AMENDMENT TO H.R. 1628

OFFERED BY MR. PALMER OF ALABAMA

Page 69, after line 15, insert the following:

SEC. 136. FEDERAL INVISIBLE HIGH RISK POOL.

(a) DEFINITIONS.—In this section:

(1) COVERED PERSON.—The term “covered person” means an individual covered as a policy-holder, participant or dependent under a plan, policy or contract of medical insurance.

(2) DEPENDENT.—The term “dependent” means a spouse or a child under 26 years of age.

(3) DESIGNATED HEALTH CONDITION.—The term “designated health condition” means a health condition which is designated under subsection (e).

(4) HEALTH STATUS STATEMENT.—The term “health status statement” means such a statement developed under subsection (d).

(5) MEMBER INSURER.—The term “member insurer” means an insurer that offers individual health plans and is actively marketing individual health plans in a State.

(6) SECRETARY.—The term “Secretary” means the Secretary of Health and Human Services.
(7) STATE.—The term “State” means one of the 50 States or the District of Columbia.

(b) ESTABLISHMENT OF FIHRP.—

(1) IN GENERAL.—There is hereby established a Federal Invisible High Risk Pool (in this section referred to as the “FIHRP”).

(2) REQUIREMENT FOR PARTICIPATION.—As a condition of doing business in a State, a member insurer that is actively marketing a medical insurance policy in the State must participate in the FIHRP in accordance with this section.

(3) OPERATION.—The Secretary shall be responsible for administration of FIHRP, except that, beginning 5 years after the date of the enactment of this Act, a State may, upon notice to the Secretary, assume responsibility for administration of the FIHRP for medical insurance policies in such State.

(c) REINSURANCE; PREMIUM RATES.—

(1) REINSURANCE AMOUNT.—A member insurer offering an individual health plan in a State must be reinsured by the FIHRP to the level of coverage provided by the FIHRP in this subsection and is liable to the FIHRP for the reinsurance premium rate established in accordance with paragraph (2).

(2) REINSURANCE THRESHOLD.—
(A) IN GENERAL.—The FIHRP may not reimburse a member insurer with respect to claims of an individual designated for reinsurance by the member insurer pursuant to subsection (f) until the insurer has incurred an initial level of claims for that individual for covered benefits in a calendar year.

(B) INITIAL LEVEL OF CLAIMS.—Such initial level shall be $10,000 except the FIHRP may annually adjust the initial level of claims and the maximum limit to be retained by the insurer to reflect increases in costs and utilization within State.

(3) CARE MANAGEMENT REQUIREMENT.—A member insurer shall apply all managed care, utilization review, case management, preferred provider arrangements, claims processing and other methods of operation without regard to whether claims paid for coverage are reinsured under this section.

(4) PREMIUM RATES CHARGED INSURERS.—Each member insurer shall remit 90 percent of paid premiums for policies covering any individual ceded by the insurer to the FIHRP under this section. The FIHRP may consider adjustments to the premium rates charged for reinsurance to reflect the use of ef-
(d) **Health Status Statement by Applicants.**—The Secretary shall develop a health status statement to be completed by all applicants for individual health insurance in a State. Such statement shall identify if the applicant has been diagnosed or is receiving treatment within a specified period of time for a designated condition (as determined under subsection (e)),

(e) **Designated Health Conditions.**—

(1) **In General.**—Subject to paragraph (2), the following shall be considered to be designated health conditions for purposes of this section:

(A) Chronic obstructive pulmonary disease.

(B) Endometrial cancer.

(C) Metastatic cancer.

(D) Prostate cancer.

(E) Congestive heart failure.

(F) Renal failure.

(G) Rheumatoid arthritis.

(H) HIV.

(I) Such other health conditions as the Secretary may determine
(2) FIHRP AUTHORITY TO REVISE.—The FIHRP may amend the list of designated health conditions from time to time as appropriate.

(f) DESIGNATION OF REINSURANCE.—

(1) IN GENERAL.—An insurer may evaluate the health status of an applicant for insurance for purposes of designating that individual for reinsurance through the FIHRP. For individual health plans issued on or after January 1, 2018, the insurer shall use the individual’s health status statement to make a designation and may not use any other method to determine the health status of an individual. Insurers may designate an individual for reinsurance through the FIHRP only at time of the individual’s application for insurance.

(2) PROVISION OF REINSURANCE.—

(A) IN GENERAL.—The FIHRP shall provide reinsurance to a member insurer for persons designated by a member insurer under paragraph (1).

(B) DESIGNATION CRITERIA.—

(i) DESIGNATION BASED ON DESIGNATED HEALTH CONDITION.—Applicants with a designated health condition shall be automatically designated for reinsurance.
(ii) DESIGNATION BASED ON OTHER CONDITION.—An insurer may designate an applicant for reinsurance through the FIHRP, even though the applicant does not indicate a designated health condition, based on underwriting discretion applied based on other information provided on the applicant’s health status statement.

(g) REIMBURSEMENT.—Claims for items and services ceded through reinsurance to the FIHRP shall be reimbursed by the FIHRP at the payment rates established under the Medicare program under title XVIII of the Social Security Act for items and services furnished to individuals entitled to benefits for such items and services under such title. Health care providers furnishing such items and services shall accept payment at such rates as payment in full for such items and services and may not balance bill the insurer or individual involved for charges in excess of such payment rates.