

112TH CONGRESS
1ST SESSION

S. 1395

To ensure that all Americans have access to waivers from the Patient Protection and Affordable Care Act.

IN THE SENATE OF THE UNITED STATES

JULY 21, 2011

Mr. BARRASSO (for himself, Mr. ALEXANDER, Mr. KYL, Mr. WICKER, Mr. ROBERTS, Mr. INHOFE, Mrs. HUTCHISON, Mr. CORNYN, and Mr. GRASSLEY) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To ensure that all Americans have access to waivers from the Patient Protection and Affordable Care Act.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “WAIVE Act”.

5 **SEC. 2. FINDINGS.**

6 Congress makes the following findings:

7 (1) As of July 15, 2011, the Department of
8 Health and Human Services has approved 1,471
9 one-year waivers giving some Americans temporary

1 relief from onerous annual benefit limit mandates in-
2 cluded in the health care laws President Obama
3 signed on March 23, 2010, and March 30, 2010
4 (Public Laws 111–148 and 111–152).

5 (2) As of July 15, 2011, these 1,471 one-year
6 annual benefit limit waivers cover 3,200,000 Ameri-
7 cans.

8 (3) Of the 3,200,000 Americans granted a one-
9 year annual benefit limit waiver by the Department
10 of Health and Human Services, approximately half
11 (1,619,960) are union members.

12 (4) On June 14, 2011, the Government Ac-
13 countability Office released a report titled “Private
14 Health Insurance: Waivers of Restrictions on Annual
15 Limits on Health Benefits”.

16 (5) The Government Accountability Office re-
17 port proves millions of Americans had to seek waiv-
18 ers from the health care law’s annual benefit limit
19 mandate in order to avoid double-digit health insur-
20 ance premium increases.

21 (6) The Government Accountability Office re-
22 port indicates the Department of Health and
23 Human Services granted annual benefit limit waiv-
24 ers to unions, employers, and insurers whose appli-

1 cations projected significant premium increases of at
2 least 10 percent or more.

3 (7) The Government Accountability Office re-
4 port, and additional academic literature, shows that
5 the Department of Health and Human Services was
6 forced to grant special annual benefit limit waivers
7 because certain employers, unions, insurers, and oth-
8 ers cannot comply with the health care law's new
9 coverage mandates and continue offering health in-
10 surance to their employees.

11 (8) The Government Accountability Office data
12 concludes premiums are going up as a direct result
13 of the health care law, threatening private insurance
14 coverage options and violate the promise that "you
15 can keep what you have today, if you like it".

16 (9) Independent analysis by the non-partisan
17 Congressional Budget Office confirms that pre-
18 miums will increase by \$2,100 per year for families
19 buying insurance on their own, while Administration
20 officials repeatedly promised the American people
21 their costs would go down by \$2,500 per year.

22 (10) On June 17, 2011, the Department of
23 Health and Human Services announced plans to ter-
24 minate its arbitrary annual benefit limit waiver pol-

1 iciency. Administration officials will stop taking waiver
2 applications on September 22, 2011.

3 (11) While the Executive Branch did send mil-
4 lions of postcards advertising the health care law’s
5 small business tax credit, it remains unclear if simi-
6 lar efforts are currently underway to inform small
7 business owners about the new annual benefit limit
8 waiver process and program termination.

9 (12) Any new business starting up after Sep-
10 tember 22, 2011, will not have an opportunity to re-
11 quest and secure an annual benefit limit waiver from
12 the Department of Health and Human Services.
13 Without a waiver, these employers may not be able
14 to afford to offer any health insurance coverage to
15 their employees at all.

16 **SEC. 3. INDIVIDUAL PPACA WAIVERS.**

17 (a) IN GENERAL.—An individual may apply for a
18 waiver from one or more of the requirements of the Pa-
19 tient Protection and Affordable Care Act (or an amend-
20 ment made by that Act or a regulation promulgated under
21 that Act or amendment) by submitting an application to
22 the Secretary of Health and Human Services (referred to
23 in this Act as the “Secretary”).

24 (b) REQUIREMENTS.—An application submitted
25 under subsection (a) shall include the following:

1 (1) The provision or provisions of the Patient
2 Protection and Affordable Care Act (or an amend-
3 ment made by that Act or a regulation promulgated
4 under that Act or amendment) for which the waiver
5 is being sought.

6 (2) A brief description of why compliance with
7 the provision or provisions involved would result in—

8 (A) a decrease in access to benefits that
9 are currently covered by a plan or policy in
10 which the individual is enrolled; or

11 (B) an increase in premiums to be paid by
12 the individual for such coverage.

13 (c) COMPLETION OF PROCESS.—The Secretary shall
14 issue waivers within 30 days of the receipt of such applica-
15 tion.

16 (d) GUIDANCE.—The Secretary shall issue guidance
17 to individuals in how they can apply for and be granted
18 a waiver under this section.

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