111TH CONGRESS 1ST SESSION H.R. 109

To provide for the offering of Health Benefit Plans to individuals, to increase funding for State high risk health insurance pools, and to promote best practice protocols for State high risk pools.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 6, 2009

Mr. FORTENBERRY introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To provide for the offering of Health Benefit Plans to individuals, to increase funding for State high risk health insurance pools, and to promote best practice protocols for State high risk pools.

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; FINDINGS AND PURPOSES; 4 TABLE OF CONTENTS.

5 (a) SHORT TITLE.—This Act may be cited as the

6 "America's Affordable Health Care Act of 2009".

7 (b) FINDINGS AND PURPOSES.—

8 (1) FINDINGS.—Congress finds the following:

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1	(A) The regulation of the practice of insur-
2	ance is a State prerogative.
3	(B) It is in the interests of health care
4	consumers that Congress allows for policies that
5	increase the affordability of health insurance
6	products.
7	(C) The Federal Government provides
8	States and the medical community with public
9	financing to support the medical needs of the
10	uninsured.
11	(D) There is a correlation between the
12	amount of insurance benefits and the cost of in-
13	surance products.
14	(E) State mandate laws have created bar-
15	riers to affordable health coverage.
16	(F) A number of States allow for the cre-
17	ation of insurance products that recognize the
18	increased costs associated with mandate laws.
19	(G) Consumers throughout the United
20	States are finding it increasingly hard to secure
21	affordable health care coverage which contrib-
22	utes to the national uninsured rate.
23	(2) Federal insurance product.—Congress
24	further finds that it is in the interests of taxpayers,
25	health care purchasers, and the health care provider

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1	community, to allow for a class of federally certified
2	insurance products that can be purchased in the in-
3	dividual market without being subject to State ben-
4	efit mandate laws.
5	(3) PURPOSES.—The purposes of this Act
6	are—
7	(A) to promote increased affordability and
8	access to health care coverage for citizens of the
9	United States;
10	(B) to allow consumers the ability to make
11	choices by weighing insurance benefits with the
12	cost of insurance;
13	(C) to provide incentives to health plans
14	and health insurance issuers to offer increas-
15	ingly affordable insurance policies to all those
16	in the individual market;
17	(D) to provide low-income and uninsured
18	workers with incentives to purchase insurance
19	policies;
20	(E) to provide incentives to companies and
21	States to offer health care solutions for high
22	risk beneficiaries;
23	(F) to provide for new coverage opportuni-
24	ties to solve the problems of affordability and
25	uninsurance; and

1	(G) to promote the availability of health
2	insurance coverage through high risk pools for
3	individuals whose health conditions create bar-
4	riers to such coverage.
5	(c) TABLE OF CONTENTS.—The table of contents of
6	this Act is as follows:
	Sec. 1. Short title; findings and purposes; table of contents.
	TITLE I—HEALTH BENEFIT PLANS
	Sec. 101. Certification of Health Benefit Plans.

- Sec. 102. Conditions for certification.
- Sec. 103. Review of implementation.
- Sec. 104. Definitions.

TITLE II—EXPANSION OF STATE HIGH RISK HEALTH INSURANCE POOLS

Sec. 201. Increasing and expanding funding for State high risk health insurance pools.

Sec. 202. Qualified high risk pools best practices guidelines and grant program.

7 TITLE I—HEALTH BENEFIT 8 PLANS

9 SEC. 101. CERTIFICATION OF HEALTH BENEFIT PLANS.

10 (a) IN GENERAL.—A health insurance issuer may apply to the Secretary for up to 3 health insurance cov-11 12 erage policies offered in the individual market in any State 13 to be certified as Health Benefit Plans under this title with respect to eligible individuals and the policies so cer-14 15 tified may be offered and sold to such individuals without 16 regard to any State or local law respecting mandates for benefits. 17

(b) CONSTRUCTION.—Except as specifically provided
 under subsection (a) with respect to health insurance ben efits, nothing in this title shall be construed as—

4 (1) modifying the application of State or local
5 requirements relating to matters not described in
6 subsection (a), such as underwriting, enrollment,
7 and premiums;

8 (2) superseding any provision of State or local 9 law or regulation relating to the business of insur-10 ance, including the regulation of insurers and insur-11 ance products, underwriting, enrollment, and pre-12 miums;

(3) preventing a State or local jurisdiction from
applying fraud and abuse provisions otherwise applicable with respect to the sale and marketing of
health insurance coverage to the sale and marketing
of Health Benefit Plans under this title; or

(4) exempting a Health Benefits Plan, and the
health insurance issuer offering such a plan, from
applicable requirements of State law and compliance
with applicable provisions of title XXVII of the Public Health Service Act.

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1 SEC. 102. CONDITIONS FOR CERTIFICATION.

2	(a) IN GENERAL.—The Secretary shall not certify
3	under this title a Health Benefit Plan offered by a health
4	insurance issuer unless—
5	(1) the Plan includes benefits for items and
6	services within each of the categories of basic serv-
7	ices described in subsection (b); and
8	(2) the issuer—
9	(A) is licensed under State law to offer
10	health insurance coverage in the State involved;
11	and
12	(B) submits to the Secretary such informa-
13	tion and assurances as the Secretary may re-
14	quire to assure compliance of the issuer, and
15	Health Benefit Plans offered by the issuer, with
16	the applicable requirements of this title.
17	(b) CATEGORIES OF BASIC SERVICES.—
18	(1) IN GENERAL.—The categories of basic serv-
19	ices described in this subsection are as follows:
20	(A) Inpatient hospital services.
21	(B) Physicians' surgical and medical serv-
22	ices.
23	(2) TREATMENT OF OTHER CATEGORIES.—
24	Nothing in this section shall be construed as pre-
25	venting a Health Benefit Plan from providing cov-

erage of benefits that are not within a category of
 basic services described in paragraph (1).

3 (c) RECIPROCAL ARRANGEMENTS.—Health insur-4 ance issuers offering Health Benefit Plans may create re-5 ciprocal arrangements with other issuers of such plans in 6 order to improve the portability of such plans among eligi-7 ble individuals.

8 SEC. 103. REVIEW OF IMPLEMENTATION.

9 (a) REVIEW.—The Secretary shall review the imple-10 mentation of this title and the impact of such implementa-11 tion on the availability and purchase of health insurance 12 coverage.

(b) REPORT.—Not later than 3 years after the date
of the enactment of this Act, the Secretary shall submit
to Congress a report on this title and its impact on making
health insurance coverage more affordable.

17 SEC. 104. DEFINITIONS.

18 In this title:

(1) The term "eligible individual" means an individual who is a citizen or national of the United
States or an alien lawfully residing permanently in
the United States.

(2) The terms "health insurance coverage",
"health insurance issuer", and "individual market"
have the meanings given such terms in section 2791

1 of the Public Health Service Act (42 U.S.C. 300gg– 2 91). 3 (3) The term "Secretary" means the Secretary 4 of Health and Human Services. TITLE II—EXPANSION OF STATE 5 HIGH **RISK HEALTH** INSUR-6 **ANCE POOLS** 7 8 SEC. 201. INCREASING AND EXPANDING FUNDING FOR 9 STATE HIGH RISK HEALTH INSURANCE 10 POOLS. 11 (a) IN GENERAL.—Section 2745(d) of the Public Health Service Act (42 U.S.C. 300gg-45(d)) is amend-12 13 ed— 14 (1) in paragraph (2)— (A) in the heading, by striking "THROUGH 15 2010" and inserting "THROUGH 2009"; and 16 17 (B) in the matter preceding subparagraph 18 (A), by striking "through 2010" and inserting 19 "through 2009"; 20 (2) by redesignating paragraphs (3), (4), and 21 (5) as paragraphs (4), (5), and (6), respectively; and 22 (3) by inserting after paragraph (2) the fol-23 lowing new paragraph: 24 "(3) Authorization of appropriations for 25 FISCAL YEARS 2010 THROUGH 2014.—There are au-

1	thorized to be appropriated for each of fiscal years
2	2010 through 2014—
3	"(A) $10,000,000$ to carry out subsection
4	(a); and
5	"(B) $100,000,000$, of which, subject to
6	paragraph (5)—
7	"(i) two-thirds of the amount appro-
8	priated shall be made available for allot-
9	ments under subsection $(b)(2)$; and
10	"(ii) one-third of the amount appro-
11	priated shall be made available for allot-
12	ments under subsection (c)(3).".
13	(b) Conforming Amendments.—Section 2745 of
14	the Public Health Service Act (42 U.S.C. 300gg-45) is
15	amended—
16	(1) in subsection (a), by striking "subsection
17	(d)(1)(A)" and inserting "paragraphs (1)(A) and
18	(3)(A) of subsection (d)";
19	(2) in each of paragraphs (1) and (2) of sub-
20	section (b), by striking $((1)(B)(i))$ and $(2)(A)$ and
21	inserting "(1)(B)(i), (2)(A), and (3)(B)(i)";
22	(3) in each of paragraphs (1) and (3) of sub-
23	section (c), by striking "(1)(B)(ii) and (2)(B)" and
24	inserting " $(1)(B)(ii)$, $(2)(B)$, and $(3)(B)(ii)$ "; and
25	(4) in subsection (d)—

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1	(A) in each of paragraphs $(1)(B)$ and (2) ,
2	by striking "paragraph (4)" and inserting
3	"paragraph (5)"; and
4	(B) in paragraph (5), as redesignated by
5	subsection (a)(2), by striking "paragraph
6	(1)(B) or (2) " and inserting "paragraph"
7	(1)(B), (2), or (3)(B)".
8	SEC. 202. QUALIFIED HIGH RISK POOLS BEST PRACTICES
9	GUIDELINES AND GRANT PROGRAM.
10	Section 2745 of the Public Health Service Act (42)
11	U.S.C. 300gg–45) is amended—
12	(1) in subsection $(b)(1)$, by striking "In the
13	case" and inserting "Subject to subsection $(f)(1)$, in
14	the case";
15	(2) by redesignating subsection (f) and (g) as
16	subsections (g) and (h), respectively; and
17	(3) by inserting after subsection (e) the fol-
18	lowing new subsection:
19	"(f) Qualified High Risk Pools Best Practices
20	Guidelines and Grant Program.—
21	"(1) BEST PRACTICES REPORT REQUIRE-
22	MENT.—To be eligible to receive a grant under sub-
23	section (b) for a fiscal year beginning more than 60
24	days after the date of the enactment of the Amer-
25	ica's Affordable Health Care Act of 2009, a State

that has established a qualified high risk pool shall
submit to the Secretary, not later than 120 days
after the beginning of such fiscal year, evidencebased information on the operation of such pool, as
specified by the Secretary for purposes of creating
the best practices guidelines described in paragraph
(2).

"(2) BEST PRACTICE GUIDELINES.—Not later 8 9 than 120 days after the date of the enactment of the 10 America's Affordable Health Care Act of 2009, the 11 Secretary shall, after providing for notice and com-12 ment, recommend and post on the public Internet 13 site of the Department of Health and Human Serv-14 ices a list of best practices with respect to the oper-15 ation of qualified high risk pools. The Secretary 16 shall provide for notice to the States and insurers 17 who manage such qualified high risk pools of the 18 proposed development of such practices and shall de-19 velop such best practices with input obtained from 20 such States and insurers. Such best practices should 21 be categorized and applied according to the number of individuals enrolled in the qualified high risk pool 22 23 involved.

1 "(3) BONUS GRANTS FOR STATE QUALIFIED 2 HIGH RISK POOLS THAT FOLLOW BEST PRAC-3 TICES.—

"(A) IN GENERAL.—In the case of a State 4 that is one of the 50 States or the District of 5 6 Columbia, that has established a qualified high 7 risk pool, and that is receiving a grant under 8 subsection (b)(1), for each fiscal year for which 9 the State demonstrates according to a process 10 specified by the Secretary that such qualified 11 high risk pool was operated in accordance with 12 the best practices posted under paragraph (2), 13 the Secretary shall provide a bonus grant from 14 the funds appropriated under subparagraph (C) 15 and allotted to the State under subparagraph (B). 16

17 "(B) ALLOTMENT; LIMITATION.—The Sec-18 retary shall allot funds appropriated under sub-19 paragraph (C) among States qualifying for a 20 bonus grant under subparagraph (A) in a man-21 ner specified by the Secretary, but in no case 22 shall the amount so allotted to a State for a fis-23 cal year exceed 10 percent of the funds so ap-24 propriated for the fiscal year.

"(C) AUTHORIZATION OF APPROPRIATIONS
 FOR BONUSES.—There are authorized to be appropriated for each of fiscal years 2010 through
 2013 \$26,000,000 for allotments under sub paragraph (B).".

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