

116TH CONGRESS
1ST SESSION

H. R. 986

AN ACT

To provide that certain guidance related to waivers for State innovation under the Patient Protection and Affordable Care Act shall have no force or effect.

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 “Protecting Americans
3 with Preexisting Conditions Act of 2019”.

4 **SEC. 2. FINDINGS.**

5 Congress finds the following:

6 (1) On October 24, 2018, the administration
7 published new guidance to carry out section 1332 of
8 the Patient Protection and Affordable Care Act (42
9 U.S.C. 18052) entitled “State Relief and Empower-
10 ment Waivers” (83 Fed. Reg. 53575).

11 (2) The new guidance encourages States to pro-
12 vide health insurance coverage through insurance
13 plans that may discriminate against individuals with
14 preexisting health conditions, including the one in
15 four Americans living with a disability.

16 (3) The implementation and enforcement of the
17 new guidance weakens protections for the millions of
18 Americans living with preexisting health conditions
19 and jeopardizes Americans’ access to quality, afford-
20 able health insurance coverage.

1 **SEC. 3. PROVIDING THAT CERTAIN GUIDANCE RELATED TO**
2 **WAIVERS FOR STATE INNOVATION UNDER**
3 **THE PATIENT PROTECTION AND AFFORD-**
4 **ABLE CARE ACT SHALL HAVE NO FORCE OR**
5 **EFFECT.**

6 Beginning April 1, 2019, the Secretary of Health and
7 Human Services and the Secretary of the Treasury may
8 not take any action to implement, enforce, or otherwise
9 give effect to the guidance entitled “State Relief and Em-
10 powerment Waivers” (83 Fed. Reg. 53575 (October 24,
11 2018)), including any such action that would result in in-
12 dividuals losing health insurance coverage that includes
13 the essential health benefits package (as defined in sub-
14 section (a) of section 1302 of the Patient Protection and
15 Affordable Care Act (42 U.S.C. 18022(a)) without regard
16 to any waiver of any provision of such package under a
17 waiver under such section 1332), including the maternity
18 and newborn care essential health benefit described in sub-
19 section (b)(1)(D) of such section, including any such ac-
20 tion that would result in a decrease in the number of such
21 individuals enrolled in coverage that is at least as com-
22 prehensive as the coverage defined in section 1302(a) of
23 the Patient Protection and Affordable Care Act (42
24 U.S.C. 18022(a)) compared to the number of such individ-
25 uals who would have been so enrolled in such coverage
26 had such action not been taken, including any such action

1 that would, with respect to individuals with substance use
2 disorders, including opioid use disorders, reduce the avail-
3 ability or affordability of coverage that is at least as com-
4 prehensive as the coverage defined in section 1302(a) of
5 the Patient Protection and Affordable Care Act (42
6 U.S.C. 18022(a)) compared to the availability or afford-
7 ability, respectively, of such coverage had such action not
8 been taken, including any such action that would result,
9 with respect to vulnerable populations (including low-in-
10 come individuals, elderly individuals, and individuals with
11 serious health issues or who have a greater risk of devel-
12 oping serious health issues), in a decrease in the avail-
13 ability of coverage that is at least as comprehensive as
14 the coverage defined in section 1302(a) of the Patient Pro-
15 tection and Affordable Care Act (42 U.S.C. 18022(a))
16 with coverage and cost sharing protections required under
17 section 1332(b)(1)(B) of such Act (42 U.S.C.
18 18052(b)(1)(B)), including any such action that would,
19 with respect to individuals with preexisting conditions, re-
20 duce the affordability of coverage that is at least as com-
21 prehensive as the coverage defined in section 1302(a) of
22 the Patient Protection and Affordable Care Act (42
23 U.S.C. 18022(a)) compared to the affordability of such
24 coverage had such action not been taken, including any
25 such action that would result in higher health insurance

1 premiums for individuals enrolled in health insurance cov-
2 erage that is at least as comprehensive as the coverage
3 defined in section 1302(b) of such Act (42 U.S.C.
4 18022(b)), and the Secretaries may not promulgate any
5 substantially similar guidance or rule. Nothing in the pre-
6 vious sentence shall be construed to affect the approval
7 of waivers under section 1332 of the Patient Protection
8 and Affordable Care Act (42 U.S.C. 18052) that establish
9 reinsurance programs that are consistent with the require-
10 ments under subsection (b)(1) of such section (42 U.S.C.
11 18052(b)(1)), lower health insurance premiums, and pro-
12 tect health insurance coverage for people with preexisting
13 conditions.

14 **SEC. 4. GAO REPORT ON AFFECT OF STATE INNOVATION**
15 **WAIVERS ON COVERAGE OF INDIVIDUALS**
16 **AND ON MENTAL HEALTH HEALTH CARE**
17 **TREATMENT.**

18 Not later than 1 year after the date of the enactment
19 of this Act, the Comptroller General of the United States
20 shall submit to Congress a report on the number of indi-
21 viduals expected to lose access to health insurance cov-
22 erage (as defined in section 2791 of the Public Health
23 Service Act (42 U.S.C. 300gg-91)) if section 2 were not
24 enacted and waivers under section 1332 of the Patient
25 Protection and Affordable Care Act (42 U.S.C. 18052)

1 were approved under the guidance described in such sec-
2 tion 2. Such report shall include an analysis of the ex-
3 pected effect such waivers approved under such guidance
4 would have on mental health care treatment.

Passed the House of Representatives May 9, 2019.

Attest:

Clerk.

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