[DISCUSSION DRAFT]

115TH CONGRESS  
1ST SESSION  
H. R. ______

To amend the Public Health Service Act to prohibit application of preexisting condition exclusions and to guarantee availability of health insurance coverage in the individual and group market, contingent on the enactment of legislation repealing the Patient Protection and Affordable Care Act, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. WALDEN introduced the following bill; which was referred to the Committee on ______

A BILL

To amend the Public Health Service Act to prohibit application of preexisting condition exclusions and to guarantee availability of health insurance coverage in the individual and group market, contingent on the enactment of legislation repealing the Patient Protection and Affordable Care Act, and for other purposes.

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

This Act may be cited as the “Preexisting Conditions Protection and Continuous Coverage Incentive Act of 2017”.

TITLE I—PROHIBITION OF PREEXISTING CONDITION EXCLUSIONS AND GUARANTEED AVAILABILITY OF HEALTH INSURANCE COVERAGE

SEC. 101. PROHIBITION OF PREEXISTING CONDITION EXCLUSIONS.

(a) GROUP MARKET.—Subject to section 103(a) of this Act, subpart 1 of part A of title XXVII of the Public Health Service Act (42 U.S.C. 300gg et seq.), as restored or revived pursuant to PPACA repeal legislation described in section 103(b) of this Act, is amended by striking section 2701 and inserting the following:

“SEC. 2701. PROHIBITION OF PREEXISTING CONDITION EXCLUSIONS.

“(a) IN GENERAL.—A group health plan or a health insurance issuer offering group health insurance coverage may not impose any preexisting condition exclusion with respect to such plan or coverage.

“(b) DEFINITIONS.—For purposes of this section:

“(1) PREEXISTING CONDITION EXCLUSION.—
“(A) IN GENERAL.—The term ‘preexisting condition exclusion’ means, with respect to a group health plan or health insurance coverage, a limitation or exclusion of benefits relating to a condition based on the fact that the condition was present before the date of enrollment in such plan or for such coverage, whether or not any medical advice, diagnosis, care, or treatment was recommended or received before such date.

“(B) TREATMENT OF GENETIC INFORMATION.—Genetic information shall not be treated as a preexisting condition in the absence of a diagnosis of the condition related to such information.

“(2) DATE OF ENROLLMENT.—The term ‘date of enrollment’ means, with respect to an individual covered under a group health plan or health insurance coverage, the date of enrollment of the individual in the plan or coverage or, if earlier, the first day of the waiting period for such enrollment.

“(3) WAITING PERIOD.—The term ‘waiting period’ means, with respect to a group health plan and an individual who is a potential participant or beneficiary in the plan, the period that must pass with
respect to the individual before the individual is eligible to be covered for benefits under the terms of the plan.’’.

(b) INDIVIDUAL MARKET.—Subject to section 103(a) of this Act, subpart 1 of part B of title XXVII of the Public Health Service Act (42 U.S.C. 300gg–41 et seq.), as restored or revived pursuant to PPACA repeal legislation described in section 103(b) of this Act, is amended by adding at the end the following:

‘‘SEC. 2746. PROHIBITION OF PREEXISTING CONDITION EXCLUSIONS OR OTHER DISCRIMINATION BASED ON HEALTH STATUS.

‘‘The provisions of section 2701 shall apply to health insurance coverage offered to individuals by a health insurance issuer in the individual market in the same manner as it applies to health insurance coverage offered by a health insurance issuer in the group market.’’.

SEC. 102. GUARANTEED AVAILABILITY OF COVERAGE.

(a) GROUP MARKET.—Subject to section 103(a) of this Act, subpart 3 of part A of title XXVII of the Public Health Service Act, as restored or revived pursuant to PPACA repeal legislation described in section 103(b) of this Act, is amended by striking section 2711 (42 U.S.C. 300gg–11) and inserting the following:
“SEC. 2711. GUARANTEED AVAILABILITY OF COVERAGE.

“(a) GUARANTEED ISSUANCE OF COVERAGE IN THE GROUP MARKET.—Subject to subsection (b), each health insurance issuer that offers health insurance coverage in the group market in a State shall accept every employer and every individual in a group in the State that applies for such coverage.

“(b) ENROLLMENT.—

“(1) RESTRICTION.—A health insurance issuer described in subsection (a) may restrict enrollment in coverage described in such subsection to open or special enrollment periods.

“(2) ESTABLISHMENT.—A health insurance issuer described in subsection (a) shall establish special enrollment periods for qualifying events (as such term is defined in section 603 of the Employee Retirement Income Security Act of 1974).”.

(b) INDIVIDUAL MARKET.—Subject to section 103(a) of this Act, subpart 1 of part B of title XXVII of the Public Health Service Act, as restored or revived pursuant to PPACA repeal legislation described in section 103(b) of this Act, is amended by striking section 2741 of such Act (42 U.S.C. 300gg–41) and inserting the following:

“SEC. 2741. GUARANTEED AVAILABILITY OF COVERAGE.

“The provisions of section 2711 shall apply to health insurance coverage offered to individuals by a health in-
surance issuer in the individual market in the same man-
ner as such provisions apply to health insurance coverage
offered to employers by a health insurance issuer in con-
nection with health insurance coverage in the group mar-
et. For purposes of this section, the Secretary shall treat
any reference of the word ‘employer’ in such section as
a reference to the term ‘individual’.”.

SEC. 103. EFFECTIVE DATE CONTINGENT ON REPEAL OF

PPACA.

(a) IN GENERAL.—Sections 101 and 102 and the
amendments made by such sections shall take effect upon
the enactment of PPACA repeal legislation described in
subsection (b) and such sections and amendments shall
have no force or effect if such PPACA repeal legislation
is not enacted.

(b) PPACA REPEAL LEGISLATION DESCRIBED.—
For purposes of subsection (a), PPACA repeal legislation
described in this subsection is legislation that—

(1) repeals Public Law 111–148, and restores
or revives the provisions of law amended or repealed,
respectively, by such Act as if such Act had not been
enacted and without further amendment to such
provisions of law; and

(2) repeals title I and subtitle B of title II of
the Health Care and Education Reconciliation Act of
2010 (Public Law 111–152), and restores or revives the provisions of law amended or repealed, respectively, by such title or subtitle, respectively, as if such title and subtitle had not been enacted and without further amendment to such provisions of law.

TITLE II—CONTINUOUS COVERAGE INCENTIVE

[PLACEHOLDER]