

Thurs 7/30
4:32 pm
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**AMENDMENT TO THE AMENDMENT IN THE
NATURE OF A SUBSTITUTE TO H.R. 3200**

OFFERED BY M. Capps

[AINS-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
2 MINIMUM BENEFITS PACKAGE.—

3 (1) PROHIBITION OF REQUIRED COVERAGE.—

4 The Health Benefits Advisory Committee may not
5 recommend under section 123(b) and the Secretary
6 may not adopt in standards under section 124(b),
7 the services described in paragraph (4)(A) or (4)(B)
8 as part of the essential benefits package and the
9 Commissioner may not require such services for
10 qualified health benefits plans to participate in the
11 Health Insurance Exchange.

12 (2) VOLUNTARY CHOICE OF COVERAGE BY
13 PLAN.—In the case of a qualified health benefits

1 plan, the plan is not required (or prohibited) under
2 this Act from providing coverage of services de-
3 scribed in paragraph (4)(A) or (4)(B) and the
4 QHBP offering entity shall determine whether such
5 coverage is provided.

6 (3) COVERAGE UNDER PUBLIC HEALTH INSUR-
7 ANCE OPTION.—The public health insurance option
8 shall provide coverage for services described in para-
9 graph (4)(B). Nothing in this Act shall be construed
10 as preventing the public health insurance option
11 from providing for or prohibiting coverage of serv-
12 ices described in paragraph (4)(A).

13 (4) ABORTION SERVICES.—

14 (A) ABORTIONS FOR WHICH PUBLIC FUND-
15 ING IS PROHIBITED.—The services described in
16 this subparagraph are abortions for which the
17 expenditure of Federal funds appropriated for
18 the Department of Health and Human Services
19 is not permitted, based on the law as in effect
20 as of the date that is 6 months before the be-
21 ginning of the plan year involved.

22 (B) ABORTIONS FOR WHICH PUBLIC FUND-
23 ING IS ALLOWED.—The services described in
24 this subparagraph are abortions for which the
25 expenditure of Federal funds appropriated for

1 the Department of Health and Human Services
2 is permitted, based on the law as in effect as
3 of the date that is 6 months before the begin-
4 ning of the plan year involved.

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

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

Add at the end of section 203 the following:

5 (e) RULES REGARDING COVERAGE OF AND AFFORD-
6 ABILITY CREDITS FOR SPECIFIED SERVICES.—

7 (1) ASSURED AVAILABILITY OF VARIED COV-
8 ERAGE THROUGH THE HEALTH INSURANCE EX-
9 CHANGE.—The Commissioner shall assure that, of
10 the Exchange participating health benefits plan of-
11 fered in each premium rating area of the Health In-
12 surance Exchange—

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

17 (B) there is at least one such plan that
18 does not provide coverage of services described

1 in section 122(d)(4)(A) which plan may also be
2 one that does not provide coverage of services
3 described in section 122(d)(4)(B).

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

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

12 (B) only premium amounts attributable to
13 the actuarial value described in section 113(b)
14 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).

1 (2) CONSIDERATIONS.—In making such esti-
2 mate the Commissioner—

3 (A) may take into account the impact on
4 overall costs of the inclusion of such coverage,
5 but may not take into account any cost reduc-
6 tion estimated to result from such services, in-
7 cluding prenatal care, delivery, or postnatal
8 care;

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

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

 Add at the end of section 204 the following new sub-
section:

14 (d) NO DISCRIMINATION ON THE BASIS OF PROVI-
15 SION OF ABORTION.—No Exchange participating health
16 benefits plan may discriminate against any individual
17 health care provider or health care facility because of its
18 willingness or unwillingness to provide, pay for, provide
19 coverage of, or refer for abortions.

 In section 241(c), add at the end the following new
paragraph:

1 (3) PROHIBITION OF USE OF PUBLIC FUNDS
2 FOR ABORTION COVERAGE.—An affordability credit
3 may not be used for payment for services described
4 in section 122(d)(4)(A).

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

5 **SEC. 2. APPLICATION OF STATE AND FEDERAL LAWS RE-**
6 **GARDING ABORTION.**

7 (a) NO PREEMPTION OF STATE LAWS REGARDING
8 ABORTION.—Nothing in this Act shall be construed to
9 preempt or otherwise have any effect on State laws regard-
10 ing the prohibition of (or requirement of) coverage, fund-
11 ing, or procedural requirements on abortions, including
12 parental notification or consent for the performance of an
13 abortion on a minor.

14 (b) NO EFFECT ON FEDERAL LAWS REGARDING
15 ABORTION.—

16 (1) IN GENERAL.—Nothing in this Act shall be
17 construed to have any effect on Federal laws regard-
18 ing—

19 (A) conscience protection;

20 (B) willingness or refusal to provide abor-
21 tion; and

22 (C) discrimination on the basis of the will-
23 ingness 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”).

