115TH CONGRESS
1ST SESSION

S. ______

To improve patient choice by allowing States to adopt market-based alternatives to the Affordable Care Act that increase access to affordable health insurance and reduce costs while ensuring important consumer protections and improving patient care.

IN THE SENATE OF THE UNITED STATES

Mr. CASSIDY (for himself, Ms. COLLINS, Mrs. CAPITO, and Mr. ISAKSON) introduced the following bill; which was read twice and referred to the Committee on ____________________

A BILL

To improve patient choice by allowing States to adopt market-based alternatives to the Affordable Care Act that increase access to affordable health insurance and reduce costs while ensuring important consumer protections and improving patient care.

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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 "Patient Freedom Act of 2017".
6 (b) TABLE OF CONTENTS.—The table of contents for
7 this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—HEALTH REFORM

Sec. 100. Definitions.

Subtitle A—Insurance Market Reform

Sec. 101. Ending the ''one size fits all'' ACA approach; continuing consumer protection policies by covering adult children, protecting individuals with preexisting conditions, and not applying lifetime or annual limits.
Sec. 102. State health insurance options.
Sec. 103. State alternative option.
Sec. 104. Computation of monthly Roth HSA deposit amount for deposit qualifying residents.
Sec. 105. State options for improved access to health insurance coverage in each State.
Sec. 106. State flexibility in ensuring orderly health insurance market outside of an Exchange.
Sec. 107. Expanded access and patient protections.
Sec. 108. Application of health savings accounts in relation to Medicaid.

Subtitle B—Provider Price Transparency

Sec. 121. Ensuring access to emergency services without excessive charges for out-of-network services.

TITLE II—REFORM OF TAX PROVISIONS RELATING TO HEALTH CARE

Subtitle A—Health Savings Accounts

Sec. 201. Transition to non-deductible HSAs.
Sec. 202. Treatment of direct primary care.
Sec. 203. Treatment of HSA after death of account beneficiary.

Subtitle B—Health Care Tax Credits

Sec. 211. Limited application of PPACA health premium credit.
Sec. 212. New Roth HSA credit.

1 # TITLE I—HEALTH REFORM

2 **SEC. 100. DEFINITIONS.**

3 In this title:

4 (1) PATIENT-GRANT ELECTING STATE.—The
5 term ''patient-grant electing State'' means an elect-
6 ing State that specifies under section 103(a)(3)(B)
7 that it will carry out section 103(b) itself (and not

1 to have section 103(b) carried out by means of the
2 credit under section 36C of the Internal Revenue
3 Code of 1986).
4 (2) BUDGET NEUTRAL.—The term ''budget
5 neutral'' with respect to expenditures provided for in
6 this Act, means the same amount of expenditures as
7 are provided for under the Patient Protection and
8 Affordable Care Act (Public Law 111-148).
9 (3) CHIP.—The term ''CHIP'' means the Chil-
10 dren's Health Insurance Program established under
11 title XXI of the Social Security Act (42 U.S.C. 1396
12 et seq.).
13 (4) CREDITABLE COVERAGE.—The term ''cred-
14 itable coverage'' has the meaning given such term in
15 section 2704(c)(1) of the Public Health Service Act
16 (42 U.S.C. 300gg–3(c)(1)), as in effect as of the day
17 before the date of the enactment of this Act.
18 (5) DEFAULT HEALTH INSURANCE COV-
19 ERAGE.—The term ''default health insurance cov-
20 erage'' has the meaning given such term in section
21 107(c)(2).
22 (6) DEPOSIT QUALIFYING RESIDENT.—The
23 term ''deposit qualifying resident'' has the meaning
24 given such term in section 103(b)(2).

1 (7) ELECTING STATE.—The term ''electing
2 State'' means a State that elects under section
3 102(a)(2) the alternative option described in section
4 103.
5 (8) HEALTH INSURANCE COVERAGE.—The term
6 ''health insurance coverage'' has the meaning given
7 such term in section 2791(b)(1) of the Public Health
8 Service Act (42 U.S.C. 300gg–91(b)(1)).
9 (9) HEALTH SAVINGS DEPOSIT.—The term
10 ''health savings deposit'' means a deposit made into
11 a Roth HSA pursuant to section 103.
12 (10) MEDICAID.—The term ''Medicaid'' means
13 the program under title XIX of the Social Security
14 Act (42 U.S.C. 1396 et seq.).
15 (11) MEDICARE.—The term ''Medicare'' means
16 the program under part A or B of title XVIII of the
17 Social Security Act (42 U.S.C. 1395 et seq.).
18 (12) PPACA.—The term ''PPACA'' means the
19 Patient Protection and Affordable Care Act (Public
20 Law 111–148), as in effect on the day before the
21 date of the enactment of this Act, unless otherwise
22 specified.
23 (13) QUALIFIED HEALTH PLAN COVERAGE.—
24 The term ''qualified health plan coverage'' means,
25 with respect to residents of a State, health insurance

1 coverage that meets applicable standards under
2 State law, which standards need not be the same as
3 that previously required of qualified health plans
4 under title I of PPACA, and includes a high deduct-
5 ible health plan (as defined in section 223(c)(2) of
6 the Internal Revenue Code of 1986) and includes
7 coverage under a group health plan.

8 (14) QUALIFIED RESIDENT.—The term ''quali-
9 fied resident'' means, with respect to a State for a
10 month, an individual who is a resident of the State
11 as of the first day of the month and is a citizen or
12 national of the United States or otherwise lawfully
13 residing in the State under color of law.

14 (15) ROTH HEALTH SAVINGS ACCOUNT; ROTH
15 HSA.—The terms ''Roth health savings account'' and
16 ''Roth HSA'' mean a Roth HSA established under
17 section 530A of the Internal Revenue Code of 1986.

18 (16) SECRETARY.—The term ''Secretary''
19 means the Secretary of Health and Human Services.

20 (17) STATE.—The term ''State'' means the 50
21 States and the District of Columbia.

22 (18) UNINSURED.—The term ''uninsured''
23 means, with respect to an individual, that the indi-
24 vidual does not have creditable coverage.

Subtitle A—Insurance Market Reform

SEC. 101. ENDING THE "ONE SIZE FITS ALL" ACA APPROACH; CONTINUING CONSUMER PROTECTION POLICIES BY COVERING ADULT CHILDREN, PROTECTING INDIVIDUALS WITH PRE-EXISTING CONDITIONS, AND NOT APPLYING LIFETIME OR ANNUAL LIMITS.

(a) IN GENERAL.—Subject to subsections (b) and (c), title I of the Patient Protection and Affordable Care Act (including the amendments made by such title) shall not apply (and the provisions of law amended by such title are restored as if such title had not been enacted) in the case of any State that does not have in effect the election described in section 102(a)(1).

(b) CONTINUATION OF POLICIES FOR EXTENSION OF DEPENDENT COVERAGE FOR ADULT CHILDREN AND PROHIBITION OF LIFETIME AND ANNUAL COVERAGE LIMITS; PRESERVATION OF BLACK LUNG BENEFITS.—

(1) PUBLIC HEALTH SERVICE ACT PROVISIONS.—Notwithstanding subsection (a), the following sections of the Public Health Service Act, that were added or amended by subtitles A and C of title I of PPACA, shall continue to apply to group

1 health plans and to health insurance coverage of-
2 fered in the individual and group market:
3 (A) NO LIFETIME OR ANNUAL LIMITS.—
4 Section 2711 (relating to no lifetime or annual
5 limits), except in the case of limited benefit in-
6 surance.
7 (B) DEPENDENT COVERAGE THROUGH
8 AGE 26.—Section 2714 (relating to extension of
9 dependent coverage).
10 (C) PROHIBITING PRE-EXISTING CONDI-
11 TION EXCLUSIONS.—Section 2704 (relating to
12 prohibition on preexisting conditions).
13 (D) PROHIBITING DISCRIMINATION BASED
14 ON HEALTH STATUS.—Section 2705 (relating to
15 prohibiting discrimination against individual
16 participants and beneficiaries based on health
17 status), subject to subsection (c).
18 (E) PRESERVATION OF PREVENTIVE SERV-
19 ICE COVERAGE.—Section 2713 (relating to cov-
20 erage of preventive health services), if employ-
21 ers do not contribute to the individual's Roth
22 HSA.
23 (2) PRESERVATION OF NON-DISCRIMINATION IN
24 HEALTH CARE.—Subsection (a) shall not apply with

1 respect to section 1557 of title I of the Patient Pro-
2 tection and Affordable Care Act (42 U.S.C. 18116).
3 (3) PRESERVATION OF COVERAGE OF MENTAL
4 HEALTH SERVICES, AND APPLICABILITY OF MENTAL
5 HEALTH PARITY.—For serious mental illness, seri-
6 ous emotional disturbance, and substance use dis-
7 order, subsection (a) shall not apply with respect to
8 section 1302(b)(1)(E) of title I of the Patient Pro-
9 tection and Affordable Care Act (relating to cov-
10 erage of mental health and substance use treatment
11 at limited cost sharing) (42 U.S.C. 18022(b)(1)(E)).
12 Section 2726 of the Public Health Service Act shall
13 apply to qualified health plans in the same manner
14 and to the same extent as such section applies to
15 health insurance coverage and group health plans.
16 (4) PRESERVATION OF BLACK LUNG BENEFITS
17 FOR COAL MINERS.—Subsection (a) shall not apply
18 with respect to section 1556 of title I of the Patient
19 Protection and Affordable Care Act (amending the
20 Black Lung Benefits Act).
21 (5) PRESERVATION OF STATE INNOVATIONS.—
22 Subsection (a) shall not apply with respect to section
23 1332 of title I of the Patient Protection and Afford-
24 able Care Act (42 U.S.C. 18052).

1 (c) CONTINUATION OF FEDERAL EXCHANGES.—Sub-
2 section (a) shall not apply with respect to Federal Ex-
3 changes established pursuant to section 1321(c) of the Pa-
4 tient Protection and Affordable Care Act (42 U.S.C.
5 18041(c)) and such Exchanges shall continue to operate
6 as provided for by the Secretary.

7 **SEC. 102. STATE HEALTH INSURANCE OPTIONS.**

8 (a) IN GENERAL.—Each State may elect, through
9 written notice to the Secretary after the date of the enact-
10 ment of this Act and in accordance with this title, 1 of
11 the following 3 options in relation to the implementation
12 of title I of the Patient Protection and Affordable Care
13 Act after the date of enactment of this Act:

14 (1) CONTINUING IMPLEMENTATION OF
15 PPACA.—The State continuing—

16 (A) the Federal premium and cost-sharing
17 subsidies for coverage offered under title I of
18 PPACA (and the amendments made thereby),
19 reduced for qualified residents of such State for
20 any year by the amount (if any) by which such
21 subsidies would exceed the amount of contribu-
22 tions that would have been made under section
23 103(b) to all such residents for such year if the
24 State had elected the option under paragraph
25 (3); and

1 (B) all other requirements under such title.
2 (2) ESTABLISHING NEW STATE AND MARKET-
3 BASED ALTERNATIVE, WITH ALTERNATIVE PER BEN-
4 EFICIARY FEDERAL DEPOSIT SYSTEM.—The State
5 implementing the alternative option described in sec-
6 tion 103, which includes—
7 (A) the waiver of most requirements im-
8 posed under such title I; and
9 (B) the provision of a new, Roth HSA- and
10 market-based deposit system for individuals
11 who do not otherwise qualify for Federal or
12 State subsidies for health benefits coverage.
13 (3) REJECTION OF PPACA.—The State rejecting
14 title I of PPACA (and the amendments made there-
15 by), except as otherwise required in this title.
16 If a State fails to make an election described in this sub-
17 section during the 1-year period beginning on the date of
18 enactment of this Act, the State shall be deemed to have
19 made the election described in paragraph (2). A State
20 may, through written notice to the Secretary, change an
21 election previously made under this subsection.
22 (b) RELATION TO CURRENT MEDICAID ACA COV-
23 ERAGE OPTION.—Nothing in this section shall be con-
24 strued to change the option of a State with respect to the
25 implementation of Medicaid ACA coverage under section

1902(a)(10)(A)(i)(VIII) of the Social Security Act (42 U.S.C. 1396a(a)(10)(A)(i)(VIII)), except that a State that elects not to provide medical assistance to individuals under such section may make such individuals deposit qualifying residents under this title.

SEC. 103. STATE ALTERNATIVE OPTION.

(a) IN GENERAL.—In the case of a State that elects under section 102(a)(2) the alternative option under this section, subject to subsection (d) and section 107, the following shall apply:

(1) ELIMINATION OF INDIVIDUAL AND EMPLOYER SHARED RESPONSIBILITY FOR HEALTH CARE TAX REQUIREMENTS FOR RESIDENTS AND EMPLOYEES IN STATE.—The individual and employer health care responsibilities under the amendments made by title I of PPACA (including under sections 5000A and 4980H of the Internal Revenue Code of 1986) shall no longer apply pursuant to section 101 with respect to individuals who are residents of such State and with respect to individuals who are employed in such State, respectively.

(2) MODIFICATION OF INSURANCE REQUIREMENTS.—Except as specifically provided in this title, the requirements under title I of PPACA (including amendments made by such title) relating to health

insurance coverage offered in the State shall not apply except to the extent specified by the State.

(3) NEW DEPOSIT SYSTEM THROUGH FUNDING ROTH HSAS.—

(A) IN GENERAL.—Deposit qualifying residents (as defined in subsection (b)(2)) who are residing in the State are eligible for a deposit to a Roth HSA that may be used for premiums and cost-sharing for health insurance coverage in accordance with subsection (b).

(B) STATE SPECIFICATION OF MANNER OF CARRYING OUT ROTH HSA DEPOSIT SYSTEM (PATIENT-GRANT ELECTING STATE).—In making the election under this subsection, a State shall specify whether the State will carry out subsection (b) or if such subsection shall be carried out by means of the credit under section 36C of the Internal Revenue Code of 1986.

(4) ADDITIONAL AMOUNTS FOR POPULATION HEALTH INITIATIVES FOR STATE ADMINISTERED ROTH HSA DEPOSIT SYSTEM.—A patient-grant electing State (as defined in section 100(1)) is entitled to receive additional funding under subsection (c) for population health initiatives.

1 (b) DEPOSIT THROUGH PAYMENT INTO ROTH HSA
2 FOR DEPOSIT QUALIFYING RESIDENTS.—
3 (1) IN GENERAL.—The subsidies described in
4 subsection (a)(3) for an electing State shall be fur-
5 nished for each deposit qualifying resident through
6 the deposit of a contribution into a Roth HSA of the
7 individual in the amount determined under section
8 104. For purposes of the Internal Revenue Code of
9 1986, the amount of any contribution to a Roth
10 HSA made under this paragraph shall be included
11 in the gross income of the individual for whose ben-
12 efit the Roth HSA was established.
13 (2) DEPOSIT QUALIFYING RESIDENT DE-
14 FINED.—In this title, the term ''deposit qualifying
15 resident'' means, with respect to a State and a
16 month, an individual—
17 (A) who is a qualified resident (as defined
18 in section 100(14)) of the State as of the first
19 day of the month (or such other day in the
20 month as the Secretary may specify);
21 (B) with respect to whom a Roth HSA has
22 been established, which Roth HSA may have
23 been established by the State in carrying out
24 this section;

1 (C) who is enrolled in qualified health plan
2 coverage (as defined in section 100(13)), which
3 enrollment may have been effected by the State
4 in carrying out this section; and
5 (D) who is not eligible for coverage under
6 Medicare, is not enrolled for benefits under
7 Medicaid or CHIP, and is not enrolled for bene-
8 fits under chapter 55 of title 10, United States
9 Code (relating to TRICARE), or title 39 of
10 such Code (relating to veterans' benefits) or
11 chapter 89 of title 5 of such Code (relating to
12 the Federal Employees Health Benefits Pro-
13 gram).
14 (3) PAYMENT ADMINISTRATION.—
15 (A) STATE.—In the case of an electing
16 State that elects to carry out this subsection
17 through the State, the Secretary shall provide
18 for payment to the State in amounts and in a
19 time and manner sufficient to permit the State
20 to make timely monthly contributions to Roth
21 HSAs under this subsection. The Secretary may
22 provide for payment to the State using the pay-
23 ment methodology described in subsection (d) of
24 section 1903 of the Social Security Act for pay-
25 ments under subsection (a) of such section (ap-

1 plied without regard to any State matching re-
2 quirement) and may condition such payments
3 upon the provision of such information as the
4 Secretary may require to ensure the proper pay-
5 ments under this subsection. As a condition of
6 receiving payment under this section, a State
7 shall submit such information, in such form,
8 and manner, as the Secretary shall specify, in-
9 cluding information necessary to make the com-
10 putations of amounts under this section.
11 (B) FEDERAL.—In the case of a State
12 electing to carry out this subsection other than
13 through the State, subsidies described in sub-
14 section (a)(3) shall be provided through a re-
15 fundable tax credit under section 36C of the In-
16 ternal Revenue Code of 1986.
17 (4) CONSTRUCTION.—Nothing in this sub-
18 section shall be construed—
19 (A) to prevent an individual from affirma-
20 tively electing not to have a Roth HSA estab-
21 lished on the individual's behalf and not to be
22 enrolled in health insurance coverage;
23 (B) subject to subparagraph (A), to pre-
24 vent a State from establishing a Roth HSA for

1 each deposit qualifying resident who does not
2 otherwise have a Roth HSA;
3 (C) subject to subparagraph (A), to pre-
4 vent a State from establishing a mechanism
5 whereby individuals who would be deposit quali-
6 fying residents but for paragraph (2)(C) are en-
7 rolled in health insurance coverage; and
8 (D) to prevent a State from changing its
9 State Medicaid plan to eliminate coverage under
10 section 1902(a)(10)(A)(i)(VIII) of the Social
11 Security Act (42 U.S.C.
12 1396a(a)(10)(A)(i)(VIII)), in order that indi-
13 viduals otherwise covered under such section
14 may qualify for subsidies under this section.
15 (c) POPULATION HEALTH INITIATIVE FUNDING.—
16 (1) IN GENERAL.—In the case of an electing
17 State for a year, the State is entitled to receive pay-
18 ment from the Secretary after the end of such year
19 in an amount equal to 2 percent of the actual aggre-
20 gate amount deposited under subsection (b) into
21 Roth HSAs for residents of the State for the year.
22 (2) USE OF FUNDS.—Amounts paid to a State
23 under paragraph (1) may only be used for popu-
24 lation health initiatives (as defined by the Sec-
25 retary).

(3) ENTITLEMENT.—Paragraph (1) constitutes budget authority in advance of appropriations Acts and represents the obligation of the Federal Government to provide for the payment to States of amounts provided under such paragraph.

(d) REQUIRING RULES FOR COMPUTING USUAL, CUSTOMARY, AND REASONABLE (UCR) PRICES.—As a condition for a State's election of the alternative option under this section, the State must provide, through its department of insurance or equivalent agency, for establishment of rules to carry out section 1867(j)(1)(A)(ii) of the Social Security Act, as added by section 121(a)(2).

SEC. 104. COMPUTATION OF MONTHLY ROTH HSA DEPOSIT AMOUNT FOR DEPOSIT QUALIFYING RESIDENTS.

(a) COMPUTATION.—

(1) IN GENERAL.—The Secretary shall develop a standardized methodology to determine consistent with this section a monthly Roth HSA deposit amount for deposit qualifying residents in each State for months in each year. Subject to paragraphs (3) and (4), such amount shall be equal to 1/12 of the average per capita annual amount computed under subsection (b) for the State for the year, as adjusted for the deposit qualifying resident involved—

1 (A) for age and geographic area under
2 subsection (c); and
3 (B) for income under subsection (d).
4 (2) NO VARIATION BASED ON HOW DEPOSIT
5 AMOUNT DISTRIBUTED.—Such amount shall be the
6 same for a deposit qualifying individual without re-
7 gard to whether the contribution to the individual's
8 Roth HSA is made by a State under this section or
9 by the Federal Government through the operation of
10 section 36C of the Internal Revenue Code of 1986.
11 (3) PATIENT-GRANT ELECTING STATE HAS
12 FLEXIBILITY TO MAINTAIN LEVEL OF BENEFITS FOR
13 CURRENT ACA BENEFICIARIES.—A patient-grant
14 electing State may elect to increase the amount of
15 the deposit for all deposit qualifying individuals
16 under this section to the amounts that the Secretary
17 estimates would have been paid with respect to such
18 individuals under section 36B of the Internal Rev-
19 enue Code of 1986 and section 1402 of PPACA if
20 those sections had remained in effect in the State
21 with respect to such individuals. Such election shall
22 be made for a year and shall continue from year to
23 year until the State elects to terminate such election.
24 The Secretary shall, in conjunction with the Actu-
25 ary, ensure such changes to the amount of deposit

1 for qualifying individuals shall remain budget neu-
2 tral.
3 (4) SPECIAL RULE FOR PARTIAL DEPOSIT FOR
4 LOW-INCOME INDIVIDUALS WITH EMPLOYER-SPON-
5 SORED INSURANCE (ESI).—In the case of an indi-
6 vidual who is covered under a group health plan and
7 with respect to such coverage there is a contribution
8 by an employer which is excluded from the individ-
9 ual's gross income under the Internal Revenue Code
10 of 1986, insofar as the individual is a deposit quali-
11 fying resident, the amount of the deposit with re-
12 spect to the individual shall be reduced, in a manner
13 specified by the Secretary in consultation with the
14 Secretary of the Treasury and taking into account
15 the income of the individual's household, by an
16 amount that is approximately equivalent to the esti-
17 mated amount of the reduction in the amount of in-
18 come tax resulting from such exclusion (and any re-
19 duction in taxes imposed by chapter 21 or chapter
20 2 of such Code by reason of any exclusion of such
21 contributions from wages and self employment in-
22 come).
23 (b) COMPUTATION OF UNADJUSTED AVERAGE PER
24 CAPITA ANNUAL AMOUNT.—

1 (1) FOR STATES THAT CONTINUE PPACA MED-
2 ICAID COVERAGE.—
3 (A) IN GENERAL.—In the case of a State
4 that provides medical assistance under section
5 1902(a)(10)(A)(i)(VIII) of the Social Security
6 Act (42 U.S.C. 1396b(a)(10)(A)(i)(VIII)) dur-
7 ing a year, subject to paragraphs (3) and (4),
8 the Secretary shall compute an average per cap-
9 ita annual amount for the State for the year
10 equal to—
11 (i) the amount specified in subpara-
12 graph (B), divided by
13 (ii) the average monthly number of
14 deposit qualifying residents of the State in
15 the year.
16 (B) AMOUNT BASED ON PPACA PROJECTED
17 FEDERAL EXPENDITURES.—The amount speci-
18 fied in this subparagraph for a State for a year
19 is 95 percent of the Secretary's estimate of the
20 total payments that would have been made (as-
21 suming the existence of a State established Ex-
22 change in the State) under section 36B of the
23 Internal Revenue Code of 1986 and under sec-
24 tion 1402 of PPACA with respect to all quali-
25 fied residents in the State in the year (or tax-

1 able year ending with such year, if applicable).
2 The Secretary shall, in conjunction with the Ac-
3 tuary, ensure such changes to the amount of
4 deposit for qualifying individuals shall remain
5 budget neutral.
6 (2) FOR STATES THAT DO NOT PROVIDE PPACA
7 MEDICAID COVERAGE.—
8 (A) IN GENERAL.—In the case of a State
9 not described in paragraph (1) for a year, sub-
10 ject to paragraphs (3) and (4), the Secretary
11 shall compute an average per capita annual
12 amount for the State for the year equal to—
13 (i) the amount specified in subpara-
14 graph (B) for the State and year, divided
15 by
16 (ii) the average monthly number of
17 deposit qualifying residents of the State in
18 the year.
19 (B) AMOUNT BASED ON PPACA AND MED-
20 ICAID PROJECTED FEDERAL EXPENDITURES.—
21 The amount specified in this subparagraph for
22 a State for a year is equal to the sum of—
23 (i) 95 percent of the Secretary's esti-
24 mate of the total payments that would
25 have been made (assuming the existence of

1 a State-established Exchange in the State)
2 under section 36B of the Internal Revenue
3 Code of 1986 and under section 1402 of
4 PPACA with respect to all qualified resi-
5 dents in the year (or taxable year ending
6 with such year, if applicable); and
7 (ii) the Secretary's estimate of the
8 total payments that would have been made
9 to the State under title XIX of the Social
10 Security Act for individuals eligible to be
11 covered under section
12 1902(a)(10)(A)(i)(VIII) of the Social Secu-
13 rity Act assuming the election of a State to
14 provide Medicaid coverage under such sec-
15 tion and assuming the applicable Federal
16 medical assistance percentage were 95 per-
17 cent with respect to such individuals.
18 (3) BUDGET NEUTRAL ADJUSTMENT IN PAY-
19 MENTS TO TAKE INTO ACCOUNT ELECTION OF HIGH-
20 ER DEPOSITS TO MAINTAIN ACA SUBSIDY LEVELS.—
21 If a State makes the election described in subsection
22 (a)(3) with respect to providing higher deposit
23 amounts for certain individuals described in such
24 subsection, then the Secretary shall adjust the aver-

1 age per capita annual amount under paragraph (1)
2 or (2), as applicable to the State, by—
3 (A) reducing the amount described in
4 paragraph (1)(B) (or, if applicable, paragraph
5 (2)(B)(i)) by an amount equal to 95 percent of
6 the aggregate increased deposit level attrib-
7 utable to subsection (a)(3); and
8 (B) not counting such an individual as a
9 qualifying resident for purposes of paragraph
10 (1)(A)(ii) (or, if applicable, paragraph
11 (2)(A)(ii)).
12 The Secretary shall, in conjunction with the Actu-
13 ary, ensure changes, as outlined in this subsection,
14 to the amount of deposit for qualifying individuals
15 shall remain budget neutral.
16 (4) ADJUSTMENT FOR COSTS OF PARTIAL DE-
17 POSITS FOR LOW-INCOME ESI INDIVIDUALS.—The
18 Secretary shall adjust the average per capita annual
19 amount under paragraph (1) or (2), as applicable to
20 the State, by—
21 (A) reducing the amount described in
22 paragraph (1)(B) (or, if applicable, paragraph
23 (2)(B)(i)) by an amount equal to 95 percent of
24 the amount of payments under this section that

1 are attributable to individuals described in sub-
2 section (a)(4); and
3 (B) not counting any individual described
4 in subsection (a)(4) as a qualifying resident for
5 purposes of paragraph (1)(A)(ii) (or, if applica-
6 ble, paragraph (2)(A)(ii)).
7 (c) ADJUSTMENT FOR AGE, GEOGRAPHIC AREA, AND
8 INCOME DISTRIBUTION WITHIN STATE.—
9 (1) IN GENERAL.—The Secretary shall apply
10 such adjustments to the per capita amount com-
11 puted under subsection (b) as is designed to take
12 into account, in a budget neutral manner and based
13 on the costs estimated under paragraph (2), actu-
14 arial differences in health care costs attributable to
15 individuals in different age categories and different
16 geographic locations of primary residences in the
17 State and the reductions based on income under
18 subsection (d). No such adjustment shall be made
19 based on sex.
20 (2) DATA ON AVERAGE COSTS OF SERVICES.—
21 Not later than December 15 before the beginning of
22 each year, the Agency for Healthcare Research and
23 Quality shall estimate the average cost of health
24 care for such year for individuals under 65 years of
25 age and may estimate how such average varies for

1 different populations of individuals under age 65.
2 The adjustments under paragraph (1) for age cat-
3 egories for a year shall be based on such estimates
4 made. Not later than such date, the Secretary shall
5 prescribe tables for purposes of making adjustments
6 based on age under paragraph (1) based on such de-
7 termination which shall apply for taxable years be-
8 ginning in the succeeding calendar year.
9 (d) INCOME-RELATED PHASE-OUT.—
10 (1) IN GENERAL.—The per capita amount as
11 computed under subsection (b) and adjusted and ap-
12 plied to a deposit qualifying individual under sub-
13 section (c) shall be multiplied by a phase-out per-
14 centage equal to 100 percent reduced by 1 percent-
15 age point for each $1,000 (or fraction thereof) by
16 which the taxpayer's modified adjusted gross income
17 for the taxable year exceeds $90,000 (or, in the case
18 of a joint return, $150,000), multiplied, for a tax-
19 able year ending in a year beginning after December
20 31, 2015, by the cost-of-living adjustment for the
21 year as described in section 1(f)(3) of the Internal
22 Revenue Code of 1986, but substituting ''2015'' for
23 ''1992'' in subparagraph (B) of such section.
24 (2) ZERO PER CAPITA AMOUNT FOR MARRIED
25 FILING SEPARATELY.—The per capita amount under

1 this section shall be zero in the case of a married
2 couple filing separately.

3 **SEC. 105. STATE OPTIONS FOR IMPROVED ACCESS TO**
4 **HEALTH INSURANCE COVERAGE IN EACH**
5 **STATE.**

6 (a) STATE OPTIONS TO IMPROVE ACCESS.—
7 (1) IN GENERAL.—Each State may carry out
8 any of the functions described in this section in
9 order to improve the access of residents of the State
10 to health insurance coverage.
11 (2) REPURPOSING STATE EXCHANGES.—A
12 State may use or adapt an Exchange that the State
13 has established under title I of PPACA to carry out
14 any such function.
15 (3) REPURPOSING FEDERAL EXCHANGE.—The
16 Federal Government shall make available to States
17 current capabilities of the Federal Exchange, includ-
18 ing the Federal Data Services Hub and Agent
19 Broker Portal, to the extent requested by a State for
20 activities related to enrollment of citizens of the
21 State into health insurance coverage.
22 (b) TRANSPARENCY PORTAL.—Each State may es-
23 tablish and operate an open and transparent marketplace
24 mechanism whereby qualified residents of the State can
25 readily compare, through the use of the Internet, the bene-

1 fits and prices between different health insurance coverage
2 options made available to them.
3 (c) ENROLLMENT, SUBJECT TO INDIVIDUAL OPT-
4 OUT.—A State may provide for the enrollment of qualified
5 residents of the State who are uninsured in default health
6 insurance coverage offered under section 107(c) and es-
7 tablishing a Roth HSA for such residents who do not have
8 a Roth HSA unless the resident has affirmatively elected
9 not to be so enrolled and not to have a Roth HSA, respec-
10 tively. Any such enrollment under this paragraph shall be
11 coordinated with the annual open enrollment periods pro-
12 vided under section 107(b).
13 (d) RISK MITIGATION MECHANISMS AND REINSUR-
14 ANCE AND RISK-CORRIDOR PROGRAMS.—
15 (1) IN GENERAL.—Notwithstanding any other
16 provision of this title or section 223(c)(2) of the In-
17 ternal Revenue Code of 1986, a State may estab-
18 lish—
19 (A) mechanisms for risk mitigation or risk
20 adjustment in order to limit volatility in the
21 premiums based on health experience to class-
22 average premiums; and
23 (B) a reinsurance and risk-corridor pro-
24 gram that involves no Federal funds with re-

spect to coverage both in the individual market and in the small group market.

(2) BASIS FOR RISK ADJUSTMENT.—Mechanisms and programs under paragraph (1) may be based on the health status score of each individual enrolled in health insurance coverage in the individual market and not solely based on the aggregate risk of the risk pool with respect to each plan of health insurance coverage.

(e) MODIFIED HEALTH STATUS INSURANCE MECHANISM.—

(1) IN GENERAL.—A State may establish a mechanism for providing modified health status insurance in the State to encourage health plans to implement adequate benefit designs and services for a chronically ill individual.

(2) REQUIREMENTS.—A mechanism under paragraph (1) may implement the following requirements:

(A) During the first open enrollment period after the date of enactment of this Act, an individual health plan shall provide coverage for health benefits as defined in the health plan for a period of 12 months.

1 (B) If an individual enrolls in a new health
2 plan during the open enrollment period at the
3 end of the first 12 months of coverage under
4 subparagraph (A), the plan in which the indi-
5 vidual was enrolled prior to such period shall be
6 responsible for financing 75 percent of the
7 health benefits administered to the individual
8 under any other health plan in which the indi-
9 vidual enrolls for the initial 3-month period of
10 coverage under such other plan.

11 (C) During the 3-month period described
12 in subparagraph (B), the plan in which the in-
13 dividual was enrolled prior to such period shall
14 receive 75 percent of the premiums paid for the
15 individual's coverage under the other health
16 plan.

17 (D) During the third open enrollment pe-
18 riod after the date of enactment of this Act,
19 and during all subsequent open enrollment peri-
20 ods, a health plan that has enrollees terminate
21 their coverage in order to enroll in other health
22 plans shall be responsible for financing 75 per-
23 cent of the health benefits administered to such
24 enrollees under the other plans and shall receive
25 75 percent of the premiums paid for such en-

1 rollees' coverage under such other health plans
2 for the first 3 months of coverage in new plan
3 year.
4 **SEC. 106. STATE FLEXIBILITY IN ENSURING ORDERLY**
5 **HEALTH INSURANCE MARKET OUTSIDE OF**
6 **AN EXCHANGE.**
7 (a) IN GENERAL.—With respect to health insurance
8 coverage offered in a State, the State may, in consultation
9 with the Secretary, take such steps, such as limiting the
10 availability of general open enrollment periods, imposing
11 delays in the effectiveness for coverage, permitting dif-
12 ferentials in premiums based on age and other factors, as
13 the State determines necessary in order to ensure an or-
14 derly market for health insurance coverage in the State
15 that is not offered through an Exchange. Such steps may
16 include the establishment of an initial open enrollment pe-
17 riod during which qualified residents may enroll in health
18 insurance coverage without the imposition of any under-
19 writing as the State determines to be appropriate in ensur-
20 ing initial access to such coverage.
21 (b) FLEXIBILITY IN IMPOSING ADDITIONAL RE-
22 QUIREMENTS.—Nothing in this section shall be construed
23 as preventing a State from continuing to apply, to health
24 insurance coverage issued in the State, requirements
25 under the provisions of title XXVII of the Public Health

1 Service Act (as amended by subtitles A and C of title I
2 of PPACA), that are not continued under section 101(b).
3 (c) STATE FLEXIBILITY WITH RESPECT TO EX-
4 CHANGES.—A State may waive such provisions of part 2
5 of subtitle D of title I of PPACA, in relation to the estab-
6 lishment of an Exchange in such State, as the State deter-
7 mines appropriate in order for the State to implement and
8 administer a market-based system for the availability of
9 health insurance coverage throughout the State.

10 **SEC. 107. EXPANDED ACCESS AND PATIENT PROTECTIONS.**

11 (a) IN GENERAL.—As a condition for the election of
12 the alternative option under section 103 in a State, the
13 State must meet the requirements of this section.
14 (b) ANNUAL AND OTHER OPEN ENROLLMENT PERI-
15 ODS.—
16 (1) IN GENERAL.—The State shall require, in
17 connection with the offering of health insurance cov-
18 erage in the individual market in the State, that
19 there are uniform annual and other open enrollment
20 periods (such as those for changes in life events,
21 changes in State residency, and involuntary changes
22 in eligibility for coverage under a group health plan)
23 in order to permit qualified residents to enroll in
24 qualified health plan coverage in a manner that pro-
25 motes continuity of coverage. Such periods shall be

1 consistent with the open enrollment periods estab-
2 lished under title I of PPACA, as in effect on the
3 day before the date of the enactment of this Act.
4 (2) INITIAL OPEN ENROLLMENT PERIOD.—In
5 addition, the State shall establish an initial open en-
6 rollment period during which qualified residents may
7 enroll in qualified health plan coverage without the
8 imposition of any underwriting described in sub-
9 section (d)(1)(B). Such period shall be a period of
10 not less than 45 days and shall provide for enroll-
11 ment to become effective on January 1 of the year
12 specified by the State in which such State election
13 first becomes effective.
14 (c) OFFERING OF DEFAULT HEALTH INSURANCE
15 COVERAGE.—
16 (1) ENROLLMENT, SUBJECT TO INDIVIDUAL
17 OPT-OUT.—Subject to paragraph (4), a State may
18 elect to provide for the enrollment of residents of the
19 State who are uninsured in default health insurance
20 coverage (as defined in paragraph (2)) and estab-
21 lishing a Roth HSA for such residents who do not
22 have a Roth HSA unless the resident has affirma-
23 tively elected not to be so enrolled and not to have
24 such an account. respectively. If a State makes such

1 an election, the State shall permit eligible residents
2 to enroll in such coverage on a continuous basis.
3 (2) DEFAULT HEALTH INSURANCE COVERAGE
4 DEFINED.—In this subsection, the term ''default
5 health insurance coverage'' means, with respect to a
6 State, health insurance coverage that—
7 (A) is a high deductible health plan (within
8 the meaning of section 223(c)(2) of the Internal
9 Revenue Code of 1986) with prescription drug
10 coverage limited to a Tier 1 formulary benefit
11 (as commonly understood) for a limited number
12 of chronic conditions (commonly referred to as
13 tier I pharmacy benefit);
14 (B) meets such requirements as may apply
15 to qualify for the payment of plan premiums
16 from a health savings account under section
17 223 of such Code (such as age-related pre-
18 miums and limitation on imposition of pre-
19 existing condition exclusions);
20 (C) has a provider network for covered
21 benefits that is adequate (as determined con-
22 sistent with the guidelines issued by the Sec-
23 retary relating to provider access requirements
24 for Medicare Advantage organizations under
25 section 1852(d) of the Social Security Act (42

1 U.S.C. 1395w–22(d))) to ensure access to
2 health benefits under such plan;
3 (D) provides for coverage of childhood im-
4 munizations without cost sharing requirements
5 to the extent such immunizations have in effect
6 a recommendation from the Advisory Com-
7 mittee on Immunization Practices of the Cen-
8 ters for Disease Control and Prevention with
9 respect to the individual involved; and
10 (E) meets such other requirements as the
11 State may specify.
12 (3) ROTH HSA.—In this subsection, the term
13 ''Roth HSA'' shall have the meaning given such
14 term by section 530A(c) of the Internal Revenue
15 Code of 1986.
16 (4) SIMPLE PROCESS FOR INDIVIDUALS TO OPT-
17 OUT.—As a condition of a State providing for the
18 enrollment function described in paragraph (1), the
19 State shall establish an easy-to-use and transparent
20 means by which individuals may elect not to be en-
21 rolled in default health insurance coverage or to
22 have a Roth HSA established on the individual's be-
23 half, or both.
24 (d) CONSEQUENCES RESPECTING CONTINUOUS COV-
25 ERAGE.—

(1) CONSEQUENCES FOR NOT MAINTAINING CONTINUOUS COVERAGE.—

(A) AVOIDANCE OF CONSEQUENCES BY MAINTAINING CONTINUOUS COVERAGE.—

(i) IN GENERAL.—All qualified residents of a State are eligible during the initial open enrollment period provided under subsection (b)(2) to enroll in qualified health plan coverage and, thereafter, to maintain continuous coverage in order to avoid the adverse consequences described in the succeeding provisions of this paragraph.

(ii) SPECIAL ENROLLMENT PERIODS.—The State may provide for special enrollment periods based on birth, becoming 26 years of age, and independence from family coverage, during which certain individuals will be eligible to enroll in qualified health plan coverage for purposes of this subsection.

(B) UNDERWRITING PERMITTED.—In the case of a qualified resident of the State who fails to maintain continuous creditable coverage

1 (not including any breaks in coverage of less
2 than 63 days), the State shall—
3 (i) permit health insurance issuers for
4 the period specified in subparagraph (C) to
5 medically underwrite (through denial of
6 health insurance coverage, application of
7 preexisting condition limitations, differen-
8 tial premiums, or otherwise) the issuance
9 of health insurance coverage, other than
10 with respect to the issuance of default
11 health insurance coverage under subsection
12 (c); and
13 (ii) require health insurance issuers,
14 during the subsequent 2-year period in the
15 case of issuance of health insurance cov-
16 erage other than such default health insur-
17 ance coverage, to impose a monthly late
18 enrollment penalty in the amount specified
19 in subparagraph (D)(i) and to remit the
20 amount of such penalty collected to the
21 Federal Treasury in accordance with sub-
22 paragraph (D)(ii).
23 (C) PERIOD FOR APPLICATION OF UNDER-
24 WRITING.—For purposes of subparagraph
25 (B)(i), the period specified in this subparagraph

1 is, with respect to an uninsured individual as of
2 a date, a period (not to exceed 18 months)
3 equivalent to the number of months in the pre-
4 vious 18-month period in which the individual
5 did not have continuous creditable coverage de-
6 scribed in subparagraph (B).
7 (D) MONTHLY LATE ENROLLMENT PEN-
8 ALTY AMOUNT.—
9 (i) IN GENERAL.—The monthly late
10 enrollment penalty amount specified in this
11 clause for a month is equal to the lesser of
12 10 percent or the product of—
13 (I) 1 percent of the monthly pre-
14 mium amount for default health in-
15 surance coverage with respect to the
16 individual and month; and
17 (II) the number of months dur-
18 ing the 2-year period (preceding the
19 18-month period described in subpara-
20 graph (B)(i)) in which the resident
21 failed to maintain the continuous cov-
22 erage described in paragraph (1)(D).
23 (ii) PAYMENT OF PENALTY AMOUNT
24 TO FEDERAL TREASURY.—The amount of
25 the monthly late enrollment penalty col-

1 lected under this subparagraph shall be
2 paid to the Treasury of the United States
3 in a form and manner specified by the Sec-
4 retary of the Treasury.
5 (2) CHANGES IN ENROLLMENT PERMITTED
6 WITHOUT MEDICAL UNDERWRITING DURING ANNUAL
7 OPEN ENROLLMENT PERIODS FOR THOSE MAINTAIN-
8 ING CONTINUOUS COVERAGE.—
9 (A) DURING SECOND OPEN ENROLLMENT
10 PERIOD.—In the case of a qualified resident
11 who maintains continuous coverage (not includ-
12 ing any breaks in coverage of less than 63
13 days) during the period after the initial open
14 enrollment period under subsection (b)(2) and
15 through the second annual open enrollment pe-
16 riod established by the State consistent with
17 subsection (b)(1), the State shall require health
18 insurance issuers to permit such residents dur-
19 ing such second annual open enrollment period
20 to change the qualified health plan coverage in
21 which the individual is enrolled without medical
22 underwriting.
23 (B) DURING THIRD AND SUBSEQUENT
24 OPEN ENROLLMENT PERIODS.—In the case of a
25 qualified resident who maintains continuous

1 coverage for a period of 18 months or longer
2 (not including any breaks in coverage of less
3 than 63 days) as of the initial date of a third
4 or subsequent annual open enrollment period
5 established by the State under subsection
6 (b)(1), the State shall require health insurance
7 issuers to permit such residents during such an
8 open enrollment period to change the qualified
9 health plan coverage in which the individual is
10 enrolled without medical underwriting.

11 **SEC. 108. APPLICATION OF HEALTH SAVINGS ACCOUNTS IN**
12 **RELATION TO MEDICAID.**

13 (a) IN GENERAL.—Title XIX of the Social Security
14 Act (42 U.S.C. 1396 et seq.) is amended by adding at
15 the end the following new section:

16 **"SEC. 1947. PROVISIONS RELATING TO HEALTH SAVINGS**
17 **ACCOUNTS.**

18 "(a) DISREGARDING ROTH HSA IN DETERMINING
19 ASSETS AND INCOME FOR MEDICAID ELIGIBILITY DE-
20 TERMINATIONS OTHER THAN FOR LONG-TERM CARE
21 SERVICES.—The assets in a health savings account under
22 section 223 of the Internal Revenue Code of 1986, and
23 any income from such assets in such account, shall be dis-
24 regarded for purposes of determining eligibility for and
25 amount of medical assistance under this title, other than

1 for purposes of determining eligibility for and the amount
2 of medical assistance for long-term care services (de-
3 scribed in section 1917(c)(1)(C)(i)).
4 ‘‘(b) NOTIFICATIONS OF TREASURY OF MEDICAID
5 ELIGIBILITY.—In order to meet the requirements of this
6 subsection (for purposes of section 1902(a)(78)), a State
7 shall provide such notice to the Secretary of the Treasury,
8 in such form and manner as the Secretary shall specify,
9 as may be necessary to identify individuals who are eligible
10 for, and receiving, medical assistance under this title in
11 a month in order to carry out section 223 of the Internal
12 Revenue Code of 1986.’’.
13 (b) IMPLEMENTATION OF NOTIFICATION REQUIRE-
14 MENT THROUGH STATE PLAN.—Section 1902(a) of the
15 Social Security Act (42 U.S.C. 1396a(a)) is amended by
16 inserting after paragraph (77) the following new para-
17 graph:
18 ‘‘(78) provide for notice in accordance with sec-
19 tion 1947(b) to the Secretary of the Treasury of the
20 identity of individuals who are eligible for and re-
21 ceiving medical assistance under this title;’’.
22 (c) EFFECTIVE DATE.—The amendments made by
23 this section shall apply to eligibility determinations with
24 respect to medical assistance for periods beginning on or
25 after January 1, 2018.

Subtitle B—Provider Price Transparency

SEC. 121. ENSURING ACCESS TO EMERGENCY SERVICES WITHOUT EXCESSIVE CHARGES FOR OUT-OF-NETWORK SERVICES.

(a) IN GENERAL.—Section 1867 of the Social Security Act (42 U.S.C. 1395dd) is amended—

(1) in subsection (d), by adding at the end the following new paragraph:

"(5) ENFORCEMENT WITH RESPECT TO EXCESSIVE CHARGES.—A hospital, physician, or other entity that violates the requirements of subsection (j)(1) with respect to the furnishing of items and services is subject to a civil money penalty of not more than $25,000 for each such violation. The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under this paragraph in the same manner as such provisions apply with respect to a penalty or proceeding under section 1128A(a)."; and

(2) by adding at the end the following new subsection:

"(j) PROTECTIONS AGAINST EXCESSIVE OUT-OF-NETWORK CHARGES FOR EMERGENCY SERVICES.—

1 "(1) IN GENERAL.—In the absence of State
2 regulations, if items or services to screen or treat an
3 emergency medical condition are furnished under
4 this section in a participating hospital with respect
5 to an individual and the individual has not, directly
6 or through a health insurance issuer, group health
7 plan, or other third party, negotiated a payment rate
8 for such items and services, subject to paragraph
9 (2), the charges imposed for such items and services
10 may not be in excess of the following:
11 "(A) PHYSICIANS' AND OTHER PROFES-
12 SIONAL SERVICES.—For physicians' services or
13 services of a health care provider which con-
14 stitute medical care (as defined under section
15 213(d) of the Internal Revenue Code of 1986,
16 as in effect before the date of the enactment of
17 this subsection) (and including drugs and
18 biologicals furnished in conjunction with and
19 billed as part of such services), the lesser of—
20 "(i) the cash price for such services
21 posted pursuant to section 121(b) of the
22 Patient Freedom Act of 2017; or
23 "(ii) 85 percent of the usual, cus-
24 tomary, and reasonable (UCR) charge for
25 such services, as determined under rules

1 established by the department of insurance
2 for the State in which the services are fur-
3 nished.
4 ''(B) HOSPITAL SERVICES.—For inpatient
5 and outpatient hospital services for which pay-
6 ment rates are established under this title (and
7 including drugs and biologicals furnished in
8 conjunction with and billed as part of such
9 services), the lesser of—
10 ''(i) the cash price for such services
11 posted pursuant to section 121(b) of the
12 Patient Freedom Act of 2017; or
13 ''(ii) 110 percent of the payment rate
14 applicable to such services in the case of
15 an individual entitled to benefits under
16 part A and enrolled under part B.
17 ''(C) DRUGS AND BIOLOGICALS.—For
18 drugs and other pharmaceuticals furnished to
19 which a previous subparagraph does not apply,
20 the lesser of—
21 ''(i) twice the acquisition cost to the
22 hospital or other provider for the dose in-
23 volved; or
24 ''(ii) the acquisition cost to the hos-
25 pital or other provider plus $250.

1 The dollar amount in clause (ii) shall be in-
2 creased from year to year (beginning with the
3 year after the first year in which this subsection
4 applies) by the same percentage as the percent-
5 age increase in the consumer price index for all
6 urban consumers (all items; U.S. city average)
7 for the year involved (as determined by the Sec-
8 retary). Any such dollar amount as so increased
9 that is not a multiple of $5 shall be rounded to
10 the nearest multiple of $5 (or, if a multiple of
11 $2.50, to the next highest multiple of $5).
12 ''(D) OTHER ITEMS AND SERVICES.—For
13 any other items or services, the lesser of—
14 ''(i) the cash price for such items and
15 services posted pursuant to section 121(b)
16 of the Patient Freedom Act of 2017; or
17 ''(ii) 110 percent of the payment basis
18 that would be applicable to payment for
19 such items and services under this title in
20 the case of an individual entitled to bene-
21 fits under part A and enrolled under part
22 B.
23 ''(2) SPECIAL RULE FOR ITEMS AND SERVICES
24 FURNISHED AS A BUNDLE.—In the case of items
25 and services for which there is a single price for a

1 group or bundle of such items and services, the max-
2 imum charge permitted under paragraph (1) may
3 not exceed the lesser of—
4 ‘‘(A) the price charged for such bundled
5 services; or
6 ‘‘(B) the aggregate of the maximum
7 charges permitted under paragraph (1) with re-
8 spect to items and services included in such
9 bundle.’’.
10 (b) REFERENCE TO PRICE DISCLOSURE PROVI-
11 SION.—
12 (1) IN GENERAL.—Persons providing medical
13 care (as defined in section 213(d) of the Internal
14 Revenue Code of 1986, as in effect before the date
15 of the enactment of this Act) are required to post
16 prices under this subsection.
17 (2) FORM OF DISCLOSURE.—The disclosure of
18 prices under this subsection shall be in a form and
19 manner specified by the Secretary, in consultation
20 with the Secretary of the Treasury, and shall be de-
21 signed—
22 (A) to establish a single price for related
23 items and services in a manner similar to the
24 manner in which pricing and payment for such
25 items and services is provided under the Medi-

1 care program under title XVIII of the Social
2 Security Act (42 U.S.C. 1395 et seq.); and
3 (B) to make it easy for consumers to com-
4 pare the prices for similar items and services
5 furnished by different providers.
6 (c) EFFECTIVE DATE.—The amendments made by
7 this section shall apply to charges imposed for items and
8 services furnished on or after January 1, 2018.

9 TITLE II—REFORM OF TAX PRO-
10 VISIONS RELATING TO
11 HEALTH CARE

12 Subtitle A—Health Savings
13 Accounts

14 SEC. 201. TRANSITION TO NON-DEDUCTIBLE HSAS.

15 (a) NON-DEDUCTIBLE HSAS.—Subchapter F of
16 chapter 1 of the Internal Revenue Code of 1986 is amend-
17 ed by adding at the end the following new part:

18 "PART IX—HEALTH SAVINGS ACCOUNTS

"Sec. 530A. Roth HSAs.

19 "SEC. 530A. ROTH HSAS.

20 "(a) IN GENERAL.—With the exception of the taxes
21 imposed by section 511 (relating to imposition of tax on
22 unrelated business income of charitable organizations), a
23 Roth HSA shall be exempt from taxation under this sub-

1 title. No deduction shall be allowed for any contribution
2 to a Roth HSA.
3 ‘‘(b) DOLLAR LIMITATION.—
4 ‘‘(1) IN GENERAL.—The aggregate amount of
5 contributions for any taxable year to all Roth HSAs
6 maintained for the benefit of an individual shall not
7 exceed the sum of the monthly limitations for any
8 month during such taxable year that the individual
9 is an eligible individual.
10 ‘‘(2) MONTHLY LIMITATION.—The monthly lim-
11 itation for any month is 1⁄12 of—
12 ‘‘(A) in the case of an eligible individual
13 who has self-only creditable coverage as of the
14 first day of such month, $5,000, and
15 ‘‘(B) in the case of an eligible individual
16 who has family creditable coverage as of the
17 first day of such month, the amount in effect
18 under subparagraph (A) for the taxable year
19 multiplied by the number of individuals (includ-
20 ing the eligible individual) covered under such
21 family creditable coverage as of such day.
22 ‘‘(3) ADDITIONAL CONTRIBUTIONS FOR INDI-
23 VIDUALS 55 OR OLDER.—In the case of an individual
24 who has attained age 55 before the close of the tax-
25 able year, the applicable limitation under subpara-

1 graphs (A) and (B) of paragraph (2) shall be in-
2 creased by $1,000.
3 ''(4) COORDINATION WITH OTHER CONTRIBU-
4 TIONS.—The limitation which would (but for this
5 paragraph) apply under this subsection to an indi-
6 vidual for any taxable year shall be reduced (but not
7 below zero) by the sum of—
8 ''(A) the aggregate amount paid for such
9 taxable year to Archer MSAs of such individual,
10 and
11 ''(B) the aggregate amount contributed to
12 Roth HSAs of such individual for such taxable
13 year under section 408(d)(9).
14 Subparagraph (A) shall not apply with respect to
15 any individual to whom paragraph (5) applies.
16 ''(5) SPECIAL RULE FOR MARRIED INDIVID-
17 UALS.—In the case of individuals who are married
18 to each other, if either spouse has family coverage—
19 ''(A) both spouses shall be treated as hav-
20 ing only such family coverage (and if such
21 spouses each have family coverage under dif-
22 ferent plans, as having the family coverage with
23 the lowest annual deductible), and
24 ''(B) the limitation under paragraph (1)
25 (after the application of subparagraph (A) and

1 without regard to any additional contribution
2 amount under paragraph (3))—
3 "(i) shall be reduced by the aggregate
4 amount paid to Archer MSAs of such
5 spouses for the taxable year, and
6 "(ii) after such reduction, shall be di-
7 vided equally between them unless they
8 agree on a different division.
9 "(6) DENIAL OF DEDUCTION TO DEPEND-
10 ENTS.—No contribution may be made to a Roth
11 HSA under this section by any individual with re-
12 spect to whom a deduction under section 151 is al-
13 lowable to another taxpayer for a taxable year begin-
14 ning in the calendar year in which such individual's
15 taxable year begins.
16 "(7) MEDICARE ELIGIBLE INDIVIDUALS.—The
17 limitation under this subsection for any month with
18 respect to an individual shall be zero for the first
19 month such individual is entitled to benefits under
20 title XVIII of the Social Security Act and for each
21 month thereafter.
22 "(8) INCREASE IN LIMIT FOR INDIVIDUALS BE-
23 COMING ELIGIBLE INDIVIDUALS AFTER THE BEGIN-
24 NING OF THE YEAR.—

1 "(A) IN GENERAL.—For purposes of com-
2 puting the limitation under paragraph (1) for
3 any taxable year, an individual who is an eligi-
4 ble individual during the last month of such
5 taxable year shall be treated—
6 "(i) as having been an eligible indi-
7 vidual during each of the months in such
8 taxable year, and
9 "(ii) as having been enrolled, during
10 each of the months such individual is
11 treated as an eligible individual solely by
12 reason of clause (i), in the same health
13 plan in which the individual was enrolled
14 for the last month of such taxable year.
15 "(B) FAILURE TO MAINTAIN CREDITABLE
16 COVERAGE.—
17 "(i) IN GENERAL.—If, at any time
18 during the testing period, the individual is
19 not an eligible individual, then—
20 "(I) the gross income of the indi-
21 vidual for the taxable year in which
22 occurs the first month in the testing
23 period for which such individual is not
24 an eligible individual shall be in-
25 creased by the aggregate amount of

1 all contributions to the Roth HSA of
2 the individual which could not have
3 been made but for subparagraph (A),
4 and
5 ''(II) the tax imposed by this
6 chapter for any taxable year on the
7 individual shall be increased by 10
8 percent of the amount of such in-
9 crease.
10 ''(ii) EXCEPTION FOR DISABILITY OR
11 DEATH.—Clause (i) shall not apply if the
12 individual ceased to be an eligible indi-
13 vidual by reason of the death of the indi-
14 vidual or the individual becoming disabled
15 (within the meaning of section 72(m)(7)).
16 ''(iii) TESTING PERIOD.—The term
17 'testing period' means the period beginning
18 with the last month of the taxable year re-
19 ferred to in subparagraph (A) and ending
20 on the last day of the 12th month fol-
21 lowing such month.
22 ''(9) LIMITATION NOT TO APPLY TO CERTAIN
23 CONTRIBUTIONS MADE UNDER PATIENT FREEDOM
24 ACT.—Any contributions made under 103(b) of the
25 Patient Freedom Act of 2017 or as provided in sec-

1 tion 36C shall not be taken into account for pur-
2 poses of determining whether the limitation under
3 paragraph (1) has been met.
4 ''(c) ROTH HSA.—For purposes of this title—
5 ''(1) IN GENERAL.—The term 'Roth HSA' or
6 'Roth health savings account' means a trust created
7 or organized in the United States as a Roth HSA
8 exclusively for the purpose of paying the qualified
9 medical expenses of the account beneficiary, but only
10 if the written governing instrument creating the
11 trust meets the following requirements:
12 ''(A) Except in the case of a rollover con-
13 tribution described in subsection (e)(5) or sec-
14 tions 220(f)(5) or 223(f)(5), no contribution
15 will be accepted—
16 ''(i) unless it is in cash, or
17 ''(ii) to the extent such contribution,
18 when added to previous contributions to
19 the trust for the calendar year, exceeds the
20 sum of—
21 ''(I) the dollar amount in effect
22 under subsection (b)(2)(B), and
23 ''(II) the dollar amount in effect
24 under subsection (b)(3).

1 “(B) The trustee is a bank (as defined in
2 section 408(n)), an insurance company (as de-
3 fined in section 816), or another person who
4 demonstrates to the satisfaction of the Sec-
5 retary that the manner in which such person
6 will administer the trust will be consistent with
7 the requirements of this section.
8 “(C) No part of the trust assets will be in-
9 vested in life insurance contracts.
10 “(D) The assets of the trust will not be
11 commingled with other property except in a
12 common trust fund or common investment
13 fund.
14 “(E) The interest of an individual in the
15 balance in his account is nonforfeitable.
16 “(2) QUALIFIED MEDICAL EXPENSES.—For
17 purposes of this section—
18 “(A) IN GENERAL.—The term ‘qualified
19 medical expenses’ means, with respect to an ac-
20 count beneficiary, amounts paid by such bene-
21 ficiary for medical care (as defined in section
22 213(d) as in effect on the day before the date
23 of the enactment of the Patient Freedom Act of
24 2017) for such individual, the spouse of such
25 individual, and any dependent (as defined in

1 section 152, determined without regard to sub-
2 sections (b)(1), (b)(2), and (d)(1)(B) thereof)
3 of such individual, but only to the extent such
4 amounts are not compensated for by insurance
5 or otherwise.
6 ‘‘(B) LIMITATION ON HEALTH INSURANCE
7 PURCHASED FROM ACCOUNT.—Such term shall
8 not include any payment for health benefits cov-
9 erage that is not creditable coverage (within the
10 meaning of title XXVII of the Public Health
11 Service Act).
12 ‘‘(C) EXCEPTIONS.—Subparagraph (B)
13 shall not apply to any expense for coverage
14 under—
15 ‘‘(i) a health plan during any period
16 of continuation coverage required under
17 any Federal law,
18 ‘‘(ii) a qualified long-term care insur-
19 ance contract (as defined in section
20 7702B(b)),
21 ‘‘(iii) a health plan during a period in
22 which the individual is receiving unemploy-
23 ment compensation under any Federal or
24 State law, or

1 "(iv) in the case of an account bene-
2 ficiary who has attained the age specified
3 in section 1811 of the Social Security Act,
4 any health insurance other than a medi-
5 care supplemental policy (as defined in sec-
6 tion 1882 of the Social Security Act).
7 "(3) ACCOUNT BENEFICIARY.—The term 'ac-
8 count beneficiary' means the individual on whose be-
9 half the Roth HSA was established.
10 "(4) CERTAIN RULES TO APPLY.—Rules similar
11 to the following rules shall apply for purposes of this
12 section:
13 "(A) Section 219(f)(3) (relating to time
14 when contributions deemed made).
15 "(B) Section 219(f)(5) (relating to em-
16 ployer payments).
17 "(C) Section 408(g) (relating to commu-
18 nity property laws).
19 "(D) Section 408(h) (relating to custodial
20 accounts).
21 "(5) ACCOUNT TERMINATIONS.—Rules similar
22 to the rules of paragraphs (2) and (4) of section
23 408(e) shall apply to Roth HSAs, and any amount
24 treated as distributed under such rules shall be

1 treated as not used to pay qualified medical ex-
2 penses.
3 ''(d) ELIGIBLE INDIVIDUAL.—For purposes of this
4 section, the term 'eligible individual' means, with respect
5 to any month, any individual who is covered under cred-
6 itable coverage (within the meaning of title XXVII of the
7 Public Health Service Act) as of the 1st day of such
8 month.
9 ''(e) TAX TREATMENT OF DISTRIBUTIONS.—
10 ''(1) AMOUNTS USED FOR QUALIFIED MEDICAL
11 EXPENSES.—Any amount paid or distributed out of
12 a Roth HSA which is used exclusively to pay quali-
13 fied medical expenses of any account beneficiary
14 shall not be includible in gross income in the manner
15 provided in section 72.
16 ''(2) INCLUSION OF AMOUNTS NOT USED FOR
17 QUALIFIED MEDICAL EXPENSES.—Any amount paid
18 or distributed out of a Roth HSA which is not used
19 exclusively to pay the qualified medical expenses of
20 the account beneficiary shall be included in the gross
21 income of such beneficiary.
22 ''(3) EXCESS CONTRIBUTIONS RETURNED BE-
23 FORE DUE DATE OF RETURN.—
24 ''(A) IN GENERAL.—If any excess con-
25 tribution is contributed for a taxable year to

1 any Roth HSA of an individual, paragraph (2)
2 shall not apply to distributions from the Roth
3 HSAs of such individual (to the extent such dis-
4 tributions do not exceed the aggregate excess
5 contributions to all such accounts of such indi-
6 vidual for such year) if—
7 ''(i) such distribution is received by
8 the individual on or before the last day
9 prescribed by law (including extensions of
10 time) for filing such individual's return for
11 such taxable year, and
12 ''(ii) such distribution is accompanied
13 by the amount of net income attributable
14 to such excess contribution.
15 Any net income described in clause (ii) shall be
16 included in the gross income of the individual
17 for the taxable year in which it is received.
18 ''(B) EXCESS CONTRIBUTION.—For pur-
19 poses of subparagraph (A), the term 'excess
20 contribution' means any contribution (other
21 than a rollover contribution described in para-
22 graph (5) or sections 220(f)(5) or 223(f)(5))
23 which exceeds the contribution limitation with
24 respect to the individual for the taxable year.

1 "(4) ADDITIONAL TAX ON DISTRIBUTIONS NOT
2 USED FOR QUALIFIED MEDICAL EXPENSES.—
3 "(A) IN GENERAL.—The tax imposed by
4 this chapter on the account beneficiary for any
5 taxable year in which there is a payment or dis-
6 tribution from a Roth HSA of such beneficiary
7 which is includible in gross income under para-
8 graph (2) shall be increased by 10 percent of
9 the amount which is so includible.
10 "(B) EXCEPTION FOR DISABILITY OR
11 DEATH.—Subparagraph (A) shall not apply if
12 the payment or distribution is made after the
13 account beneficiary becomes disabled within the
14 meaning of section 72(m)(7) or dies.
15 "(C) EXCEPTION FOR DISTRIBUTIONS
16 AFTER MEDICARE ELIGIBILITY.—Subparagraph
17 (A) shall not apply to any payment or distribu-
18 tion after the date on which the account bene-
19 ficiary attains the age specified in section 1811
20 of the Social Security Act.
21 "(5) ROLLOVER CONTRIBUTION.—An amount is
22 described in this paragraph as a rollover contribu-
23 tion if it meets the requirements of subparagraphs
24 (A) and (B).

1 "(A) IN GENERAL.—Paragraph (2) shall
2 not apply to any amount paid or distributed
3 from a health savings account (as defined in
4 section 223) or a Roth HSA to the account
5 beneficiary to the extent the amount received is
6 paid into a Roth HSA for the benefit of such
7 beneficiary not later than the 60th day after
8 the day on which the beneficiary receives the
9 payment or distribution.
10 "(B) LIMITATION.—This paragraph shall
11 not apply to any amount described in subpara-
12 graph (A) received by an individual from a
13 health savings account or a Roth HSA if, at
14 any time during the 1-year period ending on the
15 day of such receipt, such individual received any
16 other amount described in subparagraph (A)
17 from a health savings account or Roth HSA
18 which was not includible in the individual's
19 gross income because of the application of this
20 paragraph.
21 "(6) TRANSFER OF ACCOUNT INCIDENT TO DI-
22 VORCE.—The transfer of an individual's interest in
23 a Roth HSA to an individual's spouse or former
24 spouse under a divorce or separation instrument de-
25 scribed in subparagraph (A) of section 71(b)(2) shall

1 not be considered a taxable transfer made by such
2 individual notwithstanding any other provision of
3 this subtitle, and such interest shall, after such
4 transfer, be treated as a Roth HSA with respect to
5 which such spouse is the account beneficiary.

6 ''(7) TREATMENT AFTER DEATH OF ACCOUNT
7 BENEFICIARY.—If an individual acquires an account
8 beneficiary's interest in a health savings account by
9 reason of the death of the account beneficiary, such
10 health savings account shall be treated as if the indi-
11 vidual were the account beneficiary.

12 ''(f) COST-OF-LIVING ADJUSTMENT.—

13 ''(1) IN GENERAL.—In the case of any calendar
14 year beginning after 2017, the $5,000 dollar amount
15 in subsection (b)(2) shall be increased by an amount
16 equal to—

17 ''(A) such dollar amount, multiplied by

18 ''(B) the cost-of-living adjustment deter-
19 mined under section 1(f)(3) for the calendar
20 year, determined—

21 ''(i) by substituting 'calendar year
22 2016' for 'calendar year 1992' in subpara-
23 graph (B) thereof, and

24 ''(ii) by substituting 'CPI medical care
25 component' for 'CPI'.

1 "(2) CPI MEDICAL CARE COMPONENT.—For
2 purposes of this paragraph, the term 'CPI medical
3 care component' means the medical care component
4 for the Consumer Price Index for All Urban Con-
5 sumers published by the Department of Labor.
6 "(3) ROUNDING.—If the amount of any in-
7 crease under the preceding sentence is not a mul-
8 tiple of $50, such increase shall be rounded to the
9 next lowest multiple of $50.
10 "(g) REPORTS.—The Secretary may require—
11 "(1) the trustee of a Roth HSA to make such
12 reports regarding such account to the Secretary and
13 to the account beneficiary with respect to contribu-
14 tions, distributions, the return of excess contribu-
15 tions, and such other matters as the Secretary deter-
16 mines appropriate, and
17 "(2) any person who provides an individual with
18 creditable coverage to make such reports to the Sec-
19 retary and to the account beneficiary with respect to
20 such plan as the Secretary determines appropriate.
21 The reports required by this subsection shall be filed at
22 such time and in such manner and furnished to such indi-
23 viduals at such time and in such manner as may be re-
24 quired by the Secretary.".

1 (b) LIMIT ON CONTRIBUTIONS TO DEDUCTIBLE
2 HEALTH SAVINGS ACCOUNTS.—Section 223 of such Code
3 is amended by adding at the end the following new sub-
4 section:
5 ''(i) LIMITED CONTRIBUTIONS AFTER 2016.—
6 ''(1) IN GENERAL.—No contribution may be ac-
7 cepted by a health savings account after the date of
8 the enactment of this subsection.
9 ''(2) EXCEPTIONS.—Paragraph (1) shall not
10 apply to a rollover contribution described in sub-
11 section (f)(5).''.
12 (c) CONFORMING AMENDMENTS.—
13 (1) Section 26(b)(2) of the Internal Revenue
14 Code of 1986 is amended—
15 (A) in subparagraph (S), by striking ''and
16 408(d)(9)(D)(i)(II)'' and inserting
17 ''408(d)(9)(D)(i)(II), and
18 530A(b)(8)(B)(i)(II)'', and
19 (B) in subparagraph (U), by inserting
20 ''and section 530A(e)(4)'' before the comma at
21 the end.
22 (2) Section 35(g)(3) of such Code is amended—
23 (A) by striking ''or from'' and inserting '',
24 from'', and

1 (B) by inserting ‘‘or from a Roth HSA (as
2 defined in section 530A(c))’’ after ‘‘223(d))’’.
3 (3) Section 220(f)(5)(A) of such Code is
4 amended by inserting ‘‘or a Roth HSA (as defined
5 in section 530A(c))’’ after ‘‘223(d))’’.
6 (4) Section 223(f)(5)(A) of such Code is
7 amended by inserting ‘‘or a Roth HSA (as defined
8 in section 530A(c))’’ after ‘‘paid into a health sav-
9 ings account’’.
10 (5) Section 408(d)(9) of such Code is amended
11 by adding at the end the following new subpara-
12 graph:
13 ‘‘(F) APPLICATION TO ROTH HSAS.—Rules
14 similar to the rules of the preceding subpara-
15 graphs of this paragraph shall apply with re-
16 spect to eligible individuals (as defined in sec-
17 tion 530A(d)) making contributions to Roth
18 HSAs, except that subparagraph (C) shall be
19 applied by substituting ‘section 530A(b)’ for
20 ‘section 223(b)’.’’.
21 (6) Section 848(e)(1)(B)(v) of such Code is
22 amended by inserting ‘‘or a Roth HSA (as defined
23 in section 530A(c))’’ after ‘‘223(d))’’.

1 (7) Section 877A(e)(2) of such Code is amend-
2 ed by inserting "a Roth HSA (as defined in section
3 530A(c)," after "223),".
4 (8) Section 4973 of such Code is amended—
5 (A) in subsection (a), by striking "or" at
6 the end of paragraph (5), by inserting "or" at
7 the end of paragraph (6), and by inserting after
8 paragraph (6) the following new paragraph:
9 "(7) a Roth HSA (within the meaning of sec-
10 tion 530A),", and
11 (B) by adding at the end the following new
12 subsection:
13 "(j) EXCESS CONTRIBUTION TO ROTH HSAS.—For
14 purposes of this section, in the case of Roth HSA (within
15 the meaning of section 530A(c)), the term 'excess con-
16 tributions' means the sum of—
17 "(1) the aggregate amount contributed for the
18 taxable year to the accounts (other than a rollover
19 contribution described in section 220(f)(5),
20 223(f)(5), or 530A(e)(5)), and
21 "(2) the amount determined under this sub-
22 section for the preceding taxable year, reduced by
23 the sum of—

1 "(A) the distributions out of the accounts
2 which were included in gross income under sec-
3 tion 530A(e)(2), and
4 "(B) the excess (if any) of—
5 "(i) the maximum amount allowable
6 as a contribution under section 530A(b)
7 for the taxable year, over
8 "(ii) the amount contributed to the
9 accounts for the taxable year.
10 For purposes of this subsection, any contribution which
11 is distributed out of the Roth HSA in a distribution to
12 which section 530A(e)(3) applies shall be treated as an
13 amount not contributed.".
14 (9) Section 4975(c) of such Code is amended by
15 adding at the end the following new paragraph:
16 "(7) SPECIAL RULE FOR ROTH HSAS.—An indi-
17 vidual for whose benefit a Roth HSA (within the
18 meaning of section 530A(c)) is established shall be
19 exempt from the tax imposed by this section with re-
20 spect to any transaction concerning such account
21 (which would otherwise be taxable under this sec-
22 tion) if, with respect to such transaction, the ac-
23 count ceases to be a Roth HSA by reason of the ap-
24 plication of section 530A(c)(5) to such account.".

1 (10) Section 6051(a)(12) of such Code is
2 amended by inserting "and to any Roth HSA (as de-
3 fined in section 530A(c))" after "223(d))".
4 (11) Section 6693(a)(2) of such Code is amend-
5 ed by striking "and" at the end of subparagraph
6 (E), by striking the period at the end of subpara-
7 graph (F) and inserting ", and", and by adding at
8 the end the following new subparagraph:
9 "(G) section 530A(g) (relating to Roth
10 HSAs).".
11 (d) CLERICAL AMENDMENT.—The table of parts for
12 subchapter F of chapter 1 of such Code is amended by
13 adding at the end the following new item:

"PART IX. ROTH HEALTH SAVINGS ACCOUNTS.".

14 (e) EFFECTIVE DATE.—The amendments made by
15 this section shall apply to taxable years beginning after
16 December 31, 2016.

17 **SEC. 202. TREATMENT OF DIRECT PRIMARY CARE.**

18 (a) HSAS.—
19 (1) ROTH HSA.—Section 530A(c)(2)(A) of the
20 Internal Revenue Code of 1986, as added by this
21 Act, is amended by adding at the end the following:
22 "Such term shall include the payment of a monthly
23 or other prepaid amount for the furnishing (or ac-
24 cess to the furnishing) by a physician or group of

physicians of physician professional services (and ancillary services).''.

(2) HSA.—Section 223(d)(2)(A) of such Code is amended by adding at the end the following: ''Such term shall include the payment of a monthly or other prepaid amount for the furnishing (or access to the furnishing) by a physician or group of physicians of physician professional services (and ancillary services).''.

(b) NOT TREATED AS HEALTH INSURANCE COVERAGE.—

(1) IN GENERAL.—For purposes of title XXVII of the Public Health Service Act, subtitle B of title I of the Employee Retirement and Income Security Act of 1974, PPACA, and this Act, the offering of direct primary care shall not be treated as the offering of health insurance coverage and shall not be subject to regulations as such coverage under such Acts.

(2) DIRECT PRIMARY CARE DEFINED.—In this subsection, the term ''direct primary care'' means the furnishing (or access to the furnishing) by a physician or group of physicians of physician professional services (and ancillary services) in return for payment of a monthly or other prepaid amount.

SEC. 203. TREATMENT OF HSA AFTER DEATH OF ACCOUNT BENEFICIARY.

(a) IN GENERAL.—Section 223(e)(8) of the Internal Revenue Code of 1986, as redesignated by section 201(c)(3) of this Act, is amended to read as follows:

"(8) TREATMENT AFTER DEATH OF ACCOUNT BENEFICIARY.—If an individual acquires an account beneficiary's interest in a health savings account by reason of the death of the account beneficiary, such health savings account shall be treated as if the individual were the account beneficiary.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to interests acquired after the date of the enactment of this Act.

Subtitle B—Health Care Tax Credits

SEC. 211. LIMITED APPLICATION OF PPACA HEALTH PREMIUM CREDIT.

(a) IN GENERAL.—Section 36B(c)(1) of the Internal Revenue Code of 1986 is amended by adding at the end the following:

"(E) SPECIAL RULE FOR RESIDENTS OF STATES CONTINUING PPACA IMPLEMENTATION.—No credit shall be allowed under this section to any individual who is not a qualified resident (as defined in section 100(15) of the

1 Patient Freedom Act of 2017) of a State that
2 has elected the option under section 102(a)(1)
3 of such Act in relation to the implementation of
4 title I of the Patient Protection and Affordable
5 Care Act.''.
6 (b) LIMITATION ON AMOUNT OF CREDIT.—Section
7 36B(b) of the Internal Revenue Code of 1986 is amended
8 by adding at the end the following new paragraph:
9 ''(4) LIMITATION ON AMOUNT OF CREDIT.—In
10 the case of any taxable year beginning in a calendar
11 year which begins after the date of the enactment of
12 this paragraph, the Secretary shall reduce the
13 amount determined under this subsection (deter-
14 mined before the application of this paragraph) for
15 each qualified resident (as defined in section 100 of
16 the Patient Freedom Act of 2017) of a State that
17 makes an election under section 102(a)(1) of such
18 Act by an amount equal to—
19 ''(A) the amount of the reduction described
20 in section 102(a)(1)(A) of such Act for such
21 year (calculated by only taking into account
22 credit allowed under this section), divided by
23 ''(B) the total number of such qualified
24 residents of such State estimated by the Sec-

1 retary to claim the credit allowed under sub-
2 section (a) for such year.''.
3 (c) EFFECTIVE DATE.—The amendments made by
4 this section shall apply to taxable years beginning after
5 January 1, 2018.

6 **SEC. 212. NEW ROTH HSA CREDIT.**

7 (a) IN GENERAL.—Subpart C of part IV of sub-
8 chapter A of chapter 1 of the Internal Revenue Code of
9 1986 is amended by inserting after section 36B the fol-
10 lowing new section:

11 **"SEC. 36C. ROTH HSA CREDIT.**

12 ''(a) IN GENERAL.—In the case of a qualifying indi-
13 vidual, there shall be allowed as a credit against the tax
14 imposed by this subtitle for any taxable year, an amount
15 equal to the Roth HSA credit amount of the individual
16 for the taxable year.
17 ''(b) QUALIFYING INDIVIDUAL.—For purposes of this
18 section, the term 'qualifying individual' means, with re-
19 spect to any month, any individual who for such month
20 is a deposit qualifying resident (as defined in section
21 103(b)(2) of the Patient Freedom Act of 2017) of a State
22 described in section 102(a)(2) of such Act that elects to
23 have section 103(b) of such Act carried out by way of the
24 credit determined under this section.

1 “(c) ROTH HSA CREDIT AMOUNT.—For purposes of
2 this section, the term ‘Roth HSA credit amount’ means,
3 with respect to any taxable year, the sum of the Roth HSA
4 deposit amounts determined under section 104 of the Pa-
5 tient Freedom Act of 2017 with respect to the individual
6 for all months ending during the taxable year.
7 “(d) SPECIAL RULES.—For purposes of this sec-
8 tion—
9 “(1) RECONCILIATION OF CREDIT AND AD-
10 VANCE CREDIT.—
11 “(A) EXCESS ADVANCE PAYMENTS.—If the
12 advance payments to an individual for a taxable
13 year under subsection (e) exceed the credit al-
14 lowed by this section with respect to such indi-
15 vidual for such taxable year, the tax imposed by
16 this chapter for the taxable year shall be in-
17 creased by the amount of such excess.
18 “(B) ADVANCE PAYMENT SHORTFALL.—If
19 the credit allowed by this section (determined
20 without regard to this subparagraph) with re-
21 spect to an individual for a taxable year exceeds
22 the advance payments to such individual for
23 such taxable year under subsection (e), the Sec-
24 retary shall, in lieu of a credit allowed against
25 the tax imposed by this subtitle, make a pay-

1 ment on behalf of such individual to such indi-
2 vidual's health savings account in an amount
3 equal to such excess.
4 ''(2) MARRIED COUPLES MUST FILE JOINT RE-
5 TURN.—If the taxpayer is married (within the mean-
6 ing of section 7703) at the close of the taxable year,
7 the credit shall be allowed under this section only if
8 the taxpayer and the taxpayer's spouse file a joint
9 return for the taxable year.
10 ''(e) ADVANCE PAYMENT PROGRAM.—
11 ''(1) IN GENERAL.—The Secretary of the
12 Treasury, in consultation with the Secretary of
13 Health and Human Services, shall establish a pro-
14 gram—
15 ''(A) to make advance determinations with
16 respect to the eligibility of individuals for the
17 credit allowed under this section, and
18 ''(B) to make advance payments of the
19 credit allowed under this section directly to the
20 Roth HSA of any such individual so eligible.
21 ''(2) PROGRAM REQUIREMENTS.—Such pro-
22 gram shall be established under rules similar to the
23 rules of section 1412 of the Patient Protection and
24 Affordable Care Act, except that advance determina-
25 tions and advance payments shall be made on re-

1 quest of the individual with respect to whom the de-
2 termination is to be made and taking into account
3 the enrollment process (including any opt-out elec-
4 tion under such process) established under section
5 105(c) of the Patient Freedom Act of 2017.

6 "(3) TREATMENT AS INCOME.—The amount of
7 any credit allowed under this section shall be in-
8 cluded in gross income.".

9 (b) CLERICAL AMENDMENT.—The table of sections
10 for such subpart is amended by inserting after the item
11 relating to section 36B the following new item:

"Sec. 36C. Roth HSA credit.".

12 (c) EFFECTIVE DATE.—The amendments made by
13 this section shall apply to taxable years beginning after
14 January 1, 2018.