AMENDMENT TO THE AMENDMENT IN THE
NATURE OF A SUBSTITUTE TO H.R. 3200
OFFERED BY M. [INS-EC_001]

In section 122(b), strike “The items and services” and insert “Subject to subsection (d), the items and services”.

Add at the end of section 122 the following new subsection:

1. (d) ABORTION COVERAGE PROHIBITED AS PART OF MINIMUM BENEFITS PACKAGE.—
   2. (1) PROHIBITION OF REQUIRED COVERAGE.—
   The Health Benefits Advisory Committee may not recommend under section 123(b) and the Secretary may not adopt in standards under section 124(b), the services described in paragraph (4)(A) or (4)(B) as part of the essential benefits package and the Commissioner may not require such services for qualified health benefits plans to participate in the Health Insurance Exchange.
   3. (2) VOLUNTARY CHOICE OF COVERAGE BY PLAN.—In the case of a qualified health benefits
plan, the plan is not required (or prohibited) under this Act from providing coverage of services described in paragraph (4)(A) or (4)(B) and the QHBP offering entity shall determine whether such coverage is provided.

(3) COVERAGE UNDER PUBLIC HEALTH INSURANCE OPTION.—The public health insurance option shall provide coverage for services described in paragraph (4)(B). Nothing in this Act shall be construed as preventing the public health insurance option from providing for or prohibiting coverage of services described in paragraph (4)(A).

(4) ABORTION SERVICES.—

(A) ABORTIONS FOR WHICH PUBLIC FUNDING IS PROHIBITED.—The services described in this subparagraph are abortions for which the expenditure of Federal funds appropriated for the Department of Health and Human Services is not permitted, based on the law as in effect as of the date that is 6 months before the beginning of the plan year involved.

(B) ABORTIONS FOR WHICH PUBLIC FUNDING IS ALLOWED.—The services described in this subparagraph are abortions for which the expenditure of Federal funds appropriated for
the Department of Health and Human Services is permitted, based on the law as in effect as of the date that is 6 months before the beginning of the plan year involved.

In section 123(b)(4)(A), insert after “cost sharing” the following: “consistent with subsection (d) of such section”.

In section 124(b)(3), insert “(including subsection (d))” after “sections 122”.

Add at the end of section 203 the following:

(e) RULES REGARDING COVERAGE OF AND AFFORDABILITY CREDITS FOR SPECIFIED SERVICES.—

(1) ASSURED AVAILABILITY OF VARIED COVERAGE THROUGH THE HEALTH INSURANCE EXCHANGE.—The Commissioner shall assure that, of the Exchange participating health benefits plan offered in each premium rating area of the Health Insurance Exchange—

(A) there is at least one such plan that provides coverage of services described in sub-paragraphs (A) and (B) of section 122(d)(4); and

(B) there is at least one such plan that does not provide coverage of services described
in section 122(d)(4)(A) which plan may also be
one that does not provide coverage of services
described in section 122(d)(4)(B).

(2) SEGREGATION OF FUNDS.—If a qualified
health benefits plan provides coverage of services de-
described in section 122(d)(4)(A), the plan shall pro-
vide assurances satisfactory to the Commissioner

that—

(A) any affordability credits provided
under subtitle C of title II are not used for pur-
poses of paying for such services; and

(B) only premium amounts attributable to
the actuarial value described in section 113(b)
are used for such purpose.

In section 113, redesignate subsection (b) as sub-
section (c) and insert after subsection (a) the following
new subsection:

15 (b) ACTUARIAL VALUE OF OPTIONAL SERVICE COV-
16 ERAGE.—

17 (1) IN GENERAL.—The Commissioner shall esti-
18 mate the basic per enrollee, per month cost, deter-
19 mined on an average actuarial basis, for including
20 coverage under a basic plan of the services described
21 in section 122(d)(4)(A).
(2) CONSIDERATIONS.—In making such estimate the Commissioner—

(A) may take into account the impact on overall costs of the inclusion of such coverage, but may not take into account any cost reduction estimated to result from such services, including prenatal care, delivery, or postnatal care;

(B) shall estimate such costs as if such coverage were included for the entire population covered; and

(C) may not estimate such a cost at less than $1 per enrollee, per month.

Add at the end of section 204 the following new subsection:

(d) No DISCRIMINATION ON THE BASIS OF PROVISION OF ABORTION.—No Exchange participating health benefits plan may discriminate against any individual health care provider or health care facility because of its willingness or unwillingness to provide, pay for, provide coverage of, or refer for abortions.

In section 241(c), add at the end the following new paragraph:
(3) Prohibition of Use of Public Funds for Abortion Coverage.—An affordability credit may not be used for payment for services described in section 122(d)(4)(A).

Insert at the appropriate place (in the matter immediately preceding division A) the following section:

SEC. 2. APPLICATION OF STATE AND FEDERAL LAWS REGARDING ABORTION.

(a) No Preemption of State Laws Regarding Abortion.—Nothing in this Act shall be construed to preempt or otherwise have any effect on State laws regarding the prohibition of (or requirement of) coverage, funding, or procedural requirements on abortions, including parental notification or consent for the performance of an abortion on a minor.

(b) No Effect on Federal Laws Regarding Abortion.—

(1) In General.—Nothing in this Act shall be construed to have any effect on Federal laws regarding—

(A) conscience protection;

(B) willingness or refusal to provide abortion; and

(C) discrimination on the basis of the willingness or refusal to provide, pay for, cover, or
1 refer for abortion or to provide or participate in
2 training to provide abortion.
3 (c) NO EFFECT ON FEDERAL CIVIL RIGHTS LAW.—
4 Nothing in this section shall alter the rights and obliga-
5 tions of employees and employers under title VII of the
6 Civil Rights Act of 1964.

Add at the end of title IX of division B the fol-
lowing:

7 SEC. 1906. APPLICATION OF EMERGENCY SERVICES LAWS.
8 Nothing in this Act shall be construed to relieve any
9 health care provider from providing emergency services as
10 required by State or Federal law, including section 1867
11 of the Social Security Act (popularly known as
12 “EMTALA”).

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