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111TH CONGRESS
2D SESSION

H. R. 5111

To amend the Patient Protection and Affordable Care Act to modify special rules relating to coverage of abortion services under such Act.

IN THE HOUSE OF REPRESENTATIVES

APRIL 22, 2010

Mr. PITTS (for himself, Mr. ADERHOLT, Mr. AKIN, Mr. BACHUS, Mr. BARRETT of South Carolina, Mr. BARTLETT, Mr. BILIRAKIS, Mrs. BLACKBURN, Mr. BOEHNER, Mr. BOOZMAN, Mr. BROWN of South Carolina, Mr. CANTOR, Mr. CHAFFETZ, Mr. CONAWAY, Mr. DAVIS of Tennessee, Mr. FLEMING, Mr. FORTENBERRY, Ms. FOXX, Mr. FRANKS of Arizona, Mr. GARRETT of New Jersey, Mr. GINGREY of Georgia, Mr. GOHMERT, Mr. GRIFFITH, Mr. HENSARLING, Mr. HOEKSTRA, Mr. HOLDEN, Mr. INGLIS, Mr. ISSA, Mr. JORDAN of Ohio, Mr. LAMBORN, Mr. LATTA, Mr. LIPINSKI, Mr. MANZULLO, Mr. MARCHANT, Mr. MCHENRY, Mr. MCINTYRE, Mr. NEUGEBAUER, Mr. PENCE, Mr. ROE of Tennessee, Mr. RYAN of Wisconsin, Mr. SMITH of New Jersey, Mr. SCALISE, Mrs. SCHMIDT, Mr. TAYLOR, Mr. TIAHRT, Mr. WILSON of South Carolina, Mr. BRADY of Texas, Mr. DANIEL E. LUNGREN of California, Mr. CHILDERS, Mr. MARSHALL, and Mr. SESSIONS) introduced the following bill; which was referred to the Committee on Energy and Commerce

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A BILL

To amend the Patient Protection and Affordable Care Act to modify special rules relating to coverage of abortion services under such Act.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. MODIFYING SPECIAL RULES RELATING TO COVERAGE OF ABORTION SERVICES UNDER THE PATIENT PROTECTION AND AFFORDABLE CARE ACT TO CONFORM TO LONG-STANDING FEDERAL POLICY.

(a) IN GENERAL.—Section 1303 of the Patient Protection and Affordable Care Act (Public Law 111–148), as amended by section 10104(c) of such Act, is amended—

(1) by redesignating subsections (c) and (d) as subsections (e) and (f), respectively;

(2) by redesignating paragraph (4) of subsection (b) as subsection (d) and transferring such subsection (d) after the subsection (c) inserted by paragraph (4) of this subsection with appropriate indentation;

(3) by amending subsection (b) to read as follows:

''(b) SPECIAL RULES RELATING TO COVERAGE OF ABORTION SERVICES.—Nothing in this Act (or any amendment made by this Act) shall be construed to require any health plan to provide coverage of or access to abortion services or to allow the Secretary or any other Federal or non-Federal person or entity in implementing this Act (or amendment) to require coverage of or access to such services.'';

(4) by inserting after subsection (b) the following new subsection:

''(c) LIMITATION ON ABORTION FUNDING.—

''(1) IN GENERAL.—No funds authorized or appropriated by this Act (or an amendment made by this Act), including credits applied toward qualified health plans under section 36B of the Internal Revenue Code of 1986 or cost-sharing reductions under section 1402 of this Act may be used to pay for any abortion or to cover any part of the costs of any health plan that includes coverage of abortion, except in the case where a woman suffers from a physical disorder, physical injury, or physical illness that would, as certified by a physician, place the woman in danger of death unless an abortion is performed, including a life-endangering physical condition caused by or arising from the pregnancy itself, or unless the pregnancy is the result of an act of rape or incest.

''(2) OPTION TO PURCHASE SEPARATE COVERAGE OR PLAN.—Nothing in this subsection shall be construed as prohibiting any non-Federal entity (including an individual or a State or local government) from purchasing separate coverage for abortions for which funding is prohibited under this sub-

section, or a plan that includes such abortions, so long as—

"(A) such coverage or plan is paid for entirely using only funds not authorized or appropriated by this Act; and

"(B) such coverage or plan is not purchased using—

"(i) individual premium payments required for a qualified health plan offered through an Exchange towards which a credit is applied under section 36B of the Internal Revenue Code of 1986; or

"(ii) other non-Federal funds required to receive a Federal payment, including a State's or locality's contribution of Medicaid matching funds.

"(3) OPTION TO OFFER COVERAGE OR PLAN.—Nothing in this subsection or section 1311(d)(2)(B)(i) shall restrict any non-Federal health insurance issuer offering a qualified health plan from offering separate coverage for abortions for which funding is prohibited under this subsection, or a plan that includes such abortions, so long as—

''(A) premiums for such separate coverage or plan are paid for entirely with funds not authorized or appropriated by this Act;

''(B) administrative costs and all services offered through such coverage or plan are paid for using only premiums collected for such coverage or plan; and

''(C) any such non-Federal health insurance issuer that offers a qualified health plan through an Exchange that includes coverage for abortions for which funding is prohibited under this subsection also offers a qualified health plan through the Exchange that is identical in every respect except that it does not cover abortions for which funding is prohibited under this subsection.'';

(5) in subsection (e), as redesignated by paragraph (1)—

(A) in the heading, strike ''REGARDING ABORTION'';

(B) in the heading of each of paragraphs (1) and (2), strike each place it appears ''REGARDING ABORTION''; and

(C) in paragraph (1), insert ''conscience protection, abortion, or'' after ''State laws regarding'';

(6) in subsection (f), as redesignated by paragraph (1), by striking ''Nothing'' and inserting ''Subject to subsection (g), nothing''; and

(7) by adding at the end the following new subsection:

''(g) NONDISCRIMINATION ON ABORTION.—

''(1) NONDISCRIMINATION.—A Federal agency or program, and any State or local government that receives Federal financial assistance under this Act (or an amendment made by this Act), may not—

''(A) subject any individual or institutional health care entity to discrimination; or

''(B) require any health plan created or regulated under this Act (or an amendment made by this Act) to subject any individual or institutional health care entity to discrimination,

on the basis that the health care entity does not provide, pay for, provide coverage of, or refer for abortions.

''(2) DEFINITION.—In this subsection, the term ''healthcare entity'' includes an individual physician

or other health care professional, a hospital, a provider-sponsored organization, a health maintenance organization, a health insurance plan, or any other kind of health care facility, organization, or plan.

''(3) ADMINISTRATION.—The Office for Civil Rights of the Department of Health and Human Services is designated to receive complaints of discrimination based on this subsection, and coordinate the investigation of such complaints.''.

(b) CONFORMING AMENDMENT.—Section 1334(a)(6) of such Act is amended to read as follows:

''(6) COVERAGE CONSISTENT WITH FEDERAL POLICY.—In entering into contracts under this subsection, the Director shall ensure that no multi-State qualified health plan offered in an Exchange provides coverage for abortions for which funding is prohibited under subsection 1303(c) of this Act.''.

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