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(Original Signature of Member)

113TH CONGRESS  
2D SESSION

**H. R.**

To clarify the treatment under the Patient Protection and Affordable Care Act of health plans in which expatriates are the primary enrollees, and for other purposes.

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IN THE HOUSE OF REPRESENTATIVES

Mr. CARNEY (for himself, Mr. NUNES, and see ATTACHED LIST of cosponsors) introduced the following bill; which was referred to the Committee on

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**A BILL**

To clarify the treatment under the Patient Protection and Affordable Care Act of health plans in which expatriates are the primary enrollees, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Expatriate Health Cov-  
5 erage Clarification Act of 2014”.

1 **SEC. 2. TREATMENT OF EXPATRIATE HEALTH PLANS**  
2 **UNDER ACA.**

3 (a) IN GENERAL.—Subject to subsection (b), the pro-  
4 visions of (including any amendment made by) the Patient  
5 Protection and Affordable Care Act (Public Law 111–  
6 148) and of title I and subtitle B of title II of the Health  
7 Care and Education Reconciliation Act of 2011 (Public  
8 Law 111–152) shall not apply with respect to—

- 9 (1) expatriate health plans;  
10 (2) employers with respect to any such plans  
11 for which such employers are acting as plan spon-  
12 sors; or  
13 (3) expatriate health insurance issuers with re-  
14 spect to coverage offered by such issuers under such  
15 plans.

16 (b) MINIMUM ESSENTIAL COVERAGE AND ELIGIBLE  
17 EMPLOYER-SPONSORED PLAN.—For purposes of section  
18 5000A(f) of the Internal Revenue Code of 1986, and any  
19 other section of the Internal Revenue Code of 1986 that  
20 incorporates the definition of minimum essential coverage  
21 provided under such section 5000A(f) by reference, cov-  
22 erage under an expatriate health plan shall be deemed to  
23 be minimum essential coverage under an eligible employ-  
24 sponsored plan as defined in paragraph (2) of such sec-  
25 tion.

1           (c) QUALIFIED EXPATRIATES AND DEPENDENTS  
2 NOT UNITED STATES HEALTH RISK.—

3           (1) IN GENERAL.—For purposes of section  
4 9010 of the Patient Protection and Affordable Care  
5 Act (26 U.S.C. 4001 note prec.), for calendar years  
6 after 2014, a qualified expatriate (and any depend-  
7 ent of such individual) enrolled in an expatriate  
8 health plan shall not be considered a United States  
9 health risk.

10           (2) SPECIAL RULE FOR 2014.—The fee under  
11 section 9010 of such Act for calendar year 2014  
12 with respect to any expatriate health insurance  
13 issuer shall be the amount which bears the same  
14 ratio to the fee amount determined by the Secretary  
15 of the Treasury with respect to such issuer under  
16 such section for such year (determined without re-  
17 gard to this paragraph) as—

18           (A) the amount of premiums taken into ac-  
19 count under such section with respect to such  
20 issuer for such year, less the amount of pre-  
21 miums for expatriate health plans taken into  
22 account under such section with respect to such  
23 issuer for such year, bears to

1 (B) the amount of premiums taken into ac-  
2 count under such section with respect to such  
3 issuer for such year.

4 (d) DEFINITIONS.—In this section:

5 (1) EXPATRIATE HEALTH INSURANCE  
6 ISSUER.—The term “expatriate health insurance  
7 issuer” means a health insurance issuer that issues  
8 expatriate health plans.

9 (2) EXPATRIATE HEALTH PLAN.—The term  
10 “expatriate health plan” means a group health plan,  
11 health insurance coverage offered in connection with  
12 a group health plan, or health insurance coverage of-  
13 fered to a group of individuals described in para-  
14 graph (3)(B) (which may include dependents of such  
15 individuals) that meets each of the following stand-  
16 ards:

17 (A) Substantially all of the primary enroll-  
18 ees in such plan or coverage are qualified expa-  
19 triates, with respect to such plan or coverage.  
20 In applying the previous sentence, an individual  
21 shall not be taken into account as a primary en-  
22 rollee if the individual is not a national of the  
23 United States and resides in the country of  
24 which the individual is a citizen.

1           (B) Substantially all of the benefits pro-  
2           vided under the plan or coverage are not ex-  
3           cepted benefits described in section 9832(c) of  
4           the Internal Revenue Code of 1986.

5           (C) The plan or coverage provides benefits  
6           for items and services, in excess of emergency  
7           care, furnished by health care providers—

8                   (i) in the case of individuals described  
9                   in paragraph (3)(A), in the country or  
10                  countries in which the individual is present  
11                  in connection with the individual's employ-  
12                  ment, and such other country or countries  
13                  as the Secretary of Health and Human  
14                  Services, in consultation with the Secretary  
15                  of the Treasury and the Secretary of  
16                  Labor, may designate; or

17                   (ii) in the case of individuals described  
18                   in paragraph (3)(B), in the country or  
19                  countries as the Secretary of Health and  
20                  Human Services, in consultation with the  
21                  Secretary of the Treasury and the Sec-  
22                  retary of Labor, may designate.

23           (D) In the case of an expatriate health  
24           plan that is a group health plan offered by a  
25           plan sponsor that also offers a domestic group

1 health plan, the plan sponsor reasonably be-  
2 lieves that the benefits provided by the expa-  
3 triate health plan are actuarially similar to, or  
4 better than, the benefits provided under a do-  
5 mestic group health plan offered by that plan  
6 sponsor.

7 (E) If the plan or coverage provides de-  
8 pendent coverage of children, the plan or cov-  
9 erage makes such dependent coverage available  
10 for adult children until the adult child turns 26  
11 years of age, unless such individual is the child  
12 of a child receiving dependent coverage.

13 (3) QUALIFIED EXPATRIATE.—The term “quali-  
14 fied expatriate” means any of the following individ-  
15 uals:

16 (A) WORKERS.—An individual who is a  
17 participant in a group health plan, who is a na-  
18 tional of the United States, lawful permanent  
19 resident, or nonimmigrant for whom there is a  
20 good faith expectation by the plan sponsor of  
21 the plan that, in connection with the individ-  
22 ual’s employment, the individual is abroad for a  
23 total of not less than 90 days during any period  
24 of 12 consecutive months of enrollment in the  
25 group health plan, or travels abroad on not less

1 than 15 occasions during such a 12-month pe-  
2 riod.

3 (B) OTHER INDIVIDUALS ABROAD.—An in-  
4 dividual, such as a student or religious mis-  
5 sionary, who is abroad, and who is a member  
6 of a group determined appropriate by the Sec-  
7 retary of Health and Human Services, in con-  
8 sultation with the Secretary of the Treasury  
9 and the Secretary of Labor.

10 (4) DOMESTIC GROUP HEALTH PLAN.—The  
11 term “domestic group health plan” means a group  
12 health plan that is offered in the United States and  
13 in which substantially all of the primary enrollees  
14 are not qualified expatriates, with respect to such  
15 plan, and substantially all of the benefits provided  
16 under the plan are not excepted benefits described in  
17 section 9832(e) of the Internal Revenue Code of  
18 1986.

19 (5) ABROAD.—

20 (A) UNITED STATES NATIONALS.—

21 (i) IN GENERAL.—Except as provided  
22 in clause (ii), for purposes of applying  
23 paragraph (3) to a national of the United  
24 States, the term “abroad” means outside

1 the 50 States, the District of Columbia,  
2 and Puerto Rico.

3 (ii) SPECIAL RULE.—For purposes of  
4 applying paragraph (3) to a national of the  
5 United States who resides in the United  
6 States Virgin Islands, the Commonwealth  
7 of the Northern Mariana Islands, Amer-  
8 ican Samoa, or Guam, the term “abroad”  
9 means outside of the 50 States, the Dis-  
10 trict of Columbia, Puerto Rico, and such  
11 territory or possession.

12 (B) FOREIGN CITIZENS.—For purposes of  
13 applying paragraph (3) to an individual who is  
14 not a national of the United States, the term  
15 “abroad” means outside of the country of which  
16 that individual is a citizen.

17 (6) UNITED STATES.—The term “United  
18 States” means the 50 States, the District of Colum-  
19 bia, Puerto Rico, the United States Virgin Islands,  
20 the Commonwealth of the Northern Mariana Is-  
21 lands, American Samoa, and Guam.

22 (7) MISCELLANEOUS TERMS.—

23 (A) GROUP HEALTH PLAN; HEALTH IN-  
24 SURANCE COVERAGE; HEALTH INSURANCE  
25 ISSUER; PLAN SPONSOR.—The terms “group

1 health plan”, “health insurance coverage”,  
2 “health insurance issuer”, and “plan sponsor”  
3 have the meanings given those terms in section  
4 2791 of the Public Health Service Act (42  
5 U.S.C. 300gg–91), except that in applying such  
6 terms under this section the term “health in-  
7 surance issuer” includes a foreign corporation  
8 which is predominantly engaged in an insurance  
9 business and which would be subject to tax  
10 under subchapter L of chapter 1 of the Internal  
11 Revenue Code of 1986 if it were a domestic cor-  
12 poration.

13 (B) FOREIGN STATE; NATIONAL OF THE  
14 UNITED STATES; NONIMMIGRANT; RESIDE; LAW-  
15 FUL PERMANENT RESIDENT.—The terms “na-  
16 tional of the United States”, and “non-  
17 immigrant” have the meaning given such terms  
18 in section 101(a) of the Immigration and Na-  
19 tionality Act (8 U.S.C. 1101(a)), the term “re-  
20 side” means having a residence (within the  
21 meaning of such term in such section), and the  
22 term “lawful permanent resident” means an  
23 alien lawfully admitted for permanent residence  
24 (as defined in such section).