

115TH CONGRESS
1ST SESSION

H. R. 1628

AN ACT

To provide for reconciliation pursuant to title II of the concurrent resolution on the budget for fiscal year 2017.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “American Health Care
3 Act of 2017”.

4 **SEC. 2. TABLE OF CONTENTS.**

5 The table of contents of this Act is as follows:

Sec. 1. Short title.

Sec. 2. Table of contents.

TITLE I—ENERGY AND COMMERCE

Subtitle A—Patient Access to Public Health Programs

Sec. 101. The Prevention and Public Health Fund.

Sec. 102. Community health center program.

Sec. 103. Federal payments to States.

Subtitle B—Medicaid Program Enhancement

Sec. 111. Repeal of Medicaid provisions.

Sec. 112. Repeal of Medicaid expansion.

Sec. 113. Elimination of DSH cuts.

Sec. 114. Reducing State Medicaid costs.

Sec. 115. Safety net funding for non-expansion States.

Sec. 116. Providing incentives for increased frequency of eligibility redeterminations.

Sec. 117. Permitting States to apply a work requirement for nondisabled, non-elderly, nonpregnant adults under Medicaid.

Subtitle C—Per Capita Allotment for Medical Assistance

Sec. 121. Per capita allotment for medical assistance.

Subtitle D—Patient Relief and Health Insurance Market Stability

Sec. 131. Repeal of cost-sharing subsidy.

Sec. 132. Patient and State Stability Fund.

Sec. 133. Continuous health insurance coverage incentive.

Sec. 134. Increasing coverage options.

Sec. 135. Change in permissible age variation in health insurance premium rates.

Subtitle E—Implementation Funding

Sec. 141. American Health Care Implementation Fund.

TITLE II—COMMITTEE ON WAYS AND MEANS

Subtitle A—Repeal and Replace of Health-Related Tax Policy

Sec. 201. Recapture excess advance payments of premium tax credits.

Sec. 202. Additional modifications to premium tax credit.

Sec. 203. Small business tax credit.

Sec. 204. Individual mandate.

- Sec. 205. Employer mandate.
- Sec. 206. Repeal of the tax on employee health insurance premiums and health plan benefits.
- Sec. 207. Repeal of tax on over-the-counter medications.
- Sec. 208. Repeal of increase of tax on health savings accounts.
- Sec. 209. Repeal of limitations on contributions to flexible spending accounts.
- Sec. 210. Repeal of medical device excise tax.
- Sec. 211. Repeal of elimination of deduction for expenses allocable to medicare part D subsidy.
- Sec. 212. Reduction of income threshold for determining medical care deduction.
- Sec. 213. Repeal of Medicare tax increase.
- Sec. 214. Refundable tax credit for health insurance coverage.
- Sec. 215. Maximum contribution limit to health savings account increased to amount of deductible and out-of-pocket limitation.
- Sec. 216. Allow both spouses to make catch-up contributions to the same health savings account.
- Sec. 217. Special rule for certain medical expenses incurred before establishment of health savings account.

Subtitle B—Repeal of Certain Consumer Taxes

- Sec. 221. Repeal of tax on prescription medications.
- Sec. 222. Repeal of health insurance tax.

Subtitle C—Repeal of Tanning Tax

- Sec. 231. Repeal of tanning tax.

Subtitle D—Remuneration From Certain Insurers

- Sec. 241. Remuneration from certain insurers.

Subtitle E—Repeal of Net Investment Income Tax

- Sec. 251. Repeal of net investment income tax.

1 **TITLE I—ENERGY AND**
 2 **COMMERCE**
 3 **Subtitle A—Patient Access to**
 4 **Public Health Programs**

5 **SEC. 101. THE PREVENTION AND PUBLIC HEALTH FUND.**

6 (a) IN GENERAL.—Subsection (b) of section 4002 of
 7 the Patient Protection and Affordable Care Act (42
 8 U.S.C. 300u–11), as amended by section 5009 of the 21st
 9 Century Cures Act, is amended—

1 (1) in paragraph (2), by adding “and” at the
2 end;

3 (2) in paragraph (3)—

4 (A) by striking “each of fiscal years 2018
5 and 2019” and inserting “fiscal year 2018”;
6 and

7 (B) by striking the semicolon at the end
8 and inserting a period; and

9 (3) by striking paragraphs (4) through (8).

10 (b) RESCISSION OF UNOBLIGATED FUNDS.—Of the
11 funds made available by such section 4002, the unobli-
12 gated balance at the end of fiscal year 2018 is rescinded.

13 **SEC. 102. COMMUNITY HEALTH CENTER PROGRAM.**

14 Effective as if included in the enactment of the Medi-
15 care Access and CHIP Reauthorization Act of 2015 (Pub-
16 lic Law 114–10, 129 Stat. 87), paragraph (1) of section
17 221(a) of such Act is amended by inserting “, and an ad-
18 ditional \$422,000,000 for fiscal year 2017” after “2017”.

19 **SEC. 103. FEDERAL PAYMENTS TO STATES.**

20 (a) IN GENERAL.—Notwithstanding section 504(a),
21 1902(a)(23), 1903(a), 2002, 2005(a)(4), 2102(a)(7), or
22 2105(a)(1) of the Social Security Act (42 U.S.C. 704(a),
23 1396a(a)(23), 1396b(a), 1397a, 1397d(a)(4),
24 1397bb(a)(7), 1397ee(a)(1)), or the terms of any Med-
25 icaid waiver in effect on the date of enactment of this Act

1 that is approved under section 1115 or 1915 of the Social
2 Security Act (42 U.S.C. 1315, 1396n), for the 1-year pe-
3 riod beginning on the date of the enactment of this Act,
4 no Federal funds provided from a program referred to in
5 this subsection that is considered direct spending for any
6 year may be made available to a State for payments to
7 a prohibited entity, whether made directly to the prohib-
8 ited entity or through a managed care organization under
9 contract with the State.

10 (b) DEFINITIONS.—In this section:

11 (1) PROHIBITED ENTITY.—The term “prohib-
12 ited entity” means an entity, including its affiliates,
13 subsidiaries, successors, and clinics—

14 (A) that, as of the date of enactment of
15 this Act—

16 (i) is an organization described in sec-
17 tion 501(c)(3) of the Internal Revenue
18 Code of 1986 and exempt from tax under
19 section 501(a) of such Code;

20 (ii) is an essential community provider
21 described in section 156.235 of title 45,
22 Code of Federal Regulations (as in effect
23 on the date of enactment of this Act), that
24 is primarily engaged in family planning

1 services, reproductive health, and related
2 medical care; and

3 (iii) provides for abortions, other than
4 an abortion—

5 (I) if the pregnancy is the result
6 of an act of rape or incest; or

7 (II) in the case where a woman
8 suffers from a physical disorder, phys-
9 ical injury, or physical illness that
10 would, as certified by a physician,
11 place the woman in danger of death
12 unless an abortion is performed, in-
13 cluding a life-endangering physical
14 condition caused by or arising from
15 the pregnancy itself; and

16 (B) for which the total amount of Federal
17 and State expenditures under the Medicaid pro-
18 gram under title XIX of the Social Security Act
19 in fiscal year 2014 made directly to the entity
20 and to any affiliates, subsidiaries, successors, or
21 clinics of the entity, or made to the entity and
22 to any affiliates, subsidiaries, successors, or
23 clinics of the entity as part of a nationwide
24 health care provider network, exceeded
25 \$350,000,000.

1 (2) DIRECT SPENDING.—The term “direct
2 spending” has the meaning given that term under
3 section 250(c) of the Balanced Budget and Emer-
4 gency Deficit Control Act of 1985 (2 U.S.C. 900(c)).

5 **Subtitle B—Medicaid Program** 6 **Enhancement**

7 **SEC. 111. REPEAL OF MEDICAID PROVISIONS.**

8 The Social Security Act is amended—

9 (1) in section 1902 (42 U.S.C. 1396a)—

10 (A) in subsection (a)(47)(B), by inserting
11 “and provided that any such election shall cease
12 to be effective on January 1, 2020, and no such
13 election shall be made after that date” before
14 the semicolon at the end; and

15 (B) in subsection (l)(2)(C), by inserting
16 “and ending December 31, 2019,” after “Janu-
17 ary 1, 2014,”;

18 (2) in section 1915(k)(2) (42 U.S.C.
19 1396n(k)(2)), by striking “during the period de-
20 scribed in paragraph (1)” and inserting “on or after
21 the date referred to in paragraph (1) and before
22 January 1, 2020”; and

23 (3) in section 1920(e) (42 U.S.C. 1396r–1(e)),
24 by striking “under clause (i)(VIII), clause (i)(IX), or
25 clause (ii)(XX) of subsection (a)(10)(A)” and insert-

1 ing “under clause (i)(VIII) or clause (ii)(XX) of sec-
2 tion 1902(a)(10)(A) before January 1, 2020, section
3 1902(a)(10)(A)(i)(IX),”.

4 **SEC. 112. REPEAL OF MEDICAID EXPANSION.**

5 (a) IN GENERAL.—Title XIX of the Social Security
6 Act (42 U.S.C. 1396 et seq.) is amended—

7 (1) in section 1902 (42 U.S.C. 1396a)—

8 (A) in subsection (a)(10)(A)—

9 (i) in clause (i)(VIII), by inserting
10 “and ending December 31, 2019,” after
11 “2014,”;

12 (ii) in clause (ii)(XX), by inserting
13 “and ending December 31, 2017,” after
14 “2014,”; and

15 (iii) in clause (ii), by adding at the
16 end the following new subclause:

17 “(XXIII) beginning January 1,
18 2020—

19 “(aa) who are expansion enrollees
20 (as defined in subsection (nn)(1)); or

21 “(bb) who are grandfathered ex-
22 pansion enrollees (as defined in sub-
23 section (nn)(2));”; and

24 (B) by adding at the end the following new
25 subsection:

1 “(m) EXPANSION ENROLLEES.—In this title:

2 “(1) IN GENERAL.—The term ‘expansion en-
3 rollee’ means an individual—

4 “(A) who is under 65 years of age;

5 “(B) who is not pregnant;

6 “(C) who is not entitled to, or enrolled for,
7 benefits under part A of title XVIII, or enrolled
8 for benefits under part B of title XVIII;

9 “(D) who is not described in any of sub-
10 clauses (I) through (VII) of subsection
11 (a)(10)(A)(i); and

12 “(E) whose income (as determined under
13 subsection (e)(14)) does not exceed 133 percent
14 of the poverty line (as defined in section
15 2110(c)(5)) applicable to a family of the size in-
16 volved.

17 “(2) GRANDFATHERED EXPANSION ENROLL-
18 EES.—The term ‘grandfathered expansion enrollee’
19 means an expansion enrollee who—

20 “(A) was enrolled under the State plan
21 under this title (or under a waiver of such plan)
22 as of December 31, 2019; and

23 “(B) does not have a break in eligibility
24 for medical assistance under such State plan

1 (or waiver) for more than one month after such
2 date.

3 “(3) APPLICATION OF RELATED PROVISIONS.—

4 Any reference in subsection (a)(10)(G), (k), or (gg)
5 of this section or in section 1903, 1905(a), 1920(e),
6 or 1937(a)(1)(B) to individuals described in sub-
7 clause (VIII) of subsection (a)(10)(A)(i) shall be
8 deemed to include a reference to expansion enrollees
9 (including grandfathered expansion enrollees).”; and
10 (2) in section 1905 (42 U.S.C. 1396d)—

11 (A) in subsection (y)(1), in the matter pre-
12 ceding subparagraph (A)—

13 (i) by inserting “and that has elected
14 to cover newly eligible individuals before
15 March 1, 2017” after “that is one of the
16 50 States or the District of Columbia”;
17 and

18 (ii) by inserting after “subclause
19 (VIII) of section 1902(a)(10)(A)(i)” the
20 following: “who, for periods after Decem-
21 ber 31, 2019, are grandfathered expansion
22 enrollees (as defined in section
23 1902(nn)(2))”; and

24 (B) in subsection (z)(2)—

1 (i) in subparagraph (A), by inserting
 2 after “section 1937” the following: “and,
 3 for periods after December 31, 2019, who
 4 are grandfathered expansion enrollees (as
 5 defined in section 1902(nn)(2))”; and

6 (ii) in subparagraph (B)(ii)—

7 (I) in subclause (III), by adding
 8 “and” at the end; and

9 (II) by striking subclauses (IV),
 10 (V), and (VI) and inserting the fol-
 11 lowing new subclause:

12 “(IV) 2017 and each subsequent year is 80
 13 percent.”.

14 (b) SUNSET OF ESSENTIAL HEALTH BENEFITS RE-
 15 QUIREMENT.—Section 1937(b)(5) of the Social Security
 16 Act (42 U.S.C. 1396u–7(b)(5)) is amended by adding at
 17 the end the following: “This paragraph shall not apply
 18 after December 31, 2019.”.

19 **SEC. 113. ELIMINATION OF DSH CUTS.**

20 Section 1923(f) of the Social Security Act (42 U.S.C.
 21 1396r–4(f)) is amended—

22 (1) in paragraph (7)—

23 (A) in subparagraph (A)—

24 (i) in clause (i)—

1 (I) in the matter preceding sub-
2 clause (I), by striking “2025” and in-
3 serting “2019”; and

4 (ii) in clause (ii)—

5 (I) in subclause (I), by adding
6 “and” at the end;

7 (II) in subclause (II), by striking
8 the semicolon at the end and inserting
9 a period; and

10 (III) by striking subclauses (III)
11 through (VIII); and

12 (B) by adding at the end the following new
13 subparagraph:

14 “(C) EXEMPTION FROM REDUCTION FOR
15 NON-EXPANSION STATES.—

16 “(i) IN GENERAL.—In the case of a
17 State that is a non-expansion State for a
18 fiscal year, subparagraph (A)(i) shall not
19 apply to the DSH allotment for such State
20 and fiscal year.

21 “(ii) NO CHANGE IN REDUCTION FOR
22 EXPANSION STATES.—In the case of a
23 State that is an expansion State for a fis-
24 cal year, the DSH allotment for such State

1 and fiscal year shall be determined as if
2 clause (i) did not apply.

3 “(iii) NON-EXPANSION AND EXPAN-
4 SION STATE DEFINED.—

5 “(I) The term ‘expansion State’
6 means with respect to a fiscal year, a
7 State that, as of July 1 of the pre-
8 ceding fiscal year, provides for eligi-
9 bility under clause (i)(VIII) or
10 (ii)(XX) of section 1902(a)(10)(A) for
11 medical assistance under this title (or
12 a waiver of the State plan approved
13 under section 1115).

14 “(II) The term ‘non-expansion
15 State’ means, with respect to a fiscal
16 year, a State that is not an expansion
17 State.”; and

18 (2) in paragraph (8), by striking “fiscal year
19 2025” and inserting “fiscal year 2019”.

20 **SEC. 114. REDUCING STATE MEDICAID COSTS.**

21 (a) LETTING STATES DISENROLL HIGH DOLLAR
22 LOTTERY WINNERS.—

23 (1) IN GENERAL.—Section 1902 of the Social
24 Security Act (42 U.S.C. 1396a) is amended—

1 (A) in subsection (a)(17), by striking
2 “(e)(14), (e)(14)” and inserting “(e)(14),
3 (e)(15)”; and

4 (B) in subsection (e)—

5 (i) in paragraph (14) (relating to
6 modified adjusted gross income), by adding
7 at the end the following new subparagraph:

8 “(J) TREATMENT OF CERTAIN LOTTERY
9 WINNINGS AND INCOME RECEIVED AS A LUMP
10 SUM.—

11 “(i) IN GENERAL.—In the case of an
12 individual who is the recipient of qualified
13 lottery winnings (pursuant to lotteries oc-
14 ccurring on or after January 1, 2020) or
15 qualified lump sum income (received on or
16 after such date) and whose eligibility for
17 medical assistance is determined based on
18 the application of modified adjusted gross
19 income under subparagraph (A), a State
20 shall, in determining such eligibility, in-
21 clude such winnings or income (as applica-
22 ble) as income received—

23 “(I) in the month in which such
24 winnings or income (as applicable) is
25 received if the amount of such

1 winnings or income is less than
2 \$80,000;

3 “(II) over a period of 2 months
4 if the amount of such winnings or in-
5 come (as applicable) is greater than or
6 equal to \$80,000 but less than
7 \$90,000;

8 “(III) over a period of 3 months
9 if the amount of such winnings or in-
10 come (as applicable) is greater than or
11 equal to \$90,000 but less than
12 \$100,000; and

13 “(IV) over a period of 3 months
14 plus 1 additional month for each in-
15 crement of \$10,000 of such winnings
16 or income (as applicable) received, not
17 to exceed a period of 120 months (for
18 winnings or income of \$1,260,000 or
19 more), if the amount of such winnings
20 or income is greater than or equal to
21 \$100,000.

22 “(ii) COUNTING IN EQUAL INSTALL-
23 MENTS.—For purposes of subclauses (II),
24 (III), and (IV) of clause (i), winnings or
25 income to which such subclause applies

1 shall be counted in equal monthly install-
2 ments over the period of months specified
3 under such subclause.

4 “(iii) **HARDSHIP EXEMPTION.**—An in-
5 dividual whose income, by application of
6 clause (i), exceeds the applicable eligibility
7 threshold established by the State, may
8 continue to be eligible for medical assist-
9 ance to the extent that the State deter-
10 mines, under procedures established by the
11 State under the State plan (or in the case
12 of a waiver of the plan under section 1115,
13 incorporated in such waiver), or as other-
14 wise established by such State in accord-
15 ance with such standards as may be speci-
16 fied by the Secretary, that the denial of eli-
17 gibility of the individual would cause an
18 undue medical or financial hardship as de-
19 termined on the basis of criteria estab-
20 lished by the Secretary.

21 “(iv) **NOTIFICATIONS AND ASSIST-**
22 **ANCE REQUIRED IN CASE OF LOSS OF ELI-**
23 **GIBILITY.**—A State shall, with respect to
24 an individual who loses eligibility for med-
25 ical assistance under the State plan (or a

1 waiver of such plan) by reason of clause
2 (i), before the date on which the individual
3 loses such eligibility, inform the individual
4 of the date on which the individual would
5 no longer be considered ineligible by reason
6 of such clause to receive medical assistance
7 under the State plan or under any waiver
8 of such plan and the date on which the in-
9 dividual would be eligible to reapply to re-
10 ceive such medical assistance.

11 “(v) QUALIFIED LOTTERY WINNINGS
12 DEFINED.—In this subparagraph, the term
13 ‘qualified lottery winnings’ means winnings
14 from a sweepstakes, lottery, or pool de-
15 scribed in paragraph (3) of section 4402 of
16 the Internal Revenue Code of 1986 or a
17 lottery operated by a multistate or multi-
18 jurisdictional lottery association, including
19 amounts awarded as a lump sum payment.

20 “(vi) QUALIFIED LUMP SUM INCOME
21 DEFINED.—In this subparagraph, the term
22 ‘qualified lump sum income’ means income
23 that is received as a lump sum from one
24 of the following sources:

1 “(I) Monetary winnings from
2 gambling (as defined by the Secretary
3 and including monetary winnings from
4 gambling activities described in sec-
5 tion 1955(b)(4) of title 18, United
6 States Code).

7 “(II) Income received as liquid
8 assets from the estate (as defined in
9 section 1917(b)(4)) of a deceased in-
10 dividual.”; and

11 (ii) by striking “(14) EXCLUSION”
12 and inserting “(15) EXCLUSION”.

13 (2) RULES OF CONSTRUCTION.—

14 (A) INTERCEPTION OF LOTTERY WINNINGS
15 ALLOWED.—Nothing in the amendment made
16 by paragraph (1)(B)(i) shall be construed as
17 preventing a State from intercepting the State
18 lottery winnings awarded to an individual in the
19 State to recover amounts paid by the State
20 under the State Medicaid plan under title XIX
21 of the Social Security Act for medical assistance
22 furnished to the individual.

23 (B) APPLICABILITY LIMITED TO ELIGI-
24 BILITY OF RECIPIENT OF LOTTERY WINNINGS
25 OR LUMP SUM INCOME.—Nothing in the amend-

1 ment made by paragraph (1)(B)(i) shall be con-
2 strued, with respect to a determination of
3 household income for purposes of a determina-
4 tion of eligibility for medical assistance under
5 the State plan under title XIX of the Social Se-
6 curity Act (42 U.S.C. 1396 et seq.) (or a waiver
7 of such plan) made by applying modified ad-
8 justed gross income under subparagraph (A) of
9 section 1902(e)(14) of such Act (42 U.S.C.
10 1396a(e)(14)), as limiting the eligibility for
11 such medical assistance of any individual that is
12 a member of the household other than the indi-
13 vidual (or the individual’s spouse) who received
14 qualified lottery winnings or qualified lump-sum
15 income (as defined in subparagraph (J) of such
16 section 1902(e)(14), as added by paragraph
17 (1)(B)(i) of this subsection).

18 (b) REPEAL OF RETROACTIVE ELIGIBILITY.—

19 (1) IN GENERAL.—

20 (A) STATE PLAN REQUIREMENTS.—Section
21 1902(a)(34) of the Social Security Act (42
22 U.S.C. 1396a(a)(34)) is amended by striking
23 “in or after the third month before the month
24 in which he made application” and inserting “in

1 or after the month in which the individual made
2 application”.

3 (B) DEFINITION OF MEDICAL ASSIST-
4 ANCE.—Section 1905(a) of the Social Security
5 Act (42 U.S.C. 1396d(a)) is amended by strik-
6 ing “in or after the third month before the
7 month in which the recipient makes application
8 for assistance” and inserting “in or after the
9 month in which the recipient makes application
10 for assistance”.

11 (2) EFFECTIVE DATE.—The amendments made
12 by paragraph (1) shall apply to medical assistance
13 with respect to individuals whose eligibility for such
14 assistance is based on an application for such assist-
15 ance made (or deemed to be made) on or after Octo-
16 ber 1, 2017.

17 (c) UPDATING ALLOWABLE HOME EQUITY LIMITS IN
18 MEDICAID.—

19 (1) IN GENERAL.—Section 1917(f)(1) of the
20 Social Security Act (42 U.S.C. 1396p(f)(1)) is
21 amended—

22 (A) in subparagraph (A), by striking “sub-
23 paragraphs (B) and (C)” and inserting “sub-
24 paragraph (B)”;

25 (B) by striking subparagraph (B);

1 (C) by redesignating subparagraph (C) as
2 subparagraph (B); and

3 (D) in subparagraph (B), as so redesign-
4 dated, by striking “dollar amounts specified in
5 this paragraph” and inserting “dollar amount
6 specified in subparagraph (A)”.

7 (2) EFFECTIVE DATE.—

8 (A) IN GENERAL.—The amendments made
9 by paragraph (1) shall apply with respect to eli-
10 gibility determinations made after the date that
11 is 180 days after the date of the enactment of
12 this section.

13 (B) EXCEPTION FOR STATE LEGISLA-
14 TION.—In the case of a State plan under title
15 XIX of the Social Security Act that the Sec-
16 retary of Health and Human Services deter-
17 mines requires State legislation in order for the
18 respective plan to meet any requirement im-
19 posed by amendments made by this subsection,
20 the respective plan shall not be regarded as fail-
21 ing to comply with the requirements of such
22 title solely on the basis of its failure to meet
23 such an additional requirement before the first
24 day of the first calendar quarter beginning after
25 the close of the first regular session of the

1 State legislature that begins after the date of
2 the enactment of this Act. For purposes of the
3 previous sentence, in the case of a State that
4 has a 2-year legislative session, each year of the
5 session shall be considered to be a separate reg-
6 ular session of the State legislature.

7 **SEC. 115. SAFETY NET FUNDING FOR NON-EXPANSION**
8 **STATES.**

9 Title XIX of the Social Security Act is amended by
10 inserting after section 1923 (42 U.S.C. 1396r-4) the fol-
11 lowing new section:

12 “ADJUSTMENT IN PAYMENT FOR SERVICES OF SAFETY
13 NET PROVIDERS IN NON-EXPANSION STATES

14 “SEC. 1923A. (a) IN GENERAL.—Subject to the limi-
15 tations of this section, for each year during the period be-
16 ginning with fiscal year 2018 and ending with fiscal year
17 2022, each State that is one of the 50 States or the Dis-
18 trict of Columbia and that, as of July 1 of the preceding
19 fiscal year, did not provide for eligibility under clause
20 (i)(VIII) or (ii)(XX) of section 1902(a)(10)(A) for medical
21 assistance under this title (or a waiver of the State plan
22 approved under section 1115) (each such State or District
23 referred to in this section for the fiscal year as a ‘non-
24 expansion State’) may adjust the payment amounts other-
25 wise provided under the State plan under this title (or a
26 waiver of such plan) to health care providers that provide

1 health care services to individuals enrolled under this title
2 (in this section referred to as ‘eligible providers’) so long
3 as the payment adjustment to such an eligible provider
4 does not exceed the provider’s costs in furnishing health
5 care services (as determined by the Secretary and net of
6 payments under this title, other than under this section,
7 and by uninsured patients) to individuals who either are
8 eligible for medical assistance under the State plan (or
9 under a waiver of such plan) or have no health insurance
10 or health plan coverage for such services.

11 “(b) INCREASE IN APPLICABLE FMAP.—Notwith-
12 standing section 1905(b), the Federal medical assistance
13 percentage applicable with respect to expenditures attrib-
14 utable to a payment adjustment under subsection (a) for
15 which payment is permitted under subsection (c) shall be
16 equal to—

17 “(1) 100 percent for calendar quarters in fiscal
18 years 2018, 2019, 2020, and 2021; and

19 “(2) 95 percent for calendar quarters in fiscal
20 year 2022.

21 “(c) ANNUAL ALLOTMENT LIMITATION.—Payment
22 under section 1903(a) shall not be made to a State with
23 respect to any payment adjustment made under this sec-
24 tion for all calendar quarters in a fiscal year in excess
25 of the \$2,000,000,000 multiplied by the ratio of—

1 “(1) the population of the State with income
2 below 138 percent of the poverty line in 2015 (as de-
3 termined based the table entitled ‘Health Insurance
4 Coverage Status and Type by Ratio of Income to
5 Poverty Level in the Past 12 Months by Age’ for the
6 universe of the civilian noninstitutionalized popu-
7 lation for whom poverty status is determined based
8 on the 2015 American Community Survey 1–Year
9 Estimates, as published by the Bureau of the Cen-
10 sus), to

11 “(2) the sum of the populations under para-
12 graph (1) for all non-expansion States.

13 “(d) DISQUALIFICATION IN CASE OF STATE COV-
14 ERAGE EXPANSION.—If a State is a non-expansion for a
15 fiscal year and provides eligibility for medical assistance
16 described in subsection (a) during the fiscal year, the
17 State shall no longer be treated as a non-expansion State
18 under this section for any subsequent fiscal years.”.

19 **SEC. 116. PROVIDING INCENTIVES FOR INCREASED FRE-**
20 **QUENCY OF ELIGIBILITY REDETERMINA-**
21 **TIONS.**

22 (a) IN GENERAL.—Section 1902(e)(14) of the Social
23 Security Act (42 U.S.C. 1396a(e)(14)) (relating to modi-
24 fied adjusted gross income), as amended by section

1 114(a)(1), is further amended by adding at the end the
2 following:

3 “(K) FREQUENCY OF ELIGIBILITY REDE-
4 TERMINATIONS.—Beginning on October 1,
5 2017, and notwithstanding subparagraph (H),
6 in the case of an individual whose eligibility for
7 medical assistance under the State plan under
8 this title (or a waiver of such plan) is deter-
9 mined based on the application of modified ad-
10 justed gross income under subparagraph (A)
11 and who is so eligible on the basis of clause
12 (i)(VIII) or clause (ii)(XX) of subsection
13 (a)(10)(A), a State shall redetermine such indi-
14 vidual’s eligibility for such medical assistance
15 no less frequently than once every 6 months.”.

16 (b) INCREASED ADMINISTRATIVE MATCHING PER-
17 CENTAGE.—For each calendar quarter during the period
18 beginning on October 1, 2017, and ending on December
19 31, 2019, the Federal matching percentage otherwise ap-
20 plicable under section 1903(a) of the Social Security Act
21 (42 U.S.C. 1396b(a)) with respect to State expenditures
22 during such quarter that are attributable to meeting the
23 requirement of section 1902(e)(14) (relating to determina-
24 tions of eligibility using modified adjusted gross income)
25 of such Act shall be increased by 5 percentage points with

1 respect to State expenditures attributable to activities car-
 2 ried out by the State (and approved by the Secretary) to
 3 increase the frequency of eligibility redeterminations re-
 4 quired by subparagraph (K) of such section (relating to
 5 eligibility redeterminations made on a 6-month basis) (as
 6 added by subsection (a)).

7 **SEC. 117. PERMITTING STATES TO APPLY A WORK RE-**
 8 **QUIREMENT FOR NONDISABLED, NON-**
 9 **ELDERLY, NONPREGNANT ADULTS UNDER**
 10 **MEDICAID.**

11 (a) IN GENERAL.—Section 1902 of the Social Secu-
 12 rity Act (42 U.S.C. 1396a), as previously amended, is fur-
 13 ther amended by adding at the end the following new sub-
 14 section:

15 “(oo) WORK REQUIREMENT OPTION FOR NON-
 16 DISABLED, NONELDERLY, NONPREGNANT ADULTS.—

17 “(1) IN GENERAL.—Beginning October 1,
 18 2017, subject to paragraph (3), a State may elect to
 19 condition medical assistance to a nondisabled, non-
 20 elderly, nonpregnant individual under this title upon
 21 such an individual’s satisfaction of a work require-
 22 ment (as defined in paragraph (2)).

23 “(2) WORK REQUIREMENT DEFINED.—In this
 24 section, the term ‘work requirement’ means, with re-
 25 spect to an individual, the individual’s participation

1 in work activities (as defined in section 407(d)) for
2 such period of time as determined by the State, and
3 as directed and administered by the State.

4 “(3) REQUIRED EXCEPTIONS.—States admin-
5 istering a work requirement under this subsection
6 may not apply such requirement to—

7 “(A) a woman during pregnancy through
8 the end of the month in which the 60-day pe-
9 riod (beginning on the last day of her preg-
10 nancy) ends;

11 “(B) an individual who is under 19 years
12 of age;

13 “(C) an individual who is the only parent
14 or caretaker relative in the family of a child
15 who has not attained 6 years of age or who is
16 the only parent or caretaker of a child with dis-
17 abilities; or

18 “(D) an individual who is married or a
19 head of household and has not attained 20
20 years of age and who—

21 “(i) maintains satisfactory attendance
22 at secondary school or the equivalent; or

23 “(ii) participates in education directly
24 related to employment.”.

1 (b) INCREASE IN MATCHING RATE FOR IMPLEMEN-
 2 TATION.—Section 1903 of the Social Security Act (42
 3 U.S.C. 1396b) is amended by adding at the end the fol-
 4 lowing:

5 “(aa) The Federal matching percentage otherwise ap-
 6 plicable under subsection (a) with respect to State admin-
 7 istrative expenditures during a calendar quarter for which
 8 the State receives payment under such subsection shall,
 9 in addition to any other increase to such Federal matching
 10 percentage, be increased for such calendar quarter by 5
 11 percentage points with respect to State expenditures at-
 12 tributable to activities carried out by the State (and ap-
 13 proved by the Secretary) to implement subsection (oo) of
 14 section 1902.”.

15 **Subtitle C—Per Capita Allotment**
 16 **for Medical Assistance**

17 **SEC. 121. PER CAPITA ALLOTMENT FOR MEDICAL ASSIST-**
 18 **ANCE.**

19 Title XIX of the Social Security Act is amended—

20 (1) in section 1903 (42 U.S.C. 1396b)—

21 (A) in subsection (a), in the matter before
 22 paragraph (1), by inserting “and section
 23 1903A(a)” after “except as otherwise provided
 24 in this section”; and

1 (B) in subsection (d)(1), by striking “to
2 which” and inserting “to which, subject to sec-
3 tion 1903A(a),”; and

4 (2) by inserting after such section 1903 the fol-
5 lowing new section:

6 **“SEC. 1903A. PER CAPITA-BASED CAP ON PAYMENTS FOR**
7 **MEDICAL ASSISTANCE.**

8 “(a) APPLICATION OF PER CAPITA CAP ON PAY-
9 MENTS FOR MEDICAL ASSISTANCE EXPENDITURES.—

10 “(1) IN GENERAL.—If a State has excess ag-
11 gregate medical assistance expenditures (as defined
12 in paragraph (2)) for a fiscal year (beginning with
13 fiscal year 2020), the amount of payment to the
14 State under section 1903(a)(1) for each quarter in
15 the following fiscal year shall be reduced by $\frac{1}{4}$ of
16 the excess aggregate medical assistance payments
17 (as defined in paragraph (3)) for that previous fiscal
18 year. In this section, the term ‘State’ means only the
19 50 States and the District of Columbia.

20 “(2) EXCESS AGGREGATE MEDICAL ASSISTANCE
21 EXPENDITURES.—In this subsection, the term ‘ex-
22 cess aggregate medical assistance expenditures’
23 means, for a State for a fiscal year, the amount (if
24 any) by which—

1 “(A) the amount of the adjusted total med-
2 ical assistance expenditures (as defined in sub-
3 section (b)(1)) for the State and fiscal year; ex-
4 ceeds

5 “(B) the amount of the target total med-
6 ical assistance expenditures (as defined in sub-
7 section (c)) for the State and fiscal year.

8 “(3) EXCESS AGGREGATE MEDICAL ASSISTANCE
9 PAYMENTS.—In this subsection, the term ‘excess ag-
10 ggregate medical assistance payments’ means, for a
11 State for a fiscal year, the product of—

12 “(A) the excess aggregate medical assist-
13 ance expenditures (as defined in paragraph (2))
14 for the State for the fiscal year; and

15 “(B) the Federal average medical assist-
16 ance matching percentage (as defined in para-
17 graph (4)) for the State for the fiscal year.

18 “(4) FEDERAL AVERAGE MEDICAL ASSISTANCE
19 MATCHING PERCENTAGE.—In this subsection, the
20 term ‘Federal average medical assistance matching
21 percentage’ means, for a State for a fiscal year, the
22 ratio (expressed as a percentage) of—

23 “(A) the amount of the Federal payments
24 that would be made to the State under section
25 1903(a)(1) for medical assistance expenditures

1 for calendar quarters in the fiscal year if para-
2 graph (1) did not apply; to

3 “(B) the amount of the medical assistance
4 expenditures for the State and fiscal year.

5 “(b) ADJUSTED TOTAL MEDICAL ASSISTANCE EX-
6 PENDITURES.—Subject to subsection (g), the following
7 shall apply:

8 “(1) IN GENERAL.—In this section, the term
9 ‘adjusted total medical assistance expenditures’
10 means, for a State—

11 “(A) for fiscal year 2016, the product of—

12 “(i) the amount of the medical assist-
13 ance expenditures (as defined in paragraph
14 (2)) for the State and fiscal year, reduced
15 by the amount of any excluded expendi-
16 tures (as defined in paragraph (3)) for the
17 State and fiscal year otherwise included in
18 such medical assistance expenditures; and

19 “(ii) the 1903A FY16 population per-
20 centage (as defined in paragraph (4)) for
21 the State; or

22 “(B) for fiscal year 2019 or a subsequent
23 fiscal year, the amount of the medical assist-
24 ance expenditures (as defined in paragraph (2))
25 for the State and fiscal year that is attributable

1 to 1903A enrollees, reduced by the amount of
2 any excluded expenditures (as defined in para-
3 graph (3)) for the State and fiscal year other-
4 wise included in such medical assistance ex-
5 penditures and includes non-DSH supplemental
6 payments (as defined in subsection
7 (d)(4)(A)(ii)) and payments described in sub-
8 section (d)(4)(A)(iii) but shall not be construed
9 as including any expenditures attributable to
10 the program under section 1928. In applying
11 subparagraph (B), non-DSH supplemental pay-
12 ments (as defined in subsection (d)(4)(A)(ii))
13 and payments described in subsection
14 (d)(4)(A)(iii) shall be treated as fully attrib-
15 utable to 1903A enrollees.

16 “(2) MEDICAL ASSISTANCE EXPENDITURES.—

17 In this section, the term ‘medical assistance expendi-
18 tures’ means, for a State and fiscal year, the med-
19 ical assistance payments as reported by medical
20 service category on the Form CMS-64 quarterly ex-
21 pense report (or successor to such a report form,
22 and including enrollment data and subsequent ad-
23 justments to any such report, in this section referred
24 to collectively as a ‘CMS-64 report’) for which pay-

1 ment is (or may otherwise be) made pursuant to sec-
2 tion 1903(a)(1).

3 “(3) EXCLUDED EXPENDITURES.—In this sec-
4 tion, the term ‘excluded expenditures’ means, for a
5 State and fiscal year, expenditures under the State
6 plan (or under a waiver of such plan) that are at-
7 tributable to any of the following:

8 “(A) DSH.—Payment adjustments made
9 for disproportionate share hospitals under sec-
10 tion 1923.

11 “(B) MEDICARE COST-SHARING.—Pay-
12 ments made for medicare cost-sharing (as de-
13 fined in section 1905(p)(3)).

14 “(C) SAFETY NET PROVIDER PAYMENT AD-
15 JUSTMENTS IN NON-EXPANSION STATES.—Pay-
16 ment adjustments under subsection (a) of sec-
17 tion 1923A for which payment is permitted
18 under subsection (c) of such section.

19 “(4) 1903A FY 16 POPULATION PERCENTAGE.—
20 In this subsection, the term ‘1903A FY16 popu-
21 lation percentage’ means, for a State, the Sec-
22 retary’s calculation of the percentage of the actual
23 medical assistance expenditures, as reported by the
24 State on the CMS–64 reports for calendar quarters

1 in fiscal year 2016, that are attributable to 1903A
2 enrollees (as defined in subsection (e)(1)).

3 “(c) TARGET TOTAL MEDICAL ASSISTANCE EXPEND-
4 ITURES.—

5 “(1) CALCULATION.—In this section, the term
6 ‘target total medical assistance expenditures’ means,
7 for a State for a fiscal year and subject to para-
8 graph (4), the sum of the products, for each of the
9 1903A enrollee categories (as defined in subsection
10 (e)(2)), of—

11 “(A) the target per capita medical assist-
12 ance expenditures (as defined in paragraph (2))
13 for the enrollee category, State, and fiscal year;
14 and

15 “(B) the number of 1903A enrollees for
16 such enrollee category, State, and fiscal year, as
17 determined under subsection (e)(4).

18 “(2) TARGET PER CAPITA MEDICAL ASSISTANCE
19 EXPENDITURES.—In this subsection, the term ‘tar-
20 get per capita medical assistance expenditures’
21 means, for a 1903A enrollee category and State—

22 “(A) for fiscal year 2020, an amount equal
23 to—

24 “(i) the provisional FY19 target per
25 capita amount for such enrollee category

1 (as calculated under subsection (d)(5)) for
2 the State; increased by

3 “(ii) the applicable annual inflation
4 factor (as defined in paragraph (3)) for
5 fiscal year 2020; and

6 “(B) for each succeeding fiscal year, an
7 amount equal to—

8 “(i) the target per capita medical as-
9 sistance expenditures (under subparagraph
10 (A) or this subparagraph) for the 1903A
11 enrollee category and State for the pre-
12 ceding fiscal year, increased by

13 “(ii) the applicable annual inflation
14 factor for that succeeding fiscal year.

15 “(3) APPLICABLE ANNUAL INFLATION FAC-
16 TOR.—In paragraph (2), the term ‘applicable annual
17 inflation factor’ means, for a fiscal year—

18 “(A) for each of the 1903A enrollee cat-
19 egories described in subparagraphs (C), (D),
20 and (E) of subsection (e)(2), the percentage in-
21 crease in the medical care component of the
22 consumer price index for all urban consumers
23 (U.S. city average) from September of the pre-
24 vious fiscal year to September of the fiscal year
25 involved; and

1 “(B) for each of the 1903A enrollee cat-
2 gories described in subparagraphs (A) and (B)
3 of subsection (e)(2), the percentage increase de-
4 scribed in subparagraph (A) plus 1 percentage
5 point.

6 “(4) DECREASE IN TARGET EXPENDITURES
7 FOR REQUIRED EXPENDITURES BY CERTAIN POLIT-
8 ICAL SUBDIVISIONS.—

9 “(A) IN GENERAL.—In the case of a State
10 that had a DSH allotment under section
11 1923(f) for fiscal year 2016 that was more than
12 6 times the national average of such allotments
13 for all the States for such fiscal year and that
14 requires political subdivisions within the State
15 to contribute funds towards medical assistance
16 or other expenditures under the State plan
17 under this title (or under a waiver of such plan)
18 for a fiscal year (beginning with fiscal year
19 2020), the target total medical assistance ex-
20 penditures for such State and fiscal year shall
21 be decreased by the amount that political sub-
22 divisions in the State are required to contribute
23 under the plan (or waiver) without reimburse-
24 ment from the State for such fiscal year, other

1 than contributions described in subparagraph
2 (B).

3 “(B) EXCEPTIONS.—The contributions de-
4 scribed in this subparagraph are the following:

5 “(i) Contributions required by a State
6 from a political subdivision that, as of the
7 first day of the calendar year in which the
8 fiscal year involved begins—

9 “(I) has a population of more
10 than 5,000,000, as estimated by the
11 Bureau of the Census; and

12 “(II) imposes a local income tax
13 upon its residents.

14 “(ii) Contributions required by a
15 State from a political subdivision for ad-
16 ministrative expenses if the State required
17 such contributions from such subdivision
18 without reimbursement from the State as
19 of January 1, 2017.

20 “(d) CALCULATION OF FY19 PROVISIONAL TARGET
21 AMOUNT FOR EACH 1903A ENROLLEE CATEGORY.—Sub-
22 ject to subsection (g), the following shall apply:

23 “(1) CALCULATION OF BASE AMOUNTS FOR FIS-
24 CAL YEAR 2016.—For each State the Secretary shall

1 calculate (and provide notice to the State not later
2 than April 1, 2018, of) the following:

3 “(A) The amount of the adjusted total
4 medical assistance expenditures (as defined in
5 subsection (b)(1)) for the State for fiscal year
6 2016.

7 “(B) The number of 1903A enrollees for
8 the State in fiscal year 2016 (as determined
9 under subsection (e)(4)).

10 “(C) The average per capita medical as-
11 sistance expenditures for the State for fiscal
12 year 2016 equal to—

13 “(i) the amount calculated under sub-
14 paragraph (A); divided by

15 “(ii) the number calculated under sub-
16 paragraph (B).

17 “(2) FISCAL YEAR 2019 AVERAGE PER CAPITA
18 AMOUNT BASED ON INFLATING THE FISCAL YEAR
19 2016 AMOUNT TO FISCAL YEAR 2019 BY CPI-MED-
20 ICAL.—The Secretary shall calculate a fiscal year
21 2019 average per capita amount for each State
22 equal to—

23 “(A) the average per capita medical assist-
24 ance expenditures for the State for fiscal year

1 2016 (calculated under paragraph (1)(C)); in-
2 creased by

3 “(B) the percentage increase in the med-
4 ical care component of the consumer price index
5 for all urban consumers (U.S. city average)
6 from September, 2016 to September, 2019.

7 “(3) AGGREGATE AND AVERAGE EXPENDI-
8 TURES PER CAPITA FOR FISCAL YEAR 2019.—The
9 Secretary shall calculate for each State the fol-
10 lowing:

11 “(A) The amount of the adjusted total
12 medical assistance expenditures (as defined in
13 subsection (b)(1)) for the State for fiscal year
14 2019.

15 “(B) The number of 1903A enrollees for
16 the State in fiscal year 2019 (as determined
17 under subsection (e)(4)).

18 “(4) PER CAPITA EXPENDITURES FOR FISCAL
19 YEAR 2019 FOR EACH 1903A ENROLLEE CATEGORY.—
20 The Secretary shall calculate (and provide notice to
21 each State not later than January 1, 2020, of) the
22 following:

23 “(A)(i) For each 1903A enrollee category,
24 the amount of the adjusted total medical assist-
25 ance expenditures (as defined in subsection

1 (b)(1)) for the State for fiscal year 2019 for in-
2 dividuals in the enrollee category, calculated by
3 excluding from medical assistance expenditures
4 those expenditures attributable to expenditures
5 described in clause (iii) or non-DSH supple-
6 mental expenditures (as defined in clause (ii)).

7 “(ii) In this paragraph, the term ‘non-
8 DSH supplemental expenditure’ means a pay-
9 ment to a provider under the State plan (or
10 under a waiver of the plan) that—

11 “(I) is not made under section 1923;

12 “(II) is not made with respect to a
13 specific item or service for an individual;

14 “(III) is in addition to any payments
15 made to the provider under the plan (or
16 waiver) for any such item or service; and

17 “(IV) complies with the limits for ad-
18 ditional payments to providers under the
19 plan (or waiver) imposed pursuant to sec-
20 tion 1902(a)(30)(A), including the regula-
21 tions specifying upper payment limits
22 under the State plan in part 447 of title
23 42, Code of Federal Regulations (or any
24 successor regulations).

1 “(iii) An expenditure described in this
2 clause is an expenditure that meets the criteria
3 specified in subclauses (I), (II), and (III) of
4 clause (ii) and is authorized under section 1115
5 for the purposes of funding a delivery system
6 reform pool, uncompensated care pool, a des-
7 ignated state health program, or any other
8 similar expenditure (as defined by the Sec-
9 retary).

10 “(B) For each 1903A enrollee category,
11 the number of 1903A enrollees for the State in
12 fiscal year 2019 in the enrollee category (as de-
13 termined under subsection (e)(4)).

14 “(C) For fiscal year 2016, the State’s non-
15 DSH supplemental and pool payment percent-
16 age is equal to the ratio (expressed as a per-
17 centage) of—

18 “(i) the total amount of non-DSH
19 supplemental expenditures (as defined in
20 subparagraph (A)(ii)) and payments de-
21 scribed in subparagraph (A)(iii) for the
22 State for fiscal year 2016; to

23 “(ii) the amount described in sub-
24 section (b)(1)(A) for the State for fiscal
25 year 2016.

1 “(D) For each 1903A enrollee category an
2 average medical assistance expenditures per
3 capita for the State for fiscal year 2019 for the
4 enrollee category equal to—

5 “(i) the amount calculated under sub-
6 paragraph (A) for the State, increased by
7 the non-DSH supplemental and pool pay-
8 ment percentage for the State (as cal-
9 culated under subparagraph (C)); divided
10 by

11 “(ii) the number calculated under sub-
12 paragraph (B) for the State for the en-
13 rollee category.

14 “(5) PROVISIONAL FY19 PER CAPITA TARGET
15 AMOUNT FOR EACH 1903A ENROLLEE CATEGORY.—

16 Subject to subsection (f)(2), the Secretary shall cal-
17 culate for each State a provisional FY19 per capita
18 target amount for each 1903A enrollee category
19 equal to the average medical assistance expenditures
20 per capita for the State for fiscal year 2019 (as cal-
21 culated under paragraph (4)(D)) for such enrollee
22 category multiplied by the ratio of—

23 “(A) the product of—

1 “(i) the fiscal year 2019 average per
2 capita amount for the State, as calculated
3 under paragraph (2); and

4 “(ii) the number of 1903A enrollees
5 for the State in fiscal year 2019, as cal-
6 culated under paragraph (3)(B); to

7 “(B) the amount of the adjusted total
8 medical assistance expenditures for the State
9 for fiscal year 2019, as calculated under para-
10 graph (3)(A).

11 “(e) 1903A ENROLLEE; 1903A ENROLLEE CAT-
12 EGORY.—Subject to subsection (g), for purposes of this
13 section, the following shall apply:

14 “(1) 1903A ENROLLEE.—The term ‘1903A en-
15 rollee’ means, with respect to a State and a month
16 and subject to subsection (i)(1)(B), any Medicaid
17 enrollee (as defined in paragraph (3)) for the month,
18 other than such an enrollee who for such month is
19 in any of the following categories of excluded indi-
20 viduals:

21 “(A) CHIP.—An individual who is pro-
22 vided, under this title in the manner described
23 in section 2101(a)(2), child health assistance
24 under title XXI.

1 “(B) IHS.—An individual who receives
2 any medical assistance under this title for serv-
3 ices for which payment is made under the third
4 sentence of section 1905(b).

5 “(C) BREAST AND CERVICAL CANCER
6 SERVICES ELIGIBLE INDIVIDUAL.—An indi-
7 vidual who is entitled to medical assistance
8 under this title only pursuant to section
9 1902(a)(10)(A)(ii)(XVIII).

10 “(D) PARTIAL-BENEFIT ENROLLEES.—An
11 individual who—

12 “(i) is an alien who is entitled to med-
13 ical assistance under this title only pursu-
14 ant to section 1903(v)(2);

15 “(ii) is entitled to medical assistance
16 under this title only pursuant to subclause
17 (XII) or (XXI) of section
18 1902(a)(10)(A)(ii) (or pursuant to a waiv-
19 er that provides only comparable benefits);

20 “(iii) is a dual eligible individual (as
21 defined in section 1915(h)(2)(B)) and is
22 entitled to medical assistance under this
23 title (or under a waiver) only for some or
24 all of medicare cost-sharing (as defined in
25 section 1905(p)(3)); or

1 “(iv) is entitled to medical assistance
2 under this title and for whom the State is
3 providing a payment or subsidy to an em-
4 ployer for coverage of the individual under
5 a group health plan pursuant to section
6 1906 or section 1906A (or pursuant to a
7 waiver that provides only comparable bene-
8 fits).

9 “(2) 1903A ENROLLEE CATEGORY.—The term
10 ‘1903A enrollee category’ means each of the fol-
11 lowing:

12 “(A) ELDERLY.—A category of 1903A en-
13 rollees who are 65 years of age or older.

14 “(B) BLIND AND DISABLED.—A category
15 of 1903A enrollees (not described in the pre-
16 vious subparagraph) who are eligible for med-
17 ical assistance under this title on the basis of
18 being blind or disabled.

19 “(C) CHILDREN.—A category of 1903A
20 enrollees (not described in a previous subpara-
21 graph) who are children under 19 years of age.

22 “(D) EXPANSION ENROLLEES.—A cat-
23 egory of 1903A enrollees (not described in a
24 previous subparagraph) for whom the amounts
25 expended for medical assistance are subject to

1 an increase or change in the Federal medical
2 assistance percentage under subsection (y) or
3 (z)(2), respectively, of section 1905.

4 “(E) OTHER NONELDERLY, NONDISABLED,
5 NON-EXPANSION ADULTS.—A category of
6 1903A enrollees who are not described in any
7 previous subparagraph.

8 “(3) MEDICAID ENROLLEE.—The term ‘Med-
9 icaid enrollee’ means, with respect to a State for a
10 month, an individual who is eligible for medical as-
11 sistance for items or services under this title and en-
12 rolled under the State plan (or a waiver of such
13 plan) under this title for the month.

14 “(4) DETERMINATION OF NUMBER OF 1903A
15 ENROLLEES.—The number of 1903A enrollees for a
16 State and fiscal year, and, if applicable, for a 1903A
17 enrollee category, is the average monthly number of
18 Medicaid enrollees for such State and fiscal year
19 (and, if applicable, in such category) that are re-
20 ported through the CMS–64 report under (and sub-
21 ject to audit under) subsection (h).

22 “(f) SPECIAL PAYMENT RULES.—

23 “(1) APPLICATION IN CASE OF RESEARCH AND
24 DEMONSTRATION PROJECTS AND OTHER WAIVERS.—
25 In the case of a State with a waiver of the State

1 plan approved under section 1115, section 1915, or
2 another provision of this title, this section shall
3 apply to medical assistance expenditures and medical
4 assistance payments under the waiver, in the same
5 manner as if such expenditures and payments had
6 been made under a State plan under this title and
7 the limitations on expenditures under this section
8 shall supersede any other payment limitations or
9 provisions (including limitations based on a per cap-
10 ita limitation) otherwise applicable under such a
11 waiver.

12 “(2) TREATMENT OF STATES EXPANDING COV-
13 ERAGE AFTER FISCAL YEAR 2016.—In the case of a
14 State that did not provide for medical assistance for
15 the 1903A enrollee category described in subsection
16 (e)(2)(D) during fiscal year 2016 but which provides
17 for such assistance for such category in a subse-
18 quent year, the provisional FY19 per capita target
19 amount for such enrollee category under subsection
20 (d)(5) shall be equal to the provisional FY19 per
21 capita target amount for the 1903A enrollee cat-
22 egory described in subsection (e)(2)(E).

23 “(3) IN CASE OF STATE FAILURE TO REPORT
24 NECESSARY DATA.—If a State for any quarter in a
25 fiscal year (beginning with fiscal year 2019) fails to

1 satisfactorily submit data on expenditures and en-
2 rollees in accordance with subsection (h)(1), for such
3 fiscal year and any succeeding fiscal year for which
4 such data are not satisfactorily submitted—

5 “(A) the Secretary shall calculate and
6 apply subsections (a) through (e) with respect
7 to the State as if all 1903A enrollee categories
8 for which such expenditure and enrollee data
9 were not satisfactorily submitted were a single
10 1903A enrollee category; and

11 “(B) the growth factor otherwise applied
12 under subsection (c)(2)(B) shall be decreased
13 by 1 percentage point.

14 “(g) RECALCULATION OF CERTAIN AMOUNTS FOR
15 DATA ERRORS.—The amounts and percentage calculated
16 under paragraphs (1) and (4)(C) of subsection (d) for a
17 State for fiscal year 2016, and the amounts of the ad-
18 justed total medical assistance expenditures calculated
19 under subsection (b) and the number of Medicaid enrollees
20 and 1903A enrollees determined under subsection (e)(4)
21 for a State for fiscal year 2016, fiscal year 2019, and any
22 subsequent fiscal year, may be adjusted by the Secretary
23 based upon an appeal (filed by the State in such a form,
24 manner, and time, and containing such information relat-
25 ing to data errors that support such appeal, as the Sec-

1 retary specifies) that the Secretary determines to be valid,
2 except that any adjustment by the Secretary under this
3 subsection for a State may not result in an increase of
4 the target total medical assistance expenditures exceeding
5 2 percent.

6 “(h) REQUIRED REPORTING AND AUDITING OF
7 CMS-64 DATA; TRANSITIONAL INCREASE IN FEDERAL
8 MATCHING PERCENTAGE FOR CERTAIN ADMINISTRATIVE
9 EXPENSES.—

10 “(1) REPORTING.—In addition to the data re-
11 quired on form Group VIII on the CMS-64 report
12 form as of January 1, 2017, in each CMS-64 report
13 required to be submitted (for each quarter beginning
14 on or after October 1, 2018), the State shall include
15 data on medical assistance expenditures within such
16 categories of services and categories of enrollees (in-
17 cluding each 1903A enrollee category and each cat-
18 egory of excluded individuals under subsection
19 (e)(1)) and the numbers of enrollees within each of
20 such enrollee categories, as the Secretary determines
21 are necessary (including timely guidance published
22 as soon as possible after the date of the enactment
23 of this section) in order to implement this section
24 and to enable States to comply with the requirement
25 of this paragraph on a timely basis.

1 “(2) AUDITING.—The Secretary shall conduct
2 for each State an audit of the number of individuals
3 and expenditures reported through the CMS–64 re-
4 port for fiscal year 2016, fiscal year 2019, and each
5 subsequent fiscal year, which audit may be con-
6 ducted on a representative sample (as determined by
7 the Secretary).

8 “(3) TEMPORARY INCREASE IN FEDERAL
9 MATCHING PERCENTAGE TO SUPPORT IMPROVED
10 DATA REPORTING SYSTEMS FOR FISCAL YEARS 2018
11 AND 2019.—For amounts expended during calendar
12 quarters beginning on or after October 1, 2017, and
13 before October 1, 2019—

14 “(A) the Federal matching percentage ap-
15 plied under section 1903(a)(3)(A)(i) shall be in-
16 creased by 10 percentage points to 100 percent;

17 “(B) the Federal matching percentage ap-
18 plied under section 1903(a)(3)(B) shall be in-
19 creased by 25 percentage points to 100 percent;
20 and

21 “(C) the Federal matching percentage ap-
22 plied under section 1903(a)(7) shall be in-
23 creased by 10 percentage points to 60 percent
24 but only with respect to amounts expended that
25 are attributable to a State’s additional adminis-

1 trative expenditures to implement the data re-
2 quirements of paragraph (1).

3 “(i) FLEXIBLE BLOCK GRANT OPTION FOR
4 STATES.—

5 “(1) IN GENERAL.—In the case of a State that
6 elects the option of applying this subsection for a
7 10-fiscal-year period (beginning no earlier than fiscal
8 year 2020 and, at the State option, for any suc-
9 ceeding 10-fiscal-year period) and that has a plan
10 approved by the Secretary under paragraph (2) to
11 carry out the option for such period—

12 “(A) the State shall receive, instead of
13 amounts otherwise payable to the State under
14 this title for medical assistance for block grant
15 individuals within the applicable block grant
16 category (as defined in paragraph (6)) for the
17 State during the period in which the election is
18 in effect, the amount specified in paragraph
19 (4);

20 “(B) the previous provisions of this section
21 shall be applied as if—

22 “(i) block grant individuals within the
23 applicable block grant category for the
24 State and period were not section 1903A
25 enrollees for each 10-fiscal year period for

1 which the State elects to apply this sub-
2 section; and

3 “(ii) if such option is not extended at
4 the end of a 10-fiscal-year-period, the per
5 capita limitations under such previous pro-
6 visions shall again apply after such period
7 and such limitations shall be applied as if
8 the election under this subsection had
9 never taken place;

10 “(C) the payment under this subsection
11 may only be used consistent with the State plan
12 under paragraph (2) for block grant health care
13 assistance (as defined in paragraph (7)); and

14 “(D) with respect to block grant individ-
15 uals within the applicable block grant category
16 for the State for which block grant health care
17 assistance is made available under this sub-
18 section, such assistance shall be instead of med-
19 ical assistance otherwise provided to the indi-
20 vidual under this title.

21 “(2) STATE PLAN FOR ADMINISTERING BLOCK
22 GRANT OPTION.—

23 “(A) IN GENERAL.—No payment shall be
24 made under this subsection to a State pursuant
25 to an election for a 10-fiscal-year period under

1 paragraph (1) unless the State has a plan, ap-
2 proved under subparagraph (B), for such period
3 that specifies—

4 “(i) the applicable block grant cat-
5 egory with respect to which the State will
6 apply the option under this subsection for
7 such period;

8 “(ii) the conditions for eligibility of
9 block grant individuals within such appli-
10 cable block grant category for block grant
11 health care assistance under the option,
12 which shall be instead of other conditions
13 for eligibility under this title, except that
14 in the case of a State that has elected the
15 applicable block grant category described
16 in—

17 “(I) subparagraph (A) of para-
18 graph (6), the plan must provide for
19 eligibility for pregnant women and
20 children required to be provided med-
21 ical assistance under subsections
22 (a)(10)(A)(i) and (e)(4) of section
23 1902; or

24 “(II) subparagraph (B) of para-
25 graph (6), the plan must provide for

1 eligibility for pregnant women re-
2 quired to be provided medical assist-
3 ance under subsection (a)(10)(A)(i);
4 and

5 “(iii) the types of items and services,
6 the amount, duration, and scope of such
7 services, the cost-sharing with respect to
8 such services, and the method for delivery
9 of block grant health care assistance under
10 this subsection, which shall be instead of
11 the such types, amount, duration, and
12 scope, cost-sharing, and methods of deliv-
13 ery for medical assistance otherwise re-
14 quired under this title, except that the plan
15 must provide for assistance for—

16 “(I) hospital care;

17 “(II) surgical care and treat-
18 ment;

19 “(III) medical care and treat-
20 ment;

21 “(IV) obstetrical and prenatal
22 care and treatment;

23 “(V) prescribed drugs, medicines,
24 and prosthetic devices;

1 “(VI) other medical supplies and
2 services; and

3 “(VII) health care for children
4 under 18 years of age.

5 “(B) REVIEW AND APPROVAL.—A plan de-
6 scribed in subparagraph (A) shall be deemed
7 approved by the Secretary unless the Secretary
8 determines, within 30 days after the date of the
9 Secretary’s receipt of the plan, that the plan is
10 incomplete or actuarially unsound and, with re-
11 spect to such plan and its implementation
12 under this subsection, the requirements of para-
13 graphs (1), (10)(B), (17), and (23) of section
14 1902(a) shall not apply.

15 “(3) AMOUNT OF BLOCK GRANT FUNDS.—

16 “(A) FOR INITIAL FISCAL YEAR.—The
17 block grant amount under this paragraph for a
18 State for the initial fiscal year in the first 10-
19 fiscal-year period is equal to the sum of the
20 products (for each applicable block grant cat-
21 egory for such State and period) of—

22 “(i) the target per capita medical as-
23 sistance expenditures for such State for
24 such fiscal year (under subsection (c)(2));

1 “(ii) the number of 1903A enrollees
2 for such category and State for fiscal year
3 2019, as determined under subsection
4 (e)(4); and

5 “(iii) the Federal average medical as-
6 sistance matching percentage (as defined
7 in subsection (a)(4)) for the State for fis-
8 cal year 2019.

9 “(B) FOR ANY SUBSEQUENT FISCAL
10 YEAR.—The block grant amount under this
11 paragraph for a State for each succeeding fiscal
12 year (in any 10-fiscal-year period) is equal to
13 the block grant amount under subparagraph
14 (A) (or this subparagraph) for the State for the
15 previous fiscal year increased by the annual in-
16 crease in the consumer price index for all urban
17 consumers (all items; U.S. city average) for the
18 fiscal year involved.

19 “(C) AVAILABILITY OF ROLLOVER
20 FUNDS.—The block grant amount under this
21 paragraph for a State for a fiscal year shall re-
22 main available to the State for expenditures
23 under this subsection for the succeeding fiscal
24 year but only if an election is in effect under

1 this subsection for the State in such succeeding
2 fiscal year.

3 “(4) FEDERAL PAYMENT AND STATE RESPONSIBILITY.—The Secretary shall pay to each State with
4 an election in effect under this subsection for a fiscal
5 year, from its block grant amount under paragraph
6 (3) available for such fiscal year, an amount for
7 each quarter of such fiscal year equal to the en-
8 hanced FMAP described in the first sentence of sec-
9 tion 2105(b) of the total amount expended under the
10 State plan under this subsection during such quar-
11 ter, and the State is responsible for the balance of
12 funds to carry out such plan.

13 “(5) BLOCK GRANT INDIVIDUAL DEFINED.—In
14 this subsection, the term ‘block grant individual’
15 means, with respect to a State for a 10-fiscal-year
16 period, an individual who is not disabled (as defined
17 for purposes of the State plan) and who is within an
18 applicable block grant category for the State and
19 such period.

20 “(6) APPLICABLE BLOCK GRANT CATEGORY DE-
21 FINED.—In this subsection, the term ‘applicable
22 block grant category’ means with respect to a State
23 for a 10-fiscal-year period, either of the following as
24

1 specified by the State for such period in its plan
2 under paragraph (2)(A)(i):

3 “(A) 2 ENROLLEE CATEGORIES.—Both of
4 the following 1903A enrollee categories:

5 “(i) CHILDREN.—The 1903A enrollee
6 category specified in subparagraph (C) of
7 subsection (e)(2).

8 “(ii) OTHER NONELDERLY, NON-
9 DISABLED, NON-EXPANSION ADULTS.—The
10 1903A enrollee category specified in sub-
11 paragraph (E) of such subsection.

12 “(B) OTHER NONELDERLY, NONDISABLED,
13 NON-EXPANSION ADULTS.—Only the 1903A en-
14 rollee category specified in subparagraph (E) of
15 subsection (e)(2).

16 “(7) BLOCK GRANT HEALTH CARE ASSIST-
17 ANCE.—In this subsection, the term ‘block grant
18 health care assistance’ means assistance for health-
19 care-related items and medical services for block
20 grant individuals within the applicable block grant
21 category for the State and 10-fiscal-year period in-
22 volved who are low-income individuals (as defined by
23 the State).

24 “(8) AUDITING.—As a condition of receiving
25 funds under this subsection, a State shall contract

1 with an independent entity to conduct audits of its
 2 expenditures made with respect to activities funded
 3 under this subsection for each fiscal year for which
 4 the State elects to apply this subsection to ensure
 5 that such funds are used consistent with this sub-
 6 section and shall make such audits available to the
 7 Secretary upon the request of the Secretary.”.

8 **Subtitle D—Patient Relief and**
 9 **Health Insurance Market Stability**

10 **SEC. 131. REPEAL OF COST-SHARING SUBSIDY.**

11 (a) IN GENERAL.—Section 1402 of the Patient Pro-
 12 tection and Affordable Care Act is repealed.

13 (b) EFFECTIVE DATE.—The repeal made by sub-
 14 section (a) shall apply to cost-sharing reductions (and pay-
 15 ments to issuers for such reductions) for plan years begin-
 16 ning after December 31, 2019.

17 **SEC. 132. PATIENT AND STATE STABILITY FUND.**

18 The Social Security Act (42 U.S.C. 301 et seq.) is
 19 amended by adding at the end the following new title:

20 **“TITLE XXII—PATIENT AND**
 21 **STATE STABILITY FUND**

22 **“SEC. 2201. ESTABLISHMENT OF PROGRAM.**

23 “There is hereby established the ‘Patient and State
 24 Stability Fund’ to be administered by the Secretary of
 25 Health and Human Services, acting through the Adminis-

1 trator of the Centers for Medicare & Medicaid Services
2 (in this section referred to as the ‘Administrator’), to pro-
3 vide funding, in accordance with this title, to the 50 States
4 and the District of Columbia (each referred to in this sec-
5 tion as a ‘State’) during the period, subject to section
6 2204(c), beginning on January 1, 2018, and ending on
7 December 31, 2026, for the purposes described in section
8 2202.

9 **“SEC. 2202. USE OF FUNDS.**

10 “(a) IN GENERAL.—Subject to subsections (b) and
11 (c), a State may use the funds allocated to the State under
12 this title for any of the following purposes:

13 “(1) Helping, through the provision of financial
14 assistance, high-risk individuals who do not have ac-
15 cess to health insurance coverage offered through an
16 employer enroll in health insurance coverage in the
17 individual market in the State, as such market is de-
18 fined by the State (whether through the establish-
19 ment of a new mechanism or maintenance of an ex-
20 isting mechanism for such purpose).

21 “(2) Providing incentives to appropriate entities
22 to enter into arrangements with the State to help
23 stabilize premiums for health insurance coverage in
24 the individual market, as such markets are defined
25 by the State.

1 “(3) Reducing the cost for providing health in-
2 surance coverage in the individual market and small
3 group market, as such markets are defined by the
4 State, to individuals who have, or are projected to
5 have, a high rate of utilization of health services (as
6 measured by cost) and to individuals who have high
7 costs of health insurance coverage due to the low
8 density population of the State in which they reside.

9 “(4) Promoting participation in the individual
10 market and small group market in the State and in-
11 creasing health insurance options available through
12 such market.

13 “(5) Promoting access to preventive services;
14 dental care services (whether preventive or medically
15 necessary); vision care services (whether preventive
16 or medically necessary); or any combination of such
17 services.

18 “(6) Maternity coverage and newborn care.

19 “(7) Prevention, treatment, or recovery support
20 services for individuals with mental or substance use
21 disorders, focused on either or both of the following:

22 “(A) Direct inpatient or outpatient clinical
23 care for treatment of addiction and mental ill-
24 ness.

1 “(B) Early identification and intervention
2 for children and young adults with serious men-
3 tal illness.

4 “(8) Providing payments, directly or indirectly,
5 to health care providers for the provision of such
6 health care services as are specified by the Adminis-
7 trator.

8 “(9) Providing assistance to reduce out-of-pock-
9 et costs, such as copayments, coinsurance, pre-
10 miums, and deductibles, of individuals enrolled in
11 health insurance coverage in the State.

12 “(b) REQUIRED USE OF INCREASE IN ALLOT-
13 MENT.—A State shall use the additional allocation pro-
14 vided to the State from the funds appropriated under the
15 second sentence of section 2204(a) for each year only for
16 the purposes described in paragraphs (6) and (7) of sub-
17 section (a).

18 “(c) REQUIRED USE OF ADDITIONAL INCREASE TO
19 CERTAIN WAIVER STATES TO PROVIDE FINANCIAL
20 HARDSHIP ASSISTANCE.—A State shall use the additional
21 allocation provided to the State from the funds appro-
22 priated under the last sentence of section 2204(a) only
23 in accordance with such last sentence.

1 **“SEC. 2203. STATE ELIGIBILITY AND APPROVAL; DEFAULT**
2 **SAFEGUARD.**

3 “(a) ENCOURAGING STATE OPTIONS FOR ALLOCA-
4 TIONS.—

5 “(1) IN GENERAL.—To be eligible for an alloca-
6 tion of funds under this title for a year during the
7 period described in section 2201 for use for one or
8 more purposes described in section 2202, a State
9 shall submit to the Administrator an application at
10 such time (but, in the case of allocations for 2018,
11 not later than 45 days after the date of the enact-
12 ment of this title and, in the case of allocations for
13 a subsequent year, not later than March 31 of the
14 previous year) and in such form and manner as
15 specified by the Administrator and containing—

16 “(A) a description of how the funds will be
17 used for such purposes;

18 “(B) a certification that the State will
19 make, from non-Federal funds, expenditures for
20 such purposes in an amount that is not less
21 than the State percentage required for the year
22 under section 2204(e)(1); and

23 “(C) such other information as the Admin-
24 istrator may require.

25 “(2) AUTOMATIC APPROVAL.—An application so
26 submitted is approved unless the Administrator noti-

1 fies the State submitting the application, not later
2 than 60 days after the date of the submission of
3 such application, that the application has been de-
4 nied for not being in compliance with any require-
5 ment of this title and of the reason for such denial.

6 “(3) ONE-TIME APPLICATION.—If an applica-
7 tion of a State is approved for a year, with respect
8 to a purpose described in section 2202, such applica-
9 tion shall be treated as approved, with respect to
10 such purpose, for each subsequent year through
11 2026.

12 “(4) TREATMENT AS A STATE HEALTH CARE
13 PROGRAM.—Any program receiving funds from an
14 allocation for a State under this title, including pur-
15 suant to subsection (b), shall be considered to be a
16 ‘State health care program’ for purposes of sections
17 1128, 1128A, and 1128B.

18 “(b) DEFAULT FEDERAL SAFEGUARD.—

19 “(1) IN GENERAL.—

20 “(A) 2018.—For allocations made under
21 this title for 2018, in the case of a State that
22 does not submit an application under subsection
23 (a) by the 45-day submission date applicable to
24 such year under subsection (a)(1) and in the
25 case of a State that does submit such an appli-

1 cation by such date that is not approved, sub-
2 ject to section 2204(e), the Administrator, in
3 consultation with the State insurance commis-
4 sioner, shall use the allocation that would other-
5 wise be provided to the State under this title
6 for such year, in accordance with paragraph
7 (2), for such State.

8 “(B) 2019 THROUGH 2026.—In the case of
9 a State that does not have in effect an approved
10 application under this section for 2019 or a
11 subsequent year beginning during the period
12 described in section 2201, subject to section
13 2204(e), the Administrator, in consultation with
14 the State insurance commissioner, shall use the
15 allocation that would otherwise be provided to
16 the State under this title for such year, in ac-
17 cordance with paragraph (2), for such State.

18 “(2) REQUIRED USE FOR MARKET STABILIZA-
19 TION PAYMENTS TO ISSUERS.—Subject to section
20 2204(a), an allocation for a State made pursuant to
21 paragraph (1) for a year shall be used to carry out
22 the purpose described in section 2202(2) in such
23 State by providing payments to appropriate entities
24 described in such section with respect to claims that
25 exceed \$50,000 (or, with respect to allocations made

1 under this title for 2020 or a subsequent year dur-
2 ing the period specified in section 2201, such dollar
3 amount specified by the Administrator), but do not
4 exceed \$350,000 (or, with respect to allocations
5 made under this title for 2020 or a subsequent year
6 during such period, such dollar amount specified by
7 the Administrator), in an amount equal to 75 per-
8 cent (or, with respect to allocations made under this
9 title for 2020 or a subsequent year during such pe-
10 riod, such percentage specified by the Administrator)
11 of the amount of such claims.

12 **“SEC. 2204. ALLOCATIONS.**

13 “(a) APPROPRIATION.—For the purpose of providing
14 allocations for States (including pursuant to section
15 2203(b)) under this title there is appropriated, out of any
16 money in the Treasury not otherwise appropriated—

17 “(1) for 2018, \$15,000,000,000;

18 “(2) for 2019, \$15,000,000,000;

19 “(3) for 2020, \$10,000,000,000;

20 “(4) for 2021, \$10,000,000,000;

21 “(5) for 2022, \$10,000,000,000;

22 “(6) for 2023, \$10,000,000,000;

23 “(7) for 2024, \$10,000,000,000;

24 “(8) for 2025, \$10,000,000,000; and

25 “(9) for 2026, \$10,000,000,000.

1 The amount otherwise appropriated under the previous
2 sentence for 2020 shall be increased by \$15,000,000,000,
3 to be used and available under subsection (d) only for the
4 purposes described in paragraphs (6) and (7) of section
5 2202(a). The amount otherwise appropriated under this
6 subsection shall be increased by \$8,000,000,000 for the
7 period beginning with 2018 and ending with 2023, to be
8 allocated to States with a waiver in effect under section
9 2701(b) of the Public Health Service Act with respect to
10 the purpose described in paragraph (1)(C) of such section,
11 in accordance with an allocation methodology specified by
12 the Secretary that takes into account the relative alloca-
13 tion of other amounts appropriated under this subsection
14 among such States, and to be used by (and made available
15 under subsection (d), for any year during such period that
16 such waiver is in effect, to) such States for the purpose
17 of providing assistance to reduce premiums or other out-
18 of-pocket costs of individuals who are subject to an in-
19 crease in the monthly premium rate for health insurance
20 coverage as a result of such waiver.

21 “(b) ALLOCATIONS.—

22 “(1) PAYMENT.—

23 “(A) IN GENERAL.—From amounts appro-
24 priated under subsection (a) for a year, the Ad-
25 ministrator shall, with respect to a State and

1 not later than the date specified under subpara-
2 graph (B) for such year, allocate, subject to
3 subsection (e), for such State (including pursu-
4 ant to section 2203(b)) the amount determined
5 for such State and year under paragraph (2).

6 “(B) SPECIFIED DATE.—For purposes of
7 subparagraph (A), the date specified in this
8 subparagraph is—

9 “(i) for 2018, the date that is 45 days
10 after the date of the enactment of this
11 title; and

12 “(ii) for 2019 and subsequent years,
13 January 1 of the respective year.

14 “(2) ALLOCATION AMOUNT DETERMINA-
15 TIONS.—

16 “(A) FOR 2018 AND 2019.—

17 “(i) IN GENERAL.—For purposes of
18 paragraph (1), the amount determined
19 under this paragraph for 2018 and 2019
20 for a State is an amount equal to the sum
21 of—

22 “(I) the relative incurred claims
23 amount described in clause (ii) for
24 such State and year; and

1 “(II) the relative uninsured and
2 issuer participation amount described
3 in clause (iv) for such State and year.

4 “(ii) RELATIVE INCURRED CLAIMS
5 AMOUNT.—For purposes of clause (i), the
6 relative incurred claims amount described
7 in this clause for a State for 2018 and
8 2019 is the product of—

9 “(I) 85 percent of the amount
10 appropriated under subsection (a) for
11 the year; and

12 “(II) the relative State incurred
13 claims proportion described in clause
14 (iii) for such State and year.

15 “(iii) RELATIVE STATE INCURRED
16 CLAIMS PROPORTION.—The relative State
17 incurred claims proportion described in
18 this clause for a State and year is the
19 amount equal to the ratio of—

20 “(I) the adjusted incurred claims
21 by the State, as reported through the
22 medical loss ratio annual reporting
23 under section 2718 of the Public
24 Health Service Act for the third pre-
25 vious year; to

1 “(II) the sum of such adjusted
2 incurred claims for all States, as so
3 reported, for such third previous year.

4 “(iv) RELATIVE UNINSURED AND
5 ISSUER PARTICIPATION AMOUNT.—For
6 purposes of clause (i), the relative unin-
7 sured and issuer participation amount de-
8 scribed in this clause for a State for 2018
9 and 2019 is the product of—

10 “(I) 15 percent of the amount
11 appropriated under subsection (a) for
12 the year; and

13 “(II) the relative State uninsured
14 and issuer participation proportion de-
15 scribed in clause (v) for such State
16 and year.

17 “(v) RELATIVE STATE UNINSURED
18 AND ISSUER PARTICIPATION PROPOR-
19 TION.—The relative State uninsured and
20 issuer participation proportion described in
21 this clause for a State and year is—

22 “(I) in the case of a State not
23 described in clause (vi) for such year,
24 0; and

1 “(II) in the case of a State de-
2 scribed in clause (vi) for such year,
3 the amount equal to the ratio of—

4 “(aa) the number of individ-
5 uals residing in such State who
6 for the third preceding year were
7 not enrolled in a health plan or
8 otherwise did not have health in-
9 surance coverage (including
10 through a Federal or State
11 health program) and whose in-
12 come is below 100 percent of the
13 poverty line applicable to a family
14 of the size involved; to

15 “(bb) the sum of the num-
16 ber of such individuals for all
17 States described in clause (vi) for
18 the third preceding year.

19 “(vi) STATES DESCRIBED.—For pur-
20 poses of clause (v), a State is described in
21 this clause, with respect to 2018 and 2019,
22 if the State satisfies either of the following
23 criterion:

24 “(I) The ratio described in sub-
25 clause (II) of clause (v) that would be

1 determined for such State by sub-
2 stituting ‘2015’ for each reference in
3 such subclause to ‘the third preceding
4 year’ and by substituting ‘all such
5 States’ for the reference in item (bb)
6 of such subclause to ‘all States de-
7 scribed in clause (vi)’ is greater than
8 the ratio described in such subclause
9 that would be determined for such
10 State by substituting ‘2013’ for each
11 reference in such subclause to ‘the
12 third preceding year’ and by sub-
13 stituting ‘all such States’ for the ref-
14 erence in item (bb) of such subclause
15 to ‘all States described in clause (vi)’.

16 “(II) The State has fewer than
17 three health insurance issuers offering
18 qualified health plans through the Ex-
19 change for 2017.

20 “(B) FOR 2020 THROUGH 2026.—For pur-
21 poses of paragraph (1), the amount determined
22 under this paragraph for a year (beginning with
23 2020) during the period described in section
24 2201 for a State is an amount determined in

1 accordance with an allocation methodology spec-
2 ified by the Administrator which—

3 “(i) takes into consideration the ad-
4 justed incurred claims of such State, the
5 number of residents of such State who for
6 the previous year were not enrolled in a
7 health plan or otherwise did not have
8 health insurance coverage (including
9 through a Federal or State health pro-
10 gram) and whose income is below 100 per-
11 cent of the poverty line applicable to a
12 family of the size involved, and the number
13 of health insurance issuers participating in
14 the insurance market in such State for
15 such year;

16 “(ii) is established after consultation
17 with health care consumers, health insur-
18 ance issuers, State insurance commis-
19 sioners, and other stakeholders and after
20 taking into consideration additional cost
21 and risk factors that may inhibit health
22 care consumer and health insurance issuer
23 participation; and

24 “(iii) reflects the goals of improving
25 the health insurance risk pool, promoting a

1 more competitive health insurance market,
2 and increasing choice for health care con-
3 sumers.

4 “(c) ANNUAL DISTRIBUTION OF PREVIOUS YEAR’S
5 REMAINING FUNDS.— In carrying out subsection (b), the
6 Administrator shall, with respect to a year (beginning with
7 2020 and ending with 2027), not later than March 31 of
8 such year—

9 “(1) determine the amount of funds, if any,
10 from the amounts appropriated under subsection (a)
11 for the previous year but not allocated for such pre-
12 vious year; and

13 “(2) if the Administrator determines that any
14 funds were not so allocated for such previous year,
15 allocate such remaining funds, in accordance with
16 the allocation methodology specified pursuant to
17 subsection (b)(2)(B)—

18 “(A) to States that have submitted an ap-
19 plication approved under section 2203(a) for
20 such previous year for any purpose for which
21 such an application was approved; and

22 “(B) for States for which allocations were
23 made pursuant to section 2203(b) for such pre-
24 vious year, to be used by the Administrator for
25 such States, to carry out the Federal Invisible

1 Risk Sharing Program in such States under
2 section 2205;

3 with, respect to a year before 2027, any remaining
4 funds being made available for allocations to States
5 for the subsequent year.

6 “(d) AVAILABILITY.—Amounts appropriated under
7 subsection (a) for a year and allocated to States in accord-
8 ance with this section shall remain available for expendi-
9 ture through December 31, 2027.

10 “(e) CONDITIONS FOR AND LIMITATIONS ON RE-
11 CEIPT OF FUNDS.—The Secretary may not make an allo-
12 cation under this title for a State, with respect to a pur-
13 pose described in section 2202—

14 “(1) in the case of an allocation that would be
15 made to a State pursuant to section 2203(a), if the
16 State does not agree that the State will make avail-
17 able non-Federal contributions towards such purpose
18 in an amount equal to—

19 “(A) for 2020, 7 percent of the amount al-
20 located under this subsection to such State for
21 such year and purpose;

22 “(B) for 2021, 14 percent of the amount
23 allocated under this subsection to such State
24 for such year and purpose;

1 “(C) for 2022, 21 percent of the amount
2 allocated under this subsection to such State
3 for such year and purpose;

4 “(D) for 2023, 28 percent of the amount
5 allocated under this subsection to such State
6 for such year and purpose;

7 “(E) for 2024, 35 percent of the amount
8 allocated under this subsection to such State
9 for such year and purpose;

10 “(F) for 2025, 42 percent of the amount
11 allocated under this subsection to such State
12 for such year and purpose; and

13 “(G) for 2026, 50 percent of the amount
14 allocated under this subsection to such State
15 for such year and purpose;

16 “(2) in the case of an allocation that would be
17 made for a State pursuant to section 2203(b), if the
18 State does not agree that the State will make avail-
19 able non-Federal contributions towards such purpose
20 in an amount equal to—

21 “(A) for 2020, 10 percent of the amount
22 allocated under this subsection to such State
23 for such year and purpose;

1 “(B) for 2021, 20 percent of the amount
2 allocated under this subsection to such State
3 for such year and purpose; and

4 “(C) for 2022, 30 percent of the amount
5 allocated under this subsection to such State
6 for such year and purpose;

7 “(D) for 2023, 40 percent of the amount
8 allocated under this subsection to such State
9 for such year and purpose;

10 “(E) for 2024, 50 percent of the amount
11 allocated under this subsection to such State
12 for such year and purpose;

13 “(F) for 2025, 50 percent of the amount
14 allocated under this subsection to such State
15 for such year and purpose; and

16 “(G) for 2026, 50 percent of the amount
17 allocated under this subsection to such State
18 for such year and purpose; or

19 “(3) if such an allocation for such purpose
20 would not be permitted under subsection (c)(7) of
21 section 2105 if such allocation were payment made
22 under such section.

23 **“SEC. 2205. FEDERAL INVISIBLE RISK SHARING PROGRAM.**

24 “(a) IN GENERAL.—There is established within the
25 Patient and State Stability Fund a Federal Invisible Risk

1 Sharing Program (in this section referred to as the ‘Pro-
2 gram’), to be administered by the Secretary of Health and
3 Human Services, acting through the Administrator of the
4 Centers for Medicare & Medicaid Services (in this section
5 referred to as the ‘Administrator’), to provide payments
6 to health insurance issuers with respect to claims for eligi-
7 ble individuals for the purpose of lowering premiums for
8 health insurance coverage offered in the individual market.

9 “(b) FUNDING.—

10 “(1) APPROPRIATION.—For the purpose of pro-
11 viding funding for the Program there is appro-
12 priated, out of any money in the Treasury not other-
13 wise appropriated, \$15,000,000,000 for the period
14 beginning on January 1, 2018, and ending on De-
15 cember 31, 2026.

16 “(2) USE OF UNALLOCATED FUNDS.—Funds
17 provided under section 2204(c)(2)(B) to carry out
18 this section are in addition to the amount appro-
19 priated under paragraph (1).

20 “(c) OPERATION OF PROGRAM.—

21 “(1) IN GENERAL.—The Administrator shall es-
22 tablish, after consultation with health care con-
23 sumers, health insurance issuers, State insurance
24 commissioners, and other stakeholders and after tak-
25 ing into consideration high cost health conditions

1 and other health trends that generate high cost, pa-
2 rameters for the operation of the Program consistent
3 with this section and consistent with the same limi-
4 tation on payment with respect to health insurance
5 coverage that applies to payment with respect health
6 benefits coverage under section 2105(c)(7).

7 “(2) DEADLINE FOR INITIAL OPERATION.—Not
8 later than 60 days after the date of the enactment
9 of this title, the Administrator shall establish suffi-
10 cient parameters to specify how the Program will op-
11 erate for plan year 2018.

12 “(3) STATE OPERATION OF PROGRAM.—The
13 Administrator shall establish a process for a State to
14 operate the Program in such State beginning with
15 plan year 2020.

16 “(d) DETAILS OF PROGRAM.—The parameters for
17 the Program shall include the following:

18 “(1) ELIGIBLE INDIVIDUALS.—A definition for
19 eligible individuals.

20 “(2) HEALTH STATUS STATEMENTS.—The de-
21 velopment and use of health status statements with
22 respect to such individuals.

23 “(3) STANDARDS FOR QUALIFICATION.—

24 “(A) AUTOMATIC QUALIFICATION.—The
25 identification of health conditions that auto-

1 matically qualify individuals as eligible individ-
2 uals at the time of application for health insur-
3 ance coverage.

4 “(B) VOLUNTARY QUALIFICATION.—A
5 process under which health insurance issuers
6 may voluntarily qualify individuals, who do not
7 automatically qualify under subparagraph (A),
8 as eligible individuals at the time of application
9 for such coverage.

10 “(4) PERCENTAGE OF INSURANCE PREMIUMS
11 TO BE APPLIED.—The percentage of the premiums
12 paid, to health insurance issuers for health insur-
13 ance coverage by eligible individuals, that shall be
14 collected and deposited to the credit (and available
15 for the use) of the Program.

16 “(5) ATTACHMENT DOLLAR AMOUNT AND PAY-
17 MENT PROPORTION.—The dollar amount of claims
18 for eligible individuals after which the Program will
19 provide payments to health insurance issuers and
20 the proportion of such claims above such dollar
21 amount that the Program will pay.”.

22 **SEC. 133. CONTINUOUS HEALTH INSURANCE COVERAGE IN-**
23 **CENTIVE.**

24 Subpart I of part A of title XXVII of the Public
25 Health Service Act is amended—

1 (1) in section 2701(a)(1)(B), by striking “such
2 rate” and inserting “subject to section 2710A, such
3 rate”;

4 (2) by redesignating the second section 2709 as
5 section 2710; and

6 (3) by adding at the end the following new sec-
7 tion:

8 **“SEC. 2710A. ENCOURAGING CONTINUOUS HEALTH INSUR-**
9 **ANCE COVERAGE.**

10 **“(a) PENALTY APPLIED.—**

11 **“(1) IN GENERAL.—**Subject to the succeeding
12 provisions of this section, a health insurance issuer
13 offering health insurance coverage in the individual
14 market shall, in the case of an individual who is an
15 applicable policyholder of such coverage with respect
16 to an enforcement period applicable to enrollments
17 for a plan year beginning with plan year 2019 (or,
18 in the case of enrollments during a special enroll-
19 ment period, beginning with plan year 2018), in-
20 crease the monthly premium rate otherwise applica-
21 ble to such individual for such coverage during each
22 month of such period, by an amount determined
23 under paragraph (2).

24 **“(2) AMOUNT OF PENALTY.—**The amount de-
25 termined under this paragraph for an applicable pol-

1 icyholder enrolling in health insurance coverage de-
2 scribed in paragraph (1) for a plan year, with re-
3 spect to each month during the enforcement period
4 applicable to enrollments for such plan year, is the
5 amount that is equal to 30 percent of the monthly
6 premium rate otherwise applicable to such applicable
7 policyholder for such coverage during such month.

8 “(b) DEFINITIONS.—For purposes of this section:

9 “(1) APPLICABLE POLICYHOLDER.—The term
10 ‘applicable policyholder’ means, with respect to
11 months of an enforcement period and health insur-
12 ance coverage, an individual who—

13 “(A) is a policyholder of such coverage for
14 such months;

15 “(B) cannot demonstrate that (through
16 presentation of certifications described in sec-
17 tion 2704(e) or in such other manner as may
18 be specified in regulations, such as a return or
19 statement made under section 6055(d) or 36B
20 of the Internal Revenue Code of 1986), during
21 the look-back period that is with respect to such
22 enforcement period, there was not a period of
23 at least 63 continuous days during which the
24 individual did not have creditable coverage (as
25 defined in paragraph (1) of section 2704(c) and

1 credited in accordance with paragraphs (2) and
2 (3) of such section); and

3 “(C) in the case of an individual who had
4 been enrolled under dependent coverage under a
5 group health plan or health insurance coverage
6 by reason of section 2714 and such dependent
7 coverage of such individual ceased because of
8 the age of such individual, is not enrolling dur-
9 ing the first open enrollment period following
10 the date on which such coverage so ceased.

11 “(2) LOOK-BACK PERIOD.—The term ‘look-back
12 period’ means, with respect to an enforcement period
13 applicable to an enrollment of an individual for a
14 plan year beginning with plan year 2019 (or, in the
15 case of an enrollment of an individual during a spe-
16 cial enrollment period, beginning with plan year
17 2018) in health insurance coverage described in sub-
18 section (a)(1), the 12-month period ending on the
19 date the individual enrolls in such coverage for such
20 plan year.

21 “(3) ENFORCEMENT PERIOD.—The term ‘en-
22 forcement period’ means—

23 “(A) with respect to enrollments during a
24 special enrollment period for plan year 2018,
25 the period beginning with the first month that

1 is during such plan year and that begins subse-
2 quent to such date of enrollment, and ending
3 with the last month of such plan year; and

4 “(B) with respect to enrollments for plan
5 year 2019 or a subsequent plan year, the 12-
6 month period beginning on the first day of the
7 respective plan year.”.

8 **SEC. 134. INCREASING COVERAGE OPTIONS.**

9 Section 1302 of the Patient Protection and Afford-
10 able Care Act (42 U.S.C. 18022) is amended—

11 (1) in subsection (a)(3), by inserting “and with
12 respect to a plan year before plan year 2020” after
13 “subsection (e)”; and

14 (2) in subsection (d), by adding at the end the
15 following:

16 “(5) SUNSET.—The provisions of this sub-
17 section shall not apply after December 31, 2019,
18 and after such date any reference to this subsection
19 or level of coverage or plan described in this sub-
20 section and any requirement under law applying
21 such a level of coverage or plan shall have no force
22 or effect (and such a requirement shall be applied as
23 if this section had been repealed).”.

1 **SEC. 135. CHANGE IN PERMISSIBLE AGE VARIATION IN**
2 **HEALTH INSURANCE PREMIUM RATES.**

3 Section 2701(a)(1)(A)(iii) of the Public Health Serv-
4 ice Act (42 U.S.C. 300gg(a)(1)(A)(iii)), as inserted by sec-
5 tion 1201(4) of the Patient Protection and Affordable
6 Care Act, is amended by inserting after “(consistent with
7 section 2707(c))” the following: “or, for plan years begin-
8 ning on or after January 1, 2018, as the Secretary may
9 implement through interim final regulation, 5 to 1 for
10 adults (consistent with section 2707(c)) or such other
11 ratio for adults (consistent with section 2707(c)) as the
12 State involved may provide (or, in the case of a State with
13 a waiver under subsection (b) in effect for such a plan
14 year, the ratio applied for such plan year in accordance
15 with such waiver)”.

16 **SEC. 136. PERMITTING STATES TO WAIVE CERTAIN ACA RE-**
17 **QUIREMENTS TO ENCOURAGE FAIR HEALTH**
18 **INSURANCE PREMIUMS.**

19 (a) IN GENERAL.—Section 2701 of the Public Health
20 Service Act (42 U.S.C. 300gg) is amended by adding at
21 the end the following new subsection:

22 “(b) PERMISSIBLE STATE WAIVER TO ENCOURAGE
23 FAIR HEALTH INSURANCE PREMIUMS.—

24 “(1) IN GENERAL.—A State may submit an ap-
25 plication to the Secretary for one or more of the fol-
26 lowing purposes:

1 “(A) In the case of plan years beginning
2 on or after January 1, 2018, to apply, subject
3 to paragraph (5), under subsection
4 (a)(1)(A)(iii), instead of the ratio specified in
5 such subsection, a higher ratio specified by the
6 State (consistent with section 2707(c)).

7 “(B) In the case of plan years beginning
8 on or after January 1, 2020, for health insur-
9 ance coverage offered in the individual or small
10 group market in such State, to apply, subject to
11 paragraph (5), instead of the essential health
12 benefits specified under subsection (b) of sec-
13 tion 1302 of the Patient Protection and Afford-
14 able Care Act, essential health benefits as speci-
15 fied by the State.

16 “(C) In the case of a State that has in
17 place a program that carries out the purpose
18 described in paragraph (1) or (2) of section
19 2202(a) of the Social Security Act or partici-
20 pates in the program established under section
21 2205 of such Act, for health insurance offered
22 in the individual market in such State, with re-
23 spect to an individual who is an applicable pol-
24 icyholder of such coverage with respect to an
25 enforcement period (as defined in section

1 2710A(b)) applicable to enrollments for a plan
2 year beginning with plan year 2019 (or, in the
3 case of enrollments during a special enrollment
4 period, beginning with plan year 2018), to—

5 “(i) subject to paragraph (5), not
6 apply any increase to the monthly premium
7 rate that would otherwise apply under sec-
8 tion 2710A to such individual for such cov-
9 erage; and

10 “(ii) instead, subject to paragraph
11 (5)—

12 “(I) apply subsection (a)(1) as if
13 health status were included as a fac-
14 tor described in subparagraph (A) of
15 such subsection; and

16 “(II) not apply section 2705(b).

17 “(2) DEFAULT APPROVAL.—An application sub-
18 mitted under paragraph (1) is approved unless the
19 Secretary notifies the State submitting the applica-
20 tion, not later than 60 days after the date of the
21 submission of such application, that the application
22 has been denied for not being in compliance with
23 any requirement of paragraph (3) and of the reason
24 for such denial.

1 “(3) REQUIREMENTS.—The requirements of
2 this paragraph, with respect to an application sub-
3 mitted under paragraph (1), are the following:

4 “(A) The application is submitted at such
5 time, and in such manner, as the Secretary may
6 require.

7 “(B) The application specifies how the ap-
8 proval of such application will provide for one
9 or more of the following:

10 “(i) Reducing average premiums for
11 health insurance coverage in the State.

12 “(ii) Increasing enrollment in health
13 insurance coverage in the State.

14 “(iii) Stabilizing the market for health
15 insurance coverage in the State.

16 “(iv) Stabilizing premiums for individ-
17 uals with pre-existing conditions.

18 “(v) Increasing the choice of health
19 plans in the State.

20 “(C) The application specifies the period
21 for which the waiver is to be effective, con-
22 sistent with paragraph (4).

23 “(D) In the case of an application for pur-
24 poses of paragraph (1)(A), the application

1 specifies the higher ratio to be applied pursuant
2 to such paragraph.

3 “(E) In the case of an application for pur-
4 poses of paragraph (1)(B), the application
5 specifies the essential health benefits to be ap-
6 plied pursuant to such paragraph.

7 “(F) In the case of an application for pur-
8 poses of paragraph (1)(C), the application dem-
9 onstrates that the State has in place a program
10 that carries out the purpose described in para-
11 graph (1) or (2) of section 2202(a) of the So-
12 cial Security Act or participates in the program
13 established under section 2205 of such Act.

14 “(4) TERM OF WAIVER.—

15 “(A) IN GENERAL.—No waiver for a State
16 under this subsection may extend over a period
17 of longer than 10 years unless the State re-
18 quests continuation of such waiver, and such re-
19 quest shall be deemed granted unless the Sec-
20 retary, within 90 days after the date of its sub-
21 mission to the Secretary, either denies such re-
22 quest in writing or informs the State in writing
23 with respect to any additional information
24 which is needed in order to make a final deter-
25 mination with respect to the request.

1 “(B) SPECIAL RULE.—A waiver applied for
2 by a State under paragraph (1)(C) may only be
3 effective for a period during which the State—

4 “(i) has in place a program that car-
5 ries out the purpose described in para-
6 graph (1) or (2) of section 2202(a) of the
7 Social Security Act; or

8 “(ii) participates in the program es-
9 tablished under section 2205 of such Act.

10 “(5) NON-APPLICATION RULES.—

11 “(A) SPECIFIED NON-APPLICATION PROVI-
12 SIONS.—In no case may a waiver for purposes
13 of paragraph (1) apply with respect to any of
14 the following provisions:

15 “(i) Section 1301 of the Patient Pro-
16 tection and Affordable Care Act, to the ex-
17 tent that such section applies to qualified
18 health plans offered through the CO-OP
19 program under section 1322 of such Act or
20 multi-State plans under section 1334 of
21 such Act.

22 “(ii) Sections 1312(d)(3)(D), 1331,
23 1332, 1333, and 1334 of such Act.

24 “(B) HOLD HARMLESS.—Any standard or
25 requirement adopted by a State pursuant to the

1 terms of a waiver approved under this sub-
2 section shall be deemed to comply with section
3 1252 of the Patient Protection and Affordable
4 Care Act and subsection (a) of section 1324 of
5 such Act, insofar as such standard or require-
6 ment relates to a Federal or State law de-
7 scribed in subsection (b)(2) of such section (re-
8 lating to rating).”.

9 (b) APPLICATION TO ESSENTIAL HEALTH BENE-
10 FITS.—Section 1302(a)(1) of the Patient Protection and
11 Affordable Care Act (42 U.S.C. 18022(a)(1)) is amended
12 by inserting “(or, in the case of health insurance coverage
13 offered in the individual or small group market in a State
14 for which there is an applicable waiver in effect under sec-
15 tion 2701(b) of the Public Health Service Act for a plan
16 year, the essential health benefits applicable under such
17 waiver)” after “subsection (b)”.

18 **SEC. 137. CONSTRUCTIONS.**

19 (a) NO GENDER RATING.—Nothing in this Act shall
20 be construed as permitting health insurance issuers to dis-
21 criminate in rates for health insurance coverage by gender.

22 (b) NO LIMITING ACCESS TO COVERAGE FOR INDI-
23 VIDUALS WITH PREEXISTING CONDITIONS.—Nothing in
24 this Act shall be construed as permitting health insurance

1 issuers to limit access to health coverage for individuals
2 with preexisting conditions.

3 **Subtitle E—Implementation**
4 **Funding**

5 **SEC. 141. AMERICAN HEALTH CARE IMPLEMENTATION**
6 **FUND.**

7 (a) **IN GENERAL.**—There is hereby established an
8 American Health Care Implementation Fund (referred to
9 in this section as the “Fund”) within the Department of
10 Health and Human Services to carry out sections 121,
11 132, 202, and 214 (including the amendments made by
12 such sections).

13 (b) **FUNDING.**—There is appropriated to the Fund,
14 out of any funds in the Treasury not otherwise appro-
15 priated, \$1,000,000,000 for Federal administrative ex-
16 penses to carry out the sections described in subsection
17 (a) (including the amendments made by such sections).

1 **TITLE II—COMMITTEE ON WAYS**
2 **AND MEANS**
3 **Subtitle A—Repeal and Replace of**
4 **Health-Related Tax Policy**

5 **SEC. 201. RECAPTURE EXCESS ADVANCE PAYMENTS OF**
6 **PREMIUM TAX CREDITS.**

7 Subparagraph (B) of section 36B(f)(2) of the Inter-
8 nal Revenue Code of 1986 is amended by adding at the
9 end the following new clause:

10 “(iii) NONAPPLICABILITY OF LIMITA-
11 TION.—This subparagraph shall not apply
12 to taxable years beginning after December
13 31, 2017, and before January 1, 2020.”

14 **SEC. 202. ADDITIONAL MODIFICATIONS TO PREMIUM TAX**
15 **CREDIT.**

16 (a) MODIFICATION OF DEFINITION OF QUALIFIED
17 HEALTH PLAN.—

18 (1) IN GENERAL.—Section 36B(e)(3)(A) of the
19 Internal Revenue Code of 1986 is amended—

20 (A) by inserting “(determined without re-
21 gard to subparagraphs (A), (C)(ii), and (C)(iv)
22 of paragraph (1) thereof and without regard to
23 whether the plan is offered on an Exchange)”
24 after “1301(a) of the Patient Protection and
25 Affordable Care Act”, and

1 (B) by striking “shall not include” and all
2 that follows and inserting “shall not include any
3 health plan that—

4 “(i) is a grandfathered health plan or
5 a grandmothere health plan, or

6 “(ii) includes coverage for abortions
7 (other than any abortion necessary to save
8 the life of the mother or any abortion with
9 respect to a pregnancy that is the result of
10 an act of rape or incest).”.

11 (2) DEFINITION OF GRANDMOTHERED HEALTH
12 PLAN.—Section 36B(c)(3) of such Code is amended
13 by adding at the end the following new subpara-
14 graph:

15 “(C) GRANDMOTHERED HEALTH PLAN.—

16 “(i) IN GENERAL.—The term
17 ‘grandmothered health plan’ means health
18 insurance coverage which is offered in the
19 individual health insurance market as of
20 October 1, 2013, and is permitted to be of-
21 fered in such market after January 1,
22 2014, as a result of CCIIO guidance.

23 “(ii) CCIIO GUIDANCE DEFINED.—
24 The term ‘CCIIO guidance’ means the let-
25 ter issued by the Centers for Medicare &

1 Medicaid Services on November 14, 2013,
2 to the State Insurance Commissioners out-
3 lining a transitional policy for non-grand-
4 fathered coverage in the individual health
5 insurance market, as subsequently ex-
6 tended and modified (including by a com-
7 munication entitled ‘Insurance Standards
8 Bulletin Series—INFORMATION—Ex-
9 tension of Transitional Policy through Cal-
10 endar Year 2017’ issued on February 29,
11 2016, by the Director of the Center for
12 Consumer Information & Insurance Over-
13 sight of such Centers).

14 “(iii) INDIVIDUAL HEALTH INSUR-
15 ANCE MARKET.—The term ‘individual
16 health insurance market’ means the mar-
17 ket for health insurance coverage (as de-
18 fined in section 9832(b)) offered to individ-
19 uals other than in connection with a group
20 health plan (within the meaning of section
21 5000(b)(1)).”.

22 (3) CONFORMING AMENDMENT RELATED TO
23 ABORTION COVERAGE.—Section 36B(c)(3) of such
24 Code, as amended by paragraph (2), is amended by
25 adding at the end the following new subparagraph:

1 “(D) CERTAIN RULES RELATED TO ABOR-
2 TION.—

3 “(i) OPTION TO PURCHASE SEPARATE
4 COVERAGE OR PLAN.—Nothing in subpara-
5 graph (A) shall be construed as prohibiting
6 any individual from purchasing separate
7 coverage for abortions described in such
8 subparagraph, or a health plan that in-
9 cludes such abortions, so long as no credit
10 is allowed under this section with respect
11 to the premiums for such coverage or plan.

12 “(ii) OPTION TO OFFER COVERAGE OR
13 PLAN.—Nothing in subparagraph (A) shall
14 restrict any health insurance issuer offer-
15 ing a health plan from offering separate
16 coverage for abortions described in such
17 subparagraph, or a plan that includes such
18 abortions, so long as premiums for such
19 separate coverage or plan are not paid for
20 with any amount attributable to the credit
21 allowed under this section (or the amount
22 of any advance payment of the credit
23 under section 1412 of the Patient Protec-
24 tion and Affordable Care Act).

1 “(iii) OTHER TREATMENTS.—The
2 treatment of any infection, injury, disease,
3 or disorder that has been caused by or ex-
4 acerbated by the performance of an abor-
5 tion shall not be treated as an abortion for
6 purposes of subparagraph (A).”.

7 (4) CONFORMING AMENDMENTS RELATED TO
8 OFF-EXCHANGE COVERAGE.—

9 (A) ADVANCE PAYMENT NOT APPLICA-
10 BLE.—Section 1412 of the Patient Protection
11 and Affordable Care Act is amended by adding
12 at the end the following new subsection:

13 “(f) EXCLUSION OF OFF-EXCHANGE COVERAGE.—
14 Advance payments under this section, and advance deter-
15 minations under section 1411, with respect to any credit
16 allowed under section 36B shall not be made with respect
17 to any health plan which is not enrolled in through an
18 Exchange.”.

19 (B) REPORTING.—Section 6055(b) of the
20 Internal Revenue Code of 1986 is amended by
21 adding at the end the following new paragraph:

22 “(3) INFORMATION RELATING TO OFF-EX-
23 CHANGE PREMIUM CREDIT ELIGIBLE COVERAGE.—If
24 minimum essential coverage provided to an indi-
25 vidual under subsection (a) consists of a qualified

1 health plan (as defined in section 36B(c)(3)) which
2 is not enrolled in through an Exchange established
3 under title I of the Patient Protection and Afford-
4 able Care Act, a return described in this subsection
5 shall include—

6 “(A) a statement that such plan is a quali-
7 fied health plan (as defined in section
8 36B(c)(3)),

9 “(B) the premiums paid with respect to
10 such coverage,

11 “(C) the months during which such cov-
12 erage is provided to the individual,

13 “(D) the adjusted monthly premium for
14 the applicable second lowest cost silver plan (as
15 defined in section 36B(b)(3)) for each such
16 month with respect to such individual, and

17 “(E) such other information as the Sec-
18 retary may prescribe.”.

19 (C) OTHER CONFORMING AMENDMENTS.—

20 (i) Section 36B(b)(2)(A) of such Code
21 is amended by striking “and which were
22 enrolled” and all that follows and inserting
23 “, or”.

24 (ii) Section 36B(b)(3)(B)(i) of such
25 Code is amended by striking “the same

1 Exchange” and all that follows and insert-
2 ing “the Exchange through which such
3 taxpayer is permitted to obtain coverage,
4 and”.

5 (iii) Section 36B(c)(2)(A)(i) of such
6 Code is amended by striking “that was en-
7 rolled in through an Exchange established
8 by the State under section 1311 of the Pa-
9 tient Protection and Affordable Care Act”.

10 (b) MODIFICATION OF APPLICABLE PERCENTAGE.—

11 Section 36B(b)(3)(A) of such Code is amended to read
12 as follows:

13 “(A) APPLICABLE PERCENTAGE.—

14 “(i) IN GENERAL.—The applicable
15 percentage for any taxable year shall be
16 the percentage such that the applicable
17 percentage for any taxpayer whose house-
18 hold income is within an income tier speci-
19 fied in the following table shall increase, on
20 a sliding scale in a linear manner, from the
21 initial percentage to the final percentage
22 specified in such table for such income tier
23 with respect to a taxpayer of the age in-
24 volved:

“In the case of household income (expressed as a percent of the poverty line) within the following income tier:	Up to Age 29		Age 30-39		Age 40-49		Age 50-59		Over Age 59	
	Initial %	Final %	Initial %	Final %	Initial %	Final %	Initial %	Final %	Initial %	Final %
Up to 133%	2	2	2	2	2	2	2	2	2	2
133%-150%	3	4	3	4	3	4	3	4	3	4
150%-200%	4	4.3	4	5.3	4	6.3	4	7.3	4	8.3
200%-250%	4.3	4.3	5.3	5.9	6.3	8.05	7.3	9	8.3	10
250%-300%	4.3	4.3	5.9	5.9	8.05	8.35	9	10.5	10	11.5
300%-400%	4.3	4.3	5.9	5.9	8.35	8.35	10.5	10.5	11.5	11.5

1 “(ii) AGE DETERMINATIONS.—

2 “(I) IN GENERAL.—For purposes
3 of clause (i), the age of the taxpayer
4 taken into account under clause (i)
5 with respect to any taxable year is the
6 age attained by such taxpayer before
7 the close of such taxable year.

8 “(II) JOINT RETURNS.—In the
9 case of a joint return, the age of the
10 older spouse shall be taken into ac-
11 count under clause (i).

12 “(iii) INDEXING.—In the case of any
13 taxable year beginning in calendar year
14 2019, the initial and final percentages con-
15 tained in clause (i) shall be adjusted to re-
16 flect—

17 “(I) the excess (if any) of the
18 rate of premium growth for the period
19 beginning with calendar year 2013
20 and ending with calendar year 2018,

1 over the rate of income growth for
2 such period, and

3 “(II) in addition to any adjust-
4 ment under subclause (I), the excess
5 (if any) of the rate of premium
6 growth for calendar year 2018, over
7 the rate of growth in the consumer
8 price index for calendar year 2018.

9 “(iv) FAILSAFE.—Clause (iii)(II) shall
10 apply only if the aggregate amount of pre-
11 mium tax credits under this section and
12 cost-sharing reductions under section 1402
13 of the Patient Protection and Affordable
14 Care Act for calendar year 2018 exceeds
15 an amount equal to 0.504 percent of the
16 gross domestic product for such calendar
17 year.”.

18 (c) EFFECTIVE DATE.—

19 (1) IN GENERAL.—Except as otherwise pro-
20 vided in this subsection, the amendments made by
21 this section shall apply to taxable years beginning
22 after December 31, 2017.

23 (2) ADVANCE PAYMENT NOT APPLICABLE TO
24 OFF-EXCHANGE COVERAGE.—The amendment made

1 by subsection (a)(4)(A) shall take effect on January
2 1, 2018.

3 (3) REPORTING.—The amendment made by
4 subsection (a)(4)(B) shall apply to coverage provided
5 for months beginning after December 31, 2017.

6 (4) MODIFICATION OF APPLICABLE PERCENT-
7 AGE.—The amendment made by subsection (b) shall
8 apply to taxable years beginning after December 31,
9 2018.

10 **SEC. 203. SMALL BUSINESS TAX CREDIT.**

11 (a) IN GENERAL.—Section 45R of the Internal Rev-
12 enue Code of 1986 is amended by adding at the end the
13 following new subsection:

14 “(j) SHALL NOT APPLY.—This section shall not
15 apply with respect to amounts paid or incurred in taxable
16 years beginning after December 31, 2019.”.

17 (b) DISALLOWANCE OF SMALL EMPLOYER HEALTH
18 INSURANCE EXPENSE CREDIT FOR PLAN WHICH IN-
19 CLUDES COVERAGE FOR ABORTION.—Subsection (h) of
20 section 45R of the Internal Revenue Code of 1986 is
21 amended—

22 (1) by striking “Any term” and inserting the
23 following:

24 “(1) IN GENERAL.—Any term”; and

1 (2) by adding at the end the following new
2 paragraph:

3 “(2) EXCLUSION OF HEALTH PLANS INCLUDING
4 COVERAGE FOR ABORTION.—

5 “(A) IN GENERAL.—The term ‘qualified
6 health plan’ does not include any health plan
7 that includes coverage for abortions (other than
8 any abortion necessary to save the life of the
9 mother or any abortion with respect to a preg-
10 nancy that is the result of an act of rape or in-
11 cest).

12 “(B) CERTAIN RULES RELATED TO ABOR-
13 TION.—

14 “(i) OPTION TO PURCHASE SEPARATE
15 COVERAGE OR PLAN.—Nothing in subpara-
16 graph (A) shall be construed as prohibiting
17 any employer from purchasing for its em-
18 ployees separate coverage for abortions de-
19 scribed in such subparagraph, or a health
20 plan that includes such abortions, so long
21 as no credit is allowed under this section
22 with respect to the employer contributions
23 for such coverage or plan.

24 “(ii) OPTION TO OFFER COVERAGE OR
25 PLAN.—Nothing in subparagraph (A) shall

1 restrict any health insurance issuer offer-
2 ing a health plan from offering separate
3 coverage for abortions described in such
4 subparagraph, or a plan that includes such
5 abortions, so long as such separate cov-
6 erage or plan is not paid for with any em-
7 ployer contribution eligible for the credit
8 allowed under this section.

9 “(iii) OTHER TREATMENTS.—The
10 treatment of any infection, injury, disease,
11 or disorder that has been caused by or ex-
12 acerbated by the performance of an abor-
13 tion shall not be treated as an abortion for
14 purposes of subparagraph (A).”.

15 (c) EFFECTIVE DATES.—

16 (1) IN GENERAL.—The amendment made by
17 subsection (a) shall apply to taxable years beginning
18 after December 31, 2019.

19 (2) DISALLOWANCE OF SMALL EMPLOYER
20 HEALTH INSURANCE EXPENSE CREDIT FOR PLAN
21 WHICH INCLUDES COVERAGE FOR ABORTION.—The
22 amendments made by subsection (b) shall apply to
23 taxable years beginning after December 31, 2017.

1 **SEC. 204. INDIVIDUAL MANDATE.**

2 (a) IN GENERAL.—Section 5000A(c) of the Internal
3 Revenue Code of 1986 is amended—

4 (1) in paragraph (2)(B)(iii), by striking “2.5
5 percent” and inserting “Zero percent”, and

6 (2) in paragraph (3)—

7 (A) by striking “\$695” in subparagraph

8 (A) and inserting “\$0”, and

9 (B) by striking subparagraph (D).

10 (b) EFFECTIVE DATE.—The amendments made by
11 this section shall apply to months beginning after Decem-
12 ber 31, 2015.

13 **SEC. 205. EMPLOYER MANDATE.**

14 (a) IN GENERAL.—

15 (1) Paragraph (1) of section 4980H(c) of the
16 Internal Revenue Code of 1986 is amended by in-
17 serting “(\$0 in the case of months beginning after
18 December 31, 2015)” after “\$2,000”.

19 (2) Paragraph (1) of section 4980H(b) of the
20 Internal Revenue Code of 1986 is amended by in-
21 serting “(\$0 in the case of months beginning after
22 December 31, 2015)” after “\$3,000”.

23 (b) EFFECTIVE DATE.—The amendments made by
24 this section shall apply to months beginning after Decem-
25 ber 31, 2015.

1 **SEC. 206. REPEAL OF THE TAX ON EMPLOYEE HEALTH IN-**
2 **SURANCE PREMIUMS AND HEALTH PLAN**
3 **BENEFITS.**

4 Section 4980I of the Internal Revenue Code of 1986
5 is amended by adding at the end the following new sub-
6 section:

7 “(h) SHALL NOT APPLY.—No tax shall be imposed
8 under this section with respect to any taxable period be-
9 ginning after December 31, 2019, and before January 1,
10 2026.”.

11 **SEC. 207. REPEAL OF TAX ON OVER-THE-COUNTER MEDICA-**
12 **TIONS.**

13 (a) HSAs.—Subparagraph (A) of section 223(d)(2)
14 of the Internal Revenue Code of 1986 is amended by strik-
15 ing “Such term” and all that follows through the period.

16 (b) ARCHER MSAs.—Subparagraph (A) of section
17 220(d)(2) of the Internal Revenue Code of 1986 is amend-
18 ed by striking “Such term” and all that follows through
19 the period.

20 (c) HEALTH FLEXIBLE SPENDING ARRANGEMENTS
21 AND HEALTH REIMBURSEMENT ARRANGEMENTS.—Sec-
22 tion 106 of the Internal Revenue Code of 1986 is amended
23 by striking subsection (f) and by redesignating subsection
24 (g) as subsection (f).

25 (d) EFFECTIVE DATES.—

1 (1) DISTRIBUTIONS FROM SAVINGS AC-
2 COUNTS.—The amendments made by subsections (a)
3 and (b) shall apply to amounts paid with respect to
4 taxable years beginning after December 31, 2016.

5 (2) REIMBURSEMENTS.—The amendment made
6 by subsection (c) shall apply to expenses incurred
7 with respect to taxable years beginning after Decem-
8 ber 31, 2016.

9 **SEC. 208. REPEAL OF INCREASE OF TAX ON HEALTH SAV-**
10 **INGS ACCOUNTS.**

11 (a) HSAs.—Section 223(f)(4)(A) of the Internal
12 Revenue Code of 1986 is amended by striking “20 per-
13 cent” and inserting “10 percent”.

14 (b) ARCHER MSAs.—Section 220(f)(4)(A) of the In-
15 ternal Revenue Code of 1986 is amended by striking “20
16 percent” and inserting “15 percent”.

17 (c) EFFECTIVE DATE.—The amendments made by
18 this section shall apply to distributions made after Decem-
19 ber 31, 2016.

20 **SEC. 209. REPEAL OF LIMITATIONS ON CONTRIBUTIONS TO**
21 **FLEXIBLE SPENDING ACCOUNTS.**

22 (a) IN GENERAL.—Section 125 of the Internal Rev-
23 enue Code of 1986 is amended by striking subsection (i).

1 (b) EFFECTIVE DATE.—The amendment made by
2 this section shall apply to taxable years beginning after
3 December 31, 2016.

4 **SEC. 210. REPEAL OF MEDICAL DEVICE EXCISE TAX.**

5 Section 4191 of the Internal Revenue Code of 1986
6 is amended by adding at the end the following new sub-
7 section:

8 “(d) APPLICABILITY.—The tax imposed under sub-
9 section (a) shall not apply to sales after December 31,
10 2016.”.

11 **SEC. 211. REPEAL OF ELIMINATION OF DEDUCTION FOR**
12 **EXPENSES ALLOCABLE TO MEDICARE PART D**
13 **SUBSIDY.**

14 (a) IN GENERAL.—Section 139A of the Internal Rev-
15 enue Code of 1986 is amended by adding at the end the
16 following new sentence: “This section shall not be taken
17 into account for purposes of determining whether any de-
18 duction is allowable with respect to any cost taken into
19 account in determining such payment.”.

20 (b) EFFECTIVE DATE.—The amendment made by
21 this section shall apply to taxable years beginning after
22 December 31, 2016.

1 **SEC. 212. REDUCTION OF INCOME THRESHOLD FOR DETER-**
2 **MINING MEDICAL CARE DEDUCTION.**

3 (a) IN GENERAL.—Subsection (a) of section 213 of
4 the Internal Revenue Code of 1986 is amended by striking
5 “10 percent” and inserting “5.8 percent”.

6 (b) EFFECTIVE DATE.—The amendment made by
7 this section shall apply to taxable years beginning after
8 December 31, 2016.

9 **SEC. 213. REPEAL OF MEDICARE TAX INCREASE.**

10 (a) IN GENERAL.—Subsection (b) of section 3101 of
11 the Internal Revenue Code of 1986 is amended to read
12 as follows:

13 “(b) HOSPITAL INSURANCE.—In addition to the tax
14 imposed by the preceding subsection, there is hereby im-
15 posed on the income of every individual a tax equal to 1.45
16 percent of the wages (as defined in section 3121(a)) re-
17 ceived by such individual with respect to employment (as
18 defined in section 3121(b)).”.

19 (b) SECA.—Subsection (b) of section 1401 of the In-
20 ternal Revenue Code of 1986 is amended to read as fol-
21 lows:

22 “(b) HOSPITAL INSURANCE.—In addition to the tax
23 imposed by the preceding subsection, there shall be im-
24 posed for each taxable year, on the self-employment in-
25 come of every individual, a tax equal to 2.9 percent of the

1 amount of the self-employment income for such taxable
2 year.”.

3 (c) EFFECTIVE DATE.—The amendments made by
4 this section shall apply with respect to remuneration re-
5 ceived after, and taxable years beginning after, December
6 31, 2022.

7 **SEC. 214. REFUNDABLE TAX CREDIT FOR HEALTH INSUR-**
8 **ANCE COVERAGE.**

9 (a) IN GENERAL.—Section 36B of the Internal Rev-
10 enue Code of 1986 is amended to read as follows:

11 **“SEC. 36B. REFUNDABLE CREDIT FOR COVERAGE UNDER A**
12 **QUALIFIED HEALTH PLAN.**

13 “(a) ALLOWANCE OF PREMIUM TAX CREDIT.—In the
14 case of an individual, there shall be allowed as a credit
15 against the tax imposed by this subtitle for the taxable
16 year the sum of the monthly credit amounts with respect
17 to such taxpayer for calendar months during such taxable
18 year which are eligible coverage months appropriately
19 taken into account under subsection (b)(2) with respect
20 to the taxpayer or any qualifying family member of the
21 taxpayer.

22 “(b) MONTHLY CREDIT AMOUNTS.—

23 “(1) IN GENERAL.—The monthly credit amount
24 with respect to any taxpayer for any calendar month
25 is the lesser of—

1 “(A) the sum of the monthly limitation
2 amounts determined under subsection (c) with
3 respect to the taxpayer and the taxpayer’s
4 qualifying family members for such month, or

5 “(B) the amount paid for a qualified
6 health plan for the taxpayer and the taxpayer’s
7 qualifying family members for such month.

8 “(2) ELIGIBLE COVERAGE MONTH REQUIRE-
9 MENT.—No amount shall be taken into account
10 under subparagraph (A) or (B) of paragraph (1)
11 with respect to any individual for any month unless
12 such month is an eligible coverage month with re-
13 spect to such individual.

14 “(c) MONTHLY LIMITATION AMOUNTS.—

15 “(1) IN GENERAL.—The monthly limitation
16 amount with respect to any individual for any eligi-
17 ble coverage month during any taxable year is $\frac{1}{12}$
18 of—

19 “(A) \$2,000 in the case of an individual
20 who has not attained age 30 as of the begin-
21 ning of such taxable year,

22 “(B) \$2,500 in the case of an individual
23 who has attained age 30 but who has not at-
24 tained age 40 as of such time,

1 “(C) \$3,000 in the case of an individual
2 who has attained age 40 but who has not at-
3 tained age 50 as of such time,

4 “(D) \$3,500 in the case of an individual
5 who has attained age 50 but who has not at-
6 tained age 60 as of such time, and

7 “(E) \$4,000 in the case of an individual
8 who has attained age 60 as of such time.

9 “(2) LIMITATION BASED ON MODIFIED AD-
10 JUSTED GROSS INCOME.—The credit allowed under
11 subsection (a) with respect to any taxpayer for any
12 taxable year shall be reduced (but not below zero) by
13 10 percent of the excess (if any) of—

14 “(A) the taxpayer’s modified adjusted
15 gross income (as defined in section
16 36B(d)(2)(B), as in effect for taxable years be-
17 ginning before January 1, 2020) for such tax-
18 able year, over

19 “(B) \$75,000 (twice such amount in the
20 case of a joint return).

21 “(3) OTHER LIMITATIONS.—

22 “(A) AGGREGATE DOLLAR LIMITATION.—
23 The sum of the monthly limitation amounts
24 taken into account under this section with re-

1 spect to any taxpayer for any taxable year shall
2 not exceed \$14,000.

3 “(B) MAXIMUM NUMBER OF INDIVIDUALS
4 TAKEN INTO ACCOUNT.—With respect to any
5 taxpayer for any month, monthly limitation
6 amounts shall be taken into account under this
7 section only with respect to the 5 oldest individ-
8 uals with respect to whom monthly limitation
9 amounts could (without regard to this subpara-
10 graph) otherwise be so taken into account.

11 “(d) ELIGIBLE COVERAGE MONTH.—For purposes of
12 this section, the term ‘eligible coverage month’ means,
13 with respect to any individual, any month if, as of the first
14 day of such month, the individual meets the following re-
15 quirements:

16 “(1) The individual is covered by a health in-
17 surance coverage which is certified by the State in
18 which such insurance is offered as coverage that
19 meets the requirements for qualified health plans
20 under subsection (f).

21 “(2) The individual is not eligible for—

22 “(A) coverage under a group health plan
23 (within the meaning of section 5000(b)(1))
24 other than coverage under a plan substantially

1 all of the coverage of which is of excepted bene-
2 fits described in section 9832(c), or

3 “(B) coverage described in section
4 5000A(f)(1)(A).

5 “(3) The individual is either—

6 “(A) a citizen or national of the United
7 States, or

8 “(B) a qualified alien (within the meaning
9 of section 431 of the Personal Responsibility
10 and Work Opportunity Reconciliation Act of
11 1996 (8 U.S.C. 1641)).

12 “(4) The individual is not incarcerated, other
13 than incarceration pending the disposition of
14 charges.

15 “(e) QUALIFYING FAMILY MEMBER.—For purposes
16 of this section, the term ‘qualifying family member’
17 means—

18 “(1) in the case of a joint return, the taxpayer’s
19 spouse,

20 “(2) any dependent of the taxpayer, and

21 “(3) with respect to any eligible coverage
22 month, any child (as defined in section 152(f)(1)) of
23 the taxpayer who as of the end of the taxable year
24 has not attained age 27 if such child is covered for
25 such month under a qualified health plan which also

1 covers the taxpayer (in the case of a joint return, ei-
2 ther spouse).

3 “(f) QUALIFIED HEALTH PLAN.—For purposes of
4 this section, the term ‘qualified health plan’ means any
5 health insurance coverage (as defined in section 9832(b))
6 if—

7 “(1) such coverage is offered in the individual
8 health insurance market within a State (within the
9 meaning of section 5000A(f)(1)(C)),

10 “(2) substantially all of such coverage is not of
11 excepted benefits described in section 9832(c),

12 “(3) such coverage does not consist of short-
13 term limited duration insurance (within the meaning
14 of section 2791(b)(5) of the Public Health Service
15 Act),

16 “(4) such coverage is not a grandfathered
17 health plan (as defined in section 1251 of the Pa-
18 tient Protection and Affordable Care Act) or a
19 grandmothered health plan (as defined in section
20 36B(c)(3)(C) as in effect for taxable years beginning
21 before January 1, 2020), and

22 “(5) such coverage does not include coverage
23 for abortions (other than any abortion necessary to
24 save the life of the mother or any abortion with re-

1 spect to a pregnancy that is the result of an act of
2 rape or incest).

3 “(g) SPECIAL RULES.—

4 “(1) MARRIED COUPLES MUST FILE JOINT RE-
5 TURN.—

6 “(A) IN GENERAL.—Except as provided in
7 subparagraph (B), if the taxpayer is married
8 (within the meaning of section 7703) at the
9 close of the taxable year, no credit shall be al-
10 lowed under this section to such taxpayer unless
11 such taxpayer and the taxpayer’s spouse file a
12 joint return for such taxable year.

13 “(B) EXCEPTION FOR CERTAIN TAX-
14 PAYERS.—Subparagraph (A) shall not apply to
15 any married taxpayer who—

16 “(i) is living apart from the taxpayer’s
17 spouse at the time the taxpayer files the
18 tax return,

19 “(ii) is unable to file a joint return be-
20 cause such taxpayer is a victim of domestic
21 abuse or spousal abandonment,

22 “(iii) certifies on the tax return that
23 such taxpayer meets the requirements of
24 clauses (i) and (ii), and

1 “(iv) has not met the requirements of
2 clauses (i), (ii), and (iii) for each of the 3
3 preceding taxable years.

4 “(2) DENIAL OF CREDIT TO DEPENDENTS.—

5 “(A) IN GENERAL.—No credit shall be al-
6 lowed under this section to any individual who
7 is a dependent with respect to another taxpayer
8 for a taxable year beginning in the calendar
9 year in which such individual’s taxable year be-
10 gins.

11 “(B) COORDINATION WITH RULE FOR
12 OLDER CHILDREN.—In the case of any indi-
13 vidual who is a qualifying family member de-
14 scribed in subsection (e)(3) with respect to an-
15 other taxpayer for any month, in determining
16 the amount of any credit allowable to such indi-
17 vidual under this section for any taxable year of
18 such individual which includes such month, the
19 monthly limitation amount with respect to such
20 individual for such month shall be zero and no
21 amount paid for any qualified health plan with
22 respect to such individual for such month shall
23 be taken into account.

24 “(3) COORDINATION WITH MEDICAL EXPENSE
25 DEDUCTION.—Amounts described in subsection

1 (b)(1)(B) with respect to any month shall not be
2 taken into account in determining the deduction al-
3 lowed under section 213 except to the extent that
4 such amounts exceed the amount described in sub-
5 section (b)(1)(A) with respect to such month.

6 “(4) COORDINATION WITH ADVANCE PAYMENTS
7 OF CREDIT.—With respect to any taxable year—

8 “(A) the amount which would (but for this
9 subsection) be allowed as a credit to the tax-
10 payer under subsection (a) shall be reduced
11 (but not below zero) by the aggregate amount
12 paid on behalf of such taxpayer under section
13 1412 of the Patient Protection and Affordable
14 Care Act for months beginning in such taxable
15 year, and

16 “(B) the tax imposed by section 1 for such
17 taxable year shall be increased by the excess (if
18 any) of—

19 “(i) the aggregate amount paid on be-
20 half of such taxpayer under such section
21 1412 for months beginning in such taxable
22 year, over

23 “(ii) the amount which would (but for
24 this subsection) be allowed as a credit to
25 the taxpayer under subsection (a).

1 “(5) SPECIAL RULES FOR QUALIFIED SMALL
2 EMPLOYER HEALTH REIMBURSEMENT ARRANGE-
3 MENTS.—

4 “(A) IN GENERAL.—If the taxpayer or any
5 qualifying family member of the taxpayer is
6 provided a qualified small employer health reim-
7 bursement arrangement for an eligible coverage
8 month, the sum determined under subsection
9 (b)(1)(A) with respect to the taxpayer shall be
10 reduced (but not below zero) by $\frac{1}{12}$ of the per-
11 mitted benefit (as defined in section
12 9831(d)(3)(C)) under such arrangement for
13 each such month such arrangement is provided
14 to such taxpayer.

15 “(B) QUALIFIED SMALL EMPLOYER
16 HEALTH REIMBURSEMENT ARRANGEMENT.—
17 For purposes of this paragraph, the term
18 ‘qualified small employer health reimbursement
19 arrangement’ has the meaning given such term
20 by section 9831(d)(2).

21 “(C) COVERAGE FOR LESS THAN ENTIRE
22 YEAR.—In the case of an employee who is pro-
23 vided a qualified small employer health reim-
24 bursement arrangement for less than an entire
25 year, subparagraph (A) shall be applied by sub-

1 stituting ‘the number of months during the year
2 for which such arrangement was provided’ for
3 ‘12’.

4 “(6) CERTAIN RULES RELATED TO NON-
5 QUALIFIED HEALTH PLANS.—The rules of section
6 36B(c)(3)(D), as in effect for taxable years begin-
7 ning before January 1, 2020, shall apply with re-
8 spect to subsection (f)(5).

9 “(7) INFLATION ADJUSTMENT.—

10 “(A) IN GENERAL.—In the case of any
11 taxable year beginning in a calendar year after
12 2020, each dollar amount in subsection (c)(1),
13 the \$75,000 amount in subsection (c)(2)(B),
14 and the dollar amount in subsection (c)(3)(A),
15 shall be increased by an amount equal to—

16 “(i) such dollar amount, multiplied by

17 “(ii) the cost-of-living adjustment de-
18 termined under section 1(f)(3) for the cal-
19 endar year in which the taxable year be-
20 gins, determined—

21 “(I) by substituting ‘calendar
22 year 2019’ for ‘calendar year 1992’ in
23 subparagraph (B) thereof, and

24 “(II) by substituting for the CPI
25 referred to section 1(f)(3)(A) the

1 amount that such CPI would have
2 been if the annual percentage increase
3 in CPI with respect to each year after
4 2019 had been one percentage point
5 greater.

6 “(B) TERMS RELATED TO CPI.—

7 “(i) ANNUAL PERCENTAGE IN-
8 CREASE.—For purposes of subparagraph
9 (A)(ii)(II), the term ‘annual percentage in-
10 crease’ means the percentage (if any) by
11 which CPI for any year exceeds CPI for
12 the prior year.

13 “(ii) OTHER TERMS.—Terms used in
14 this paragraph which are also used in sec-
15 tion 1(f)(3) shall have the same meanings
16 as when used in such section.

17 “(C) ROUNDING.—Any increase deter-
18 mined under subparagraph (A) shall be rounded
19 to the nearest multiple of \$50.

20 “(8) RULES RELATED TO STATE CERTIFI-
21 CATION OF QUALIFIED HEALTH PLANS.—A certifi-
22 cation shall not be taken into account under sub-
23 section (d)(1) unless such certification is made avail-
24 able to the public and meets such other require-
25 ments as the Secretary may provide.

1 “(9) REGULATIONS.—The Secretary may pre-
2 scribe such regulations and other guidance as may
3 be necessary or appropriate to carry out this section
4 and section 1412 of the Patient Protection and Af-
5 fordable Care Act.”.

6 (b) ADVANCE PAYMENT OF CREDIT.—Section
7 1412(f) of the Patient Protection and Affordable Care
8 Act, as added by section 202, is amended to read as fol-
9 lows:

10 “(f) APPLICATION TO CERTAIN PLANS.—The Sec-
11 retary and the Secretary of the Treasury shall prescribe
12 such regulations as each respective Secretary may deem
13 necessary in order to establish and operate the advance
14 payment program established under this section for indi-
15 viduals covered under qualified health plans (whether en-
16 rolled in through an Exchange or otherwise) in such a
17 manner that protects taxpayer information (including
18 names, taxpayer identification numbers, and other con-
19 fidential information), provides robust verification of all
20 information necessary to establish eligibility of taxpayer
21 for advance payments under this section, ensures proper
22 and timely payments to appropriate health providers, and
23 protects program integrity to the maximum extent fea-
24 sible.”.

1 (c) INCREASED PENALTY ON ERRONEOUS CLAIMS OF
2 CREDIT.—Section 6676(a) of the Internal Revenue Code
3 of 1986 is amended by inserting “(25 percent in the case
4 of a claim for refund or credit relating to the health insur-
5 ance coverage credit under section 36B)”.

6 (d) REPORTING BY EMPLOYERS.—Section 6051(a) of
7 such Code is amended by striking “and” at the end of
8 paragraph (14), by striking the period at the end of para-
9 graph (15) and inserting “, and”, and by inserting after
10 paragraph (15) the following new paragraph:

11 “(16) each month with respect to which the em-
12 ployee is eligible for coverage described in section
13 36B(d)(2) in connection with employment with the
14 employer.”.

15 (e) COORDINATION WITH OTHER TAX BENEFITS.—

16 (1) CREDIT FOR HEALTH INSURANCE COSTS OF
17 ELIGIBLE INDIVIDUALS.—Section 35(g) of such
18 Code is amended by adding at the end the following
19 new paragraph:

20 “(14) COORDINATION WITH HEALTH INSUR-
21 ANCE COVERAGE CREDIT.—

22 “(A) IN GENERAL.—An eligible coverage
23 month to which the election under paragraph
24 (11) applies shall not be treated as an eligible
25 coverage month (as defined in section 36B(d))

1 for purposes of section 36B with respect to the
2 taxpayer or any of the taxpayer's qualifying
3 family members (as defined in section 36B(e)).

4 “(B) COORDINATION WITH ADVANCE PAY-
5 MENTS OF HEALTH INSURANCE COVERAGE
6 CREDIT.—In the case of a taxpayer who makes
7 the election under paragraph (11) with respect
8 to any eligible coverage month in a taxable year
9 or on behalf of whom any advance payment is
10 made under section 7527 with respect to any
11 month in such taxable year—

12 “(i) the tax imposed by this chapter
13 for the taxable year shall be increased by
14 the excess, if any, of—

15 “(I) the sum of any advance pay-
16 ments made on behalf of the taxpayer
17 under section 7527 and section 1412
18 of the Patient Protection and Afford-
19 able Care Act, over

20 “(II) the sum of the credits al-
21 lowed under this section (determined
22 without regard to paragraph (1)) and
23 section 36B (determined without re-
24 gard to subsection (g)(4)(A) thereof)
25 for such taxable year, and

1 “(ii) section 36B(g)(4)(B) shall not
2 apply with respect to such taxpayer for
3 such taxable year.”.

4 (2) TRADE OR BUSINESS DEDUCTION.—Section
5 162(l) of such Code is amended by adding at the
6 end the following new paragraph:

7 “(6) COORDINATION WITH HEALTH INSURANCE
8 COVERAGE CREDIT.—The deduction otherwise allow-
9 able to a taxpayer under paragraph (1) for any tax-
10 able year shall be reduced (but not below zero) by
11 the amount of the credit allowable to such taxpayer
12 under section 36B (determined without regard to
13 subsection (g)(4)(A) thereof) for such taxable year.”.

14 (f) EFFECTIVE DATE.—The amendments made by
15 this section shall apply to months beginning after Decem-
16 ber 31, 2019, in taxable years ending after such date.

17 **SEC. 215. MAXIMUM CONTRIBUTION LIMIT TO HEALTH SAV-**
18 **INGS ACCOUNT INCREASED TO AMOUNT OF**
19 **DEDUCTIBLE AND OUT-OF-POCKET LIMITA-**
20 **TION.**

21 (a) SELF-ONLY COVERAGE.—Section 223(b)(2)(A)
22 of the Internal Revenue Code of 1986 is amended by strik-
23 ing “\$2,250” and inserting “the amount in effect under
24 subsection (c)(2)(A)(ii)(I)”.

1 (b) FAMILY COVERAGE.—Section 223(b)(2)(B) of
 2 such Code is amended by striking “\$4,500” and inserting
 3 “the amount in effect under subsection (c)(2)(A)(ii)(II)”.

4 (c) CONFORMING AMENDMENTS.—Section 223(g)(1)
 5 of such Code is amended—

6 (1) by striking “subsections (b)(2) and” both
 7 places it appears and inserting “subsection”, and

8 (2) in subparagraph (B), by striking “deter-
 9 mined by” and all that follows through “‘calendar
 10 year 2003’.” and inserting “determined by sub-
 11 stituting ‘calendar year 2003’ for ‘calendar year
 12 1992’ in subparagraph (B) thereof.”.

13 (d) EFFECTIVE DATE.—The amendments made by
 14 this section shall apply to taxable years beginning after
 15 December 31, 2017.

16 **SEC. 216. ALLOW BOTH SPOUSES TO MAKE CATCH-UP CON-**
 17 **TRIBUTIONS TO THE SAME HEALTH SAVINGS**
 18 **ACCOUNT.**

19 (a) IN GENERAL.—Section 223(b)(5) of the Internal
 20 Revenue Code of 1986 is amended to read as follows:

21 “(5) SPECIAL RULE FOR MARRIED INDIVIDUALS
 22 WITH FAMILY COVERAGE.—

23 “(A) IN GENERAL.—In the case of individ-
 24 uals who are married to each other, if both
 25 spouses are eligible individuals and either

1 spouse has family coverage under a high de-
2 ductible health plan as of the first day of any
3 month—

4 “(i) the limitation under paragraph
5 (1) shall be applied by not taking into ac-
6 count any other high deductible health
7 plan coverage of either spouse (and if such
8 spouses both have family coverage under
9 separate high deductible health plans, only
10 one such coverage shall be taken into ac-
11 count),

12 “(ii) such limitation (after application
13 of clause (i)) shall be reduced by the ag-
14 gregate amount paid to Archer MSAs of
15 such spouses for the taxable year, and

16 “(iii) such limitation (after application
17 of clauses (i) and (ii)) shall be divided
18 equally between such spouses unless they
19 agree on a different division.

20 “(B) TREATMENT OF ADDITIONAL CON-
21 TRIBUTION AMOUNTS.—If both spouses referred
22 to in subparagraph (A) have attained age 55
23 before the close of the taxable year, the limita-
24 tion referred to in subparagraph (A)(iii) which
25 is subject to division between the spouses shall

1 include the additional contribution amounts de-
2 termined under paragraph (3) for both spouses.
3 In any other case, any additional contribution
4 amount determined under paragraph (3) shall
5 not be taken into account under subparagraph
6 (A)(iii) and shall not be subject to division be-
7 tween the spouses.”.

8 (b) EFFECTIVE DATE.—The amendment made by
9 this section shall apply to taxable years beginning after
10 December 31, 2017.

11 **SEC. 217. SPECIAL RULE FOR CERTAIN MEDICAL EXPENSES**
12 **INCURRED BEFORE ESTABLISHMENT OF**
13 **HEALTH SAVINGS ACCOUNT.**

14 (a) IN GENERAL.—Section 223(d)(2) of the Internal
15 Revenue Code of 1986 is amended by adding at the end
16 the following new subparagraph:

17 “(D) TREATMENT OF CERTAIN MEDICAL
18 EXPENSES INCURRED BEFORE ESTABLISHMENT
19 OF ACCOUNT.—If a health savings account is
20 established during the 60-day period beginning
21 on the date that coverage of the account bene-
22 ficiary under a high deductible health plan be-
23 gins, then, solely for purposes of determining
24 whether an amount paid is used for a qualified
25 medical expense, such account shall be treated

1 as having been established on the date that
2 such coverage begins.”.

3 (b) **EFFECTIVE DATE.**—The amendment made by
4 this section shall apply with respect to coverage beginning
5 after December 31, 2017.

6 **Subtitle B—Repeal of Certain**
7 **Consumer Taxes**

8 **SEC. 221. REPEAL OF TAX ON PRESCRIPTION MEDICA-**
9 **TIONS.**

10 Subsection (j) of section 9008 of the Patient Protec-
11 tion and Affordable Care Act is amended to read as fol-
12 lows:

13 “(j) **REPEAL.**—This section shall apply to calendar
14 years beginning after December 31, 2010, and ending be-
15 fore January 1, 2017.”.

16 **SEC. 222. REPEAL OF HEALTH INSURANCE TAX.**

17 Subsection (j) of section 9010 of the Patient Protec-
18 tion and Affordable Care Act is amended to read as fol-
19 lows:

20 “(j) **REPEAL.**—This section shall apply to calendar
21 years beginning after December 31, 2013, and ending be-
22 fore January 1, 2017.”.

1 **Subtitle C—Repeal of Tanning Tax**

2 **SEC. 231. REPEAL OF TANNING TAX.**

3 (a) IN GENERAL.—The Internal Revenue Code of
4 1986 is amended by striking chapter 49.

5 (b) EFFECTIVE DATE.—The amendment made by
6 this section shall apply to services performed after June
7 30, 2017.

8 **Subtitle D—Remuneration From** 9 **Certain Insurers**

10 **SEC. 241. REMUNERATION FROM CERTAIN INSURERS.**

11 Paragraph (6) of section 162(m) of the Internal Rev-
12 enue Code of 1986 is amended by adding at the end the
13 following new subparagraph:

14 “(I) TERMINATION.—This paragraph shall
15 not apply to taxable years beginning after De-
16 cember 31, 2016.”.

17 **Subtitle E—Repeal of Net** 18 **Investment Income Tax**

19 **SEC. 251. REPEAL OF NET INVESTMENT INCOME TAX.**

20 (a) IN GENERAL.—Subtitle A of the Internal Rev-
21 enue Code of 1986 is amended by striking chapter 2A.

1 (b) EFFECTIVE DATE.—The amendment made by
2 this section shall apply to taxable years beginning after
3 December 31, 2016.

Passed the House of Representatives May 4, 2017.

Attest:

Clerk.

115TH CONGRESS
1ST SESSION

H. R. 1628

AN ACT

To provide for reconciliation pursuant to title II of
the concurrent resolution on the budget for fiscal
year 2017.