

113TH CONGRESS
1ST SESSION

S. _____

To amend the Public Health Service Act to provide protections for consumers against excessive, unjustified, or unfairly discriminatory increases in premium rates.

IN THE SENATE OF THE UNITED STATES

Mrs. FEINSTEIN introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To amend the Public Health Service Act to provide protections for consumers against excessive, unjustified, or unfairly discriminatory increases in premium rates.

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 “Health Insurance Rate
5 Review Act”.

1 **SEC. 2. PROTECTION OF CONSUMERS FROM EXCESSIVE,**
2 **UNJUSTIFIED, OR UNFAIRLY DISCRIMINA-**
3 **TORY RATES.**

4 (a) PROTECTION FROM EXCESSIVE, UNJUSTIFIED,
5 OR UNFAIRLY DISCRIMINATORY RATES.—The first sec-
6 tion 2794 of the Public Health Service Act (42 U.S.C.
7 300gg–94), as added by section 1003 of the Patient Pro-
8 tection and Affordable Care Act (Public Law 111–148),
9 is amended by adding at the end the following new sub-
10 section:

11 “(e) PROTECTION FROM EXCESSIVE, UNJUSTIFIED,
12 OR UNFAIRLY DISCRIMINATORY RATES.—

13 “(1) AUTHORITY OF STATES.—Nothing in this
14 section shall be construed to prohibit a State from
15 imposing requirements (including requirements re-
16 lating to rate review standards and procedures and
17 information reporting) on health insurance issuers
18 with respect to rates that are in addition to the re-
19 quirements of this section and are more protective of
20 consumers than such requirements.

21 “(2) CONSULTATION IN RATE REVIEW PROC-
22 ESS.—In carrying out this section, the Secretary
23 shall consult with the National Association of Insur-
24 ance Commissioners and consumer groups.

25 “(3) DETERMINATION OF WHO CONDUCTS RE-
26 VIEWS FOR EACH STATE.—The Secretary shall de-

1 termine, after the date of enactment of this section
2 and periodically thereafter, the following:

3 “(A) In which markets in each State the
4 State insurance commissioner or relevant State
5 regulator shall undertake the corrective actions
6 under paragraph (4), as a condition of the
7 State receiving the grant in subsection (c),
8 based on the Secretary’s determination that the
9 State regulator is adequately undertaking and
10 utilizing such actions in that market.

11 “(B) In which markets in each State the
12 Secretary shall undertake the corrective actions
13 under paragraph (4), in cooperation with the
14 relevant State insurance commissioner or State
15 regulator, based on the Secretary’s determina-
16 tion that the State is not adequately under-
17 taking and utilizing such actions in that mar-
18 ket.

19 “(4) CORRECTIVE ACTION FOR EXCESSIVE, UN-
20 JUSTIFIED, OR UNFAIRLY DISCRIMINATORY
21 RATES.—In accordance with the process established
22 under this section, the Secretary or the relevant
23 State insurance commissioner or State regulator
24 shall take corrective actions to ensure that any ex-
25 cessive, unjustified, or unfairly discriminatory rates

1 are corrected prior to implementation, or as soon as
2 possible thereafter, through mechanisms such as—

3 “(A) denying rates;

4 “(B) modifying rates; or

5 “(C) requiring rebates to consumers.

6 “(5) NONCOMPLIANCE.—Failure to comply with
7 any corrective action taken by the Secretary under
8 this subsection may result in the application of civil
9 monetary penalties and, if the Secretary determines
10 appropriate, make the plan involved ineligible for
11 classification as a Qualified Health Plan.”.

12 (b) CLARIFICATION OF REGULATORY AUTHORITY.—

13 Such section is further amended—

14 (1) in subsection (a)—

15 (A) in the heading, by striking “PRE-
16 MIUM” and inserting “RATE”;

17 (B) in paragraph (1), by striking “unrea-
18 sonable increases in premiums” and inserting
19 “potentially excessive, unjustified, or unfairly
20 discriminatory rates, including premiums,”; and

21 (C) in paragraph (2)—

22 (i) by striking “an unreasonable pre-
23 mium increase” and inserting “a poten-
24 tially excessive, unjustified, or unfairly dis-
25 criminatory rate”;

1 (ii) by striking “the increase” and in-
2 sserting “the rate”; and

3 (iii) by striking “such increases” and
4 inserting “such rates”;

5 (2) in subsection (b)—

6 (A) by striking “premium increases” each
7 place it appears and inserting “rates”; and

8 (B) in paragraph (2)(B), by striking “pre-
9 mium” and inserting “rate”; and

10 (3) in subsection (c)(1)—

11 (A) in the heading, by striking “PRE-
12 MIUM” and inserting “RATE”;

13 (B) by inserting “that satisfy the condition
14 under subsection (e)(3)(A)” after “award
15 grants to States”; and

16 (C) in subparagraph (A), by striking “pre-
17 mium increases” and inserting “rates”.

18 (c) CONFORMING AMENDMENT.—Title XXVII of the
19 Public Health Service Act (42 U.S.C. 300gg et seq.) is
20 amended—

21 (1) in section 2723 (42 U.S.C. 300gg-22), as
22 redesignated by the Patient Protection and Afford-
23 able Care Act—

24 (A) in subsection (a)—

6

1 (i) in paragraph (1), by inserting
2 “and section 2794” after “this part”; and

3 (ii) in paragraph (2), by inserting “or
4 section 2794” after “this part”; and

5 (B) in subsection (b)—

6 (i) in paragraph (1), by inserting
7 “and section 2794” after “this part”; and

8 (ii) in paragraph (2)—

9 (I) in subparagraph (A), by in-
10 serring “or section 2794 that is” after
11 “this part” ; and

12 (II) in subparagraph (C)(ii), by
13 inserting “or section 2794” after
14 “this part”; and

15 (2) in section 2761 (42 U.S.C. 300gg-61)—

16 (A) in subsection (a)—

17 (i) in paragraph (1), by inserting
18 “and section 2794” after “this part”; and

19 (ii) in paragraph (2)—

20 (I) by inserting “or section
21 2794” after “set forth in this part”;
22 and

23 (II) by inserting “and section
24 2794” after “the requirements of this
25 part”; and

1 (B) in subsection (b)—

2 (i) by inserting “and section 2794”

3 after “this part”; and

4 (ii) by inserting “and section 2794”

5 after “part A”.

6 (d) **APPLICABILITY TO GRANDFATHERED PLANS.**—

7 Section 1251(a)(4)(A) of the Patient Protection and Af-
8 fordable Care Act (Public Law 111–148), as added by sec-
9 tion 2301 of the Health Care and Education Reconcili-
10 ation Act of 2010 (Public Law 111–152), is amended by
11 adding at the end the following:

12 “(v) Section 2794 (relating to reason-
13 ableness of rates with respect to health in-
14 surance coverage).”.

15 (e) **AUTHORIZATION OF APPROPRIATIONS.**—There
16 are authorized to be appropriated to carry out this Act,
17 such sums as may be necessary.

18 (f) **EFFECTIVE DATE.**—The amendments made by
19 this section shall take effect on the date of enactment of
20 this Act and shall be implemented with respect to health
21 plans beginning not later than January 1, 2014.