116TH CONGRESS, 1st Session } HOUSE OF REPRESENTATIVES { REPT. 116–43, Part 2

PROVIDING THAT THE RULE ENTITLED "SHORT-TERM, LIMITED DURATION INSURANCE" SHALL HAVE NO FORCE OR EFFECT

MAY 10, 2019.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. PALLONE, from the Committee on Energy and Commerce, submitted the following

R E P O R T

together with

DISSENTING VIEWS

[To accompany H.R. 1010]

[Including cost estimate of the Congressional Budget Office]

The Committee on Energy and Commerce, to whom was referred the bill (H.R. 1010) to provide that the rule entitled "Short-Term, Limited Duration Insurance" shall have no force or effect, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

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89–006

PURPOSE AND SUMMARY

H.R. 1010, a bill to provide that the rule entitled 'Short-Term, Limited-Duration Insurance' shall have no force or effect, was introduced on February 6, 2019, by Reps. Castor (D–FL), Barragán (D–CA), Horsford (D–NV), Moore (D–WI), Underwood (D–IL), and DeSaulnier (D–CA), and referred to the Committee on Energy and Commerce.

The goal of H.R. 1010 is to prohibit the Department of Health and Human Services (HHS), Department of Treasury (the Treasury), and the Department of Labor (DOL) from taking any action to implement, enforce, or otherwise give effect to the Short-Term, Limited Duration Insurance (STLDI) final rule. The bill would also prohibit the Secretaries of HHS, the Treasury, and DOL from promulgating any substantially similar guidance or rule.

BACKGROUND AND NEED FOR LEGISLATION

On August 3, 2018, HHS, the Treasury, and DOL issued the STLDI final rule to expand the availability of STLDI plans.[1] The final rule extended the maximum duration of STLDI plans from 3 months to up to 12 months. The final rule allows insurers to renew STLDI plans further for up to 36 months.

STLDI plans are exempt from all of the consumer protection provisions and benefit standards contained in Title I of the ACA. These plans are exempt from the ACA's guaranteed availability and renewability provisions, community rating, ban on discrimination based on health status, and the prohibition on pre-existing conditions exclusions. STLDI plans are also not subject to the ACA's prohibition on annual and lifetime coverage limits, and annual out-of-pocket limits. Lastly, STLDI plans are not required to cover the ACA's ten categories of essential health benefits, including prescription drugs, hospitalization, maternity coverage, and mental health and substance use disorder treatment.

The August 2018 final rule also allows STLDI plans to be sold alongside insurance plans that comply with the ACA's consumer protections contained in Title I. In the final rule, HHS, DOL, and the Treasury all conclude that the policy changes "could lead to further worsening of the risk pool by keeping healthy individuals out of the individual market for longer periods of time, increasing premiums for individual market plans and may cause an increase in the number of individuals who are uninsured.[2] The final rule estimated that 200,000 individuals previously enrolled in the ACA marketplace coverage will purchase STLDI instead in 2019, causing average individual market premiums to increase. Other nonpartisan estimates, including the Congressional Budget Office, projected a more significant impact on the individual market.[3]

[1] Department of Health and Human Services, Department of the Treasury, and Department of Labor, *Short-Term, Limited-Duration Insurance,* 83 Fed. Reg. 38212 (Aug. 03, 2018).

[2] *Id.*

[3] Congressional Budget Office, *How CBO and JCT Analyzed Coverage Effects of New Rules for Association Health Plans and Short-Term Plans* (Jan. 2019) (https://www.cbo.gov/system/files?file=2019-01/54915-New_Rules_for_AHPs_STPs.pdf).

COMMITTEE HEARINGS

For the purposes of section 103(i) of H. Res. 6 of the 116th Congress, the following hearing was used to develop or consider H.R. 1010:

On February 13, 2019, the Subcommittee on Health held a hearing on H.R. 1010, entitled "Strengthening Our Health Care System: Legislation to Reverse ACA Sabotage and Ensure Pre-Existing Conditions Protections." The Subcommittee received testimony from the following witnesses:

- Katie Keith, Associate Research Professor and Adjunct Professor of Law, Georgetown University;
- Jessica Altman, Commissioner, Pennsylvania Insurance Department; and
- Grace-Marie Turner, President, Galen Institute.

COMMITTEE CONSIDERATION

H.R. 1010, a bill to provide that the rule entitled "Short-Term, Limited Duration Insurance" shall have no force or effect, was introduced on February 6, 2019, by Rep. Castor (D–FL), and referred to the Committee on Energy and Commerce. The bill was subsequently referred to the Subcommittee on Health on February 7, 2019. Following legislative hearings, the Subcommittee met, pursuant to notice, on March 26, 2019, in open markup session on H.R. 1010 for consideration of the bill. Subsequently, the Subcommittee on Health agreed to a motion by Ms. Eshoo, Chairwoman of the Subcommittee, to favorably forward H.R. 1010 to the full Committee on Energy and Commerce, without amendment.

The full Committee met in open markup session, pursuant to notice, on April 3, 2019, to consider H.R. 1010. An amendment by Mr. Johnson (R–OH) was defeated by a voice vote. At the conclusion of consideration and markup of the bill, the Committee on Energy and Commerce agreed to a motion by Mr. Pallone, Chairman of the Committee, to order H.R. 1010 favorably reported to the House, as introduced, by a record vote.

COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list each record vote on the motion to report legislation and amendments thereto. The Committee advises that there was one record vote taken on H.R. 1010 on a motion by Mr. Pallone ordering H.R. 1010 favorably reported to the House, as introduced. The motion on final passage of the bill was approved by a record vote of 30 yeas to 22 nays. The following are the record votes taken during Committee consideration, including the names of those members voting for and against:

COMMITTEE ON ENERGY AND COMMERCE – 116th CONGRESS
ROLL CALL VOTE # 19

BILL: **H.R. 1010**, a bill to provide that the rule entitled "Short-Term, Limited Duration Insurance" shall have no force or effect.

MOTION: A motion by Mr. Pallone to order H.R. 1010 favorably reported to the House, without amendment. (Final Passage)

DISPOSITION: AGREED TO by a roll call vote of 30 yeas to 22 nays

REPRESENTATIVE	YEAS	NAYS	PRESENT	REPRESENTATIVE	YEAS	NAYS	PRESENT
Rep. Pallone	X			Rep. Walden		X	
Rep. Rush	X			Rep. Upton		X	
Rep. Eshoo	X			Rep. Shimkus		X	
Rep. Engel	X			Rep. Burgess		X	
Rep. DeGette	X			Rep. Scalise		X	
Rep. Doyle	X			Rep. Latta		X	
Rep. Schakowsky	X			Rep. Rodgers		X	
Rep. Butterfield	X			Rep. Guthrie		X	
Rep. Matsui	X			Rep. Olson		X	
Rep. Castor	X			Rep. McKinley		X	
Rep. Sarbanes	X			Rep. Kinzinger			
Rep. McNerney	X			Rep. Griffith		X	
Rep. Welch	X			Rep. Bilirakis		X	
Rep. Lujan	X			Rep. Johnson		X	
Rep. Tonko	X			Rep. Long			
Rep. Clarke	X			Rep. Buschon		X	
Rep. Loebsack	X			Rep. Flores		X	
Rep. Schrader	X			Rep. Brooks		X	
Rep. Kennedy	X			Rep. Mullin		X	
Rep. Cardenas	X			Rep. Hudson		X	
Rep. Ruiz	X			Rep. Walberg		X	
Rep. Peters	X			Rep. Carter		X	
Rep. Dingell	X			Rep. Duncan		X	
Rep. Veasey	X			Rep. Gianforte		X	
Rep. Kuster	X						
Rep. Kelly	X						
Rep. Barragan	X						
Rep. McEachin							
Rep. Blunt Rochester	X						
Rep. Soto	X						
Rep. O'Halleran	X						

04/03/2019

OVERSIGHT FINDINGS

Pursuant to clause 3(c)(1) of rule XIII and clause 2(b)(1) of rule X of the Rules of the House of Representatives, the oversight findings and recommendations of the Committee are reflected in the descriptive portion of the report.

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

Pursuant to 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee adopts as its own the estimate of new budget authority, entitlement authority, or tax expenditures or revenues contained in the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

CONGRESSIONAL BUDGET OFFICE ESTIMATE

With respect to the requirements of clause (3)(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for H.R. 1010 from the Director of the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, April 25, 2019.

Hon. FRANK PALLONE, Jr.,
Chairman, Committee on Energy and Commerce,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 1010, a bill to provide that the rule entitled "Short-Term, Limited Duration Insurance" shall have no force or effect.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Alice Burns and Kevin McNellis.

Sincerely,

KEITH HALL,
Director.

Enclosure.

H.R. 1010, To provide that the rule entitled "Short-Term, Limited Duration Insurance" shall have no force or effect.
As ordered reported by the House Committee on Energy and Commerce on April 3, 2019

Millions of Dollars	2019	2019-2024	2019-2029
Direct Spending (Outlays)	0	-3,211	-7,753
Revenues	0	409	1,103
Deficit Effect	0	-3,619	-8,856
Spending Subject to Appropriation (Outlays)	0	0	0

Pay-as-you-go procedures apply?	Yes	**Mandate Effects**	
Increases on-budget deficits in any of the four consecutive 10-year periods beginning in 2030?	No	Contains intergovernmental mandate?	No
		Contains private-sector mandate?	Yes, Over Threshold

H.R. 1010 would prevent the Administration from implementing or enforcing a recent regulation aimed at increasing the number of people with short-term limited duration insurance (short-term plans) and would prohibit the Administration from promulgating similar regulations in the future.

CBO and JCT estimate that enacting the legislation would result in roughly 1.5 million fewer people purchasing short-term plans each year over the 2020–2029 period. Of those, more than 500,000 would instead purchase nongroup coverage through the market-places established by the Affordable Care Act, a small number would obtain coverage through an employer, and about 500,000 would become uninsured. The agencies expect that additional en-rollees in the nongroup market would have the effect of lowering nongroup premiums by about 1 percent on average because those enrollees are likely to be healthier than the average nongroup en-rollee under current law.

On net, CBO and JCT estimate that enacting H.R. 1010 would decrease the deficit by $8.9 billion over the 2019–2029 period pri-marily because premiums for subsidized nongroup insurance would be lower. That amount includes a $7.8 billion reduction in direct spending and a $1.1 billion increase in revenues.

H.R. 1010 would impose a private-sector mandate as defined in the Unfunded Mandates Reform Act (UMRA) by restricting the terms under which insurers may offer short-term plans. CBO esti-mates the cost of the mandate, which would include the revenue lost as a result of the restriction, would exceed the private-sector threshold established by UMRA in each of the first five years the mandate is in effect ($164 million in 2019, adjusted annually for inflation).

Details of the estimated budgetary effects of H.R. 1010 are shown in Table 1. The costs of the legislation fall within budget function 550 (health).

Table 1.—ESTIMATED BUDGETARY EFFECTS OF H.R. 1010

	By Fiscal Year, Millions of Dollars—												
	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2019–2024	2019–2029
	Decreases in Direct Spending												
Estimated Budget Authority	0	−289	−632	−746	−738	−806	−883	−873	−895	−928	−963	−3,211	−7,753
Estimated Outlays	0	−289	−632	−746	−738	−806	−883	−873	−895	−928	1B963	−3,211	−7,753
	Increases in Revenues												
Estimated Revenues	0	33	74	91	96	114	109	144	149	160	132	409	1,103
On-Budget	0	0	9	20	31	37	35	43	41	48	30	98	295
Off-Budget	0	33	66	70	64	77	74	101	108	112	103	310	808
	Decrease in the Deficit From Changes in Direct Spending and Revenues												
Effect on the Deficit	0	−322	−706	−837	−834	−920	−992	−1,017	−1,044	−1,088	−1,095	−3,619	−8,856
On-Budget	0	−289	−641	−767	−770	−843	−918	−916	−936	−976	−992	−3,309	−8,048
Off-Budget	0	−33	−66	−70	−64	−77	−74	−101	−108	−112	−103	−310	−808

Components may not sum to totals because of rounding. All off-budget effects would come from changes in Social Security revenues.
Sources: Congressional Budget Office; staff of the Joint Committee on Taxation.

The CBO staff contacts for this estimate are Kevin McNellis and Alice Burns. The estimate was reviewed by Leo Lex, Deputy Assistant Director for Budget Analysis.

FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII, the general performance goal or objective of this legislation is to overturn the STLDI final rule, giving it no force or effect, and to prohibit the Secretaries of HHS, the Treasury, and DOL from promulgating any substantially similar guidance or rule.

DUPLICATION OF FEDERAL PROGRAMS

Pursuant to clause 3(c)(5) of rule XIII, no provision of H.R. 1010 is known to be duplicative of another Federal program, including any program that was included in a report to Congress pursuant to section 21 of Public Law 111–139 or the most recent Catalog of Federal Domestic Assistance.

COMMITTEE COST ESTIMATE

Pursuant to clause 3(d)(1) of rule XIII, the Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

EARMARKS, LIMITED TAX BENEFITS, AND LIMITED TARIFF BENEFITS

Pursuant to clause 9(e), 9(f), and 9(g) of rule XXI, the Committee finds that H.R. 1010 contains no earmarks, limited tax benefits, or limited tariff benefits.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Short-term limited duration insurance rule prohibition

Section 1 prohibits the Secretaries of HHS, the Treasury, and DOL from taking any action to implement, enforce, or otherwise give effect to the STLDI final rule issued on August 3, 2018. Section 1 also prohibits the Secretaries from promulgating any substantially similar rule or guidance.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

There are no changes to existing law made by the bill H.R. 1010.

DISSENTING VIEWS

This legislation would invalidate the Trump Administration's short-term, limited-duration insurance (STLDI) plan rule.

In coordination with the Department of Labor and the Department of the Treasury, the Department of Health and Human Services revised the Obama Administration regulations, which limited STLDI plans to three months, by allowing the plans to be available to consumers for up to 364 days and renewable up to 36 months.[1]

The Trump Administration regulation aims to provide relief from rising premiums and to expand access to affordable health care plans. According to CMS, "[i]n the fourth quarter of 2016, a short-term, limited-duration policy cost approximately $124 a month compared to $393 for an unsubsidized ACA-compliant plan."[2] The Administration projected roughly 100,000 to 200,000 individuals would move from PPACA-compliant plans to STLDI. These more affordable plans may be attractive options for individuals who are between jobs, cannot afford Patient Protection and Affordable Care Act (PPACA) coverage, or cannot continue to see their doctor because they are out of network.

Although some Democratic members claim these plans are not regulated, all States retain the authority to regulate these plans. The invalidation of the Trump Administration regulation that provides affordable plans will negatively impact individuals who could otherwise utilize STLDI, further limit consumer choice, and lead more Americans to face unmanageable costs associated with ACA plans.

GREG WALDEN,
Republican Leader, Committee on Energy and Commerce.
MICHAEL BURGESS, M.D.,
Republican Leader, Subcommittee on Health, Committee on Energy and Commerce.

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[1] 26 C.F.R. § 54; 29 C.F.R. § 2590; 45 C.F.R. §§ 144, 146, 148.
[2] Centers for Medicare and Medicaid Services, *Fact Sheet. Short-Term, Limited-Duration Insurance Proposed Rule,* (Feb. 20, 2018), *available at* https://www.cms.govinewsroom/fact-sheets/fact-sheet-short-term-limited-duration-insurance-proposed-rule.