of subparagraph (GG) and inserting a period,
19 and by striking subparagraph (HH).

20 (3) EFFECTIVE DATE.—The amendments made
21 by this subsection shall apply to periods beginning
22 after December 31, 2013.

1 **SEC. 102. INCREASING FLEXIBILITY FOR SMALL BUSI-**
2 **NESSES.**

3 Section 1302(c)(2) of the Patient Protection and Af-
4 fordable Care Act (Public Law 111–148) is repealed.

5 **SEC. 103. INCREASING CHOICES FOR AMERICANS.**

6 (a) **QUALIFIED HEALTH PLAN COVERAGE SATISFIED**
7 **BY HIGH DEDUCTIBLE HEALTH PLAN WITH HEALTH**
8 **SAVINGS ACCOUNT.**—Section 1302(e) of the Patient Pro-
9 tection and Affordable Care Act (42 U.S.C. 18022(e)) is
10 amended to read as follows:

11 “(e) **HIGH DEDUCTIBLE HEALTH PLAN WITH**
12 **HEALTH SAVINGS ACCOUNT.**—A health plan not pro-
13 viding a bronze, silver, gold, or platinum level of coverage
14 shall be treated as meeting the requirements of subsection
15 (d) with respect to any plan year for any enrollee if the
16 plan meets the requirements for a high deductible health
17 plan under section 223(c)(2) of the Internal Revenue Code
18 of 1986 and such enrollee has established a health savings
19 account (as defined in section 223(d)(1) of such Code) in
20 relation to such plan.”.

21 (b) **CONFORMING AMENDMENTS.**—

22 (1) Subparagraph (C) of section 1312(d)(3) of
23 the Patient Protection and Affordable Care Act (42
24 U.S.C. 18032(d)(3)) is amended by striking “, ex-
25 cept” and all that follows through “1302(e)(2)”.

1 (2) Subparagraph (A) of section 36B(e)(3) of
2 the Internal Revenue Code of 1986, as added by sec-
3 tion 1401(a) of the Patient Protection and Afford-
4 able Care Act (Public Law 111–148) is amended by
5 striking “, except” and all that follows through
6 “such Act”.

7 (3) Subparagraph (B) of section 1334(c)(1) of
8 the Patient Protection and Affordable Care Act (42
9 U.S.C. 18054(c)(1)) is amended by striking “and
10 catastrophic coverage”.

11 **SEC. 104. PROTECTING PATIENTS FROM HIGHER PRE-**
12 **MIUMS.**

13 Section 9010 of the Patient Protection and Afford-
14 able Care Act (Public Law 111–148), as amended by sec-
15 tion 10905 of such Act, is repealed.

16 **SEC. 105. ENSURING AFFORDABLE COVERAGE.**

17 Section 2701(a)(1)(A)(iii) of the Public Health Serv-
18 ice Act (42 U.S.C. 300(a)(1)(A)(iii)), as added by section
19 1201 of the Patient Protection and Affordable Care Act
20 (Public Law 111–148), is amended by striking “, except”
21 and all that follows through “2707(c)”.

1 **TITLE II—INCREASING**
2 **CONSUMER CONTROL**

3 **SEC. 201. REPEAL OF RESTRICTION ON OVER-THE-**
4 **COUNTER MEDICINES.**

5 (a) HSAs.—Section 223(d)(2)(A) of the Internal
6 Revenue Code of 1986 is amended by striking the last sen-
7 tence thereof.

8 (b) ARCHER MSAs.—Section 220(d)(2)(A) of the In-
9 ternal Revenue Code of 1986 is amended by striking the
10 last sentence thereof.

11 (c) HEALTH FLEXIBLE SPENDING ARRANGEMENTS
12 AND HEALTH REIMBURSEMENT ARRANGEMENTS.—Sec-
13 tion 106 of the Internal Revenue Code of 1986 is amended
14 by striking subsection (f).

15 (d) EFFECTIVE DATE.—

16 (1) DISTRIBUTIONS FROM SAVINGS AC-
17 COUNTS.—The amendments made by subsections (a)
18 and (b) shall apply to amounts paid with respect to
19 taxable years beginning after December 31, 2014.

20 (2) REIMBURSEMENTS.—The amendment made
21 by subsection (c) shall apply to expenses incurred
22 with respect to taxable years beginning after Decem-
23 ber 31, 2014.

1 **SEC. 202. REPEAL OF THE ANNUAL CAP.**

2 (a) IN GENERAL.—Section 125 of the Internal Rev-
 3 enue Code of 1986 is amended by striking subsection (i)
 4 and by redesignating subsections (j) and (k) as sub-
 5 sections (i) and (j), respectively.

6 (b) EFFECTIVE DATE.—The amendments made by
 7 this section shall apply to taxable years beginning after
 8 December 31, 2014.

9 **TITLE III—ALLOWING INDIVID-**
 10 **UALS TO KEEP COVERAGE**
 11 **THEY LIKE**

12 **SEC. 301. ALLOWING INDIVIDUALS TO KEEP THE COV-**
 13 **ERAGE THEY HAVE IF THEY LIKE IT.**

14 (a) IN GENERAL.—Section 1251(a)(2) of the Patient
 15 Protection and Affordable Care Act (42 U.S.C. 18011) is
 16 amended—

17 (1) by striking “Except as provided in para-
 18 graph (3),” and inserting the following:

19 “(A) IN GENERAL.—Except as provided in
 20 paragraphs (3) and (4),”; and

21 (2) by adding at the end the following:

22 “(B) PROTECTING EMPLOYERS AND CON-
 23 SUMERS WITH GRANDFATHERED COVERAGE.—

24 “(i) IN GENERAL.—A group health
 25 plan or health insurance coverage in which
 26 an individual is enrolled on or after March

1 23, 2010, but before any plan year begin-
2 ning not later than 1 year after the date
3 of the enactment of this subparagraph, and
4 which is deemed to be a grandfathered
5 health plan under this section, shall con-
6 tinue to be considered a grandfathered
7 health plan with respect to such individual
8 regardless of any modification to the cost-
9 sharing levels, employer contribution rates,
10 or covered benefits under such plan or cov-
11 erage as otherwise permitted under this
12 Act (and the amendments made by this
13 Act).

14 “(ii) REGULATIONS.—The Secretary
15 shall promulgate regulations to clarify the
16 application of clause (i) to a plan or cov-
17 erage that continues to be a grandfathered
18 health plan pursuant to such clause.”.

19 (b) EFFECTIVE DATE; PREVIOUSLY PROMULGATED
20 REGULATIONS VOIDED.—

21 (1) EFFECTIVE DATE.—The amendments made
22 by this section shall take effect as if included in the
23 enactment of the Patient Protection and Affordable
24 Care Act.

1 (2) PREVIOUSLY PROMULGATED REGULATIONS
2 VOIDED.—Any regulations relating to section
3 1251(a)(2) of such Act promulgated before the date
4 of the enactment of this Act shall have no force or
5 effect.

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