

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 485
OFFERED BY M . _____**

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE.

2 This Act may be cited as the “Protecting Health Care
3 for All Patients Act of 2023”.

**4 SEC. 2. PROHIBITING THE USE OF QUALITY-ADJUSTED
5 LIFE YEARS AND SIMILAR MEASURES IN COV-
6 ERAGE AND PAYMENT DETERMINATIONS
7 UNDER FEDERAL HEALTH CARE PROGRAMS.**

8 (a) IN GENERAL.—Section 1182(e) of the Social Se-
9 curity Act (42 U.S.C. 1320e–1(e)) is amended—

10 (1) by striking “The Secretary shall not” and
11 inserting “A Federal agency (including the CMI (as
12 described in section 1115A)) or State may not”;

13 (2) by striking “under title XVIII.” and insert-
14 ing the following: “under any Federal health care
15 program (as defined in section 1128B, except that
16 such term shall include the health program estab-
17 lished under chapter 89 of title 5, United States
18 Code), or in a manner that treats extending the life

1 of an elderly, disabled, or terminally ill individual as
2 of lower value than extending the life of an indi-
3 vidual who is younger, non-disabled, or not termi-
4 nally ill.”; and

5 (3) by adding at the end the following new sen-
6 tence: “Notwithstanding any other provision of law,
7 a Federal agency (including the CMI) or State may
8 not waive the application of the provisions of this
9 subsection (or the provisions of section 1852(o), sec-
10 tion 1902(a)(88), section 1932(b)(9), or section
11 2102(e)) under section 1115, section 1115A, or any
12 other demonstration or waiver authority.”.

13 (b) CONFORMING AMENDMENTS.—

14 (1) MEDICAID.—

15 (A) IN GENERAL.—Section 1902(a) of the
16 Social Security Act (42 U.S.C. 1396a(a)) is
17 amended—

18 (i) in paragraph (86), by striking
19 “and” at the end;

20 (ii) in paragraph (87)(D), by striking
21 the period and inserting “; and”; and

22 (iii) by inserting after paragraph (87)
23 the following new paragraph:

24 “(88) provide for compliance with the require-
25 ments of section 1182(e) (relating to prohibiting the

1 use of certain measures in coverage determinations,
2 reimbursement, and incentive programs).”.

3 (B) MANAGED CARE ORGANIZATIONS.—

4 Section 1932(b) of the Social Security Act (42
5 U.S.C. 1396u–2(b)) is amended by adding at
6 the end the following new paragraph:

7 “(9) PROHIBITION ON USE OF QUALITY-AD-
8 JUSTED LIFE YEARS.—The provisions of section
9 1182(e) shall apply to the utilization of a dollars-
10 per-quality adjusted life year or similar measure (as
11 described in such section) by a medicaid managed
12 care organization under this title in the same man-
13 ner as such provisions apply to the utilization of
14 such a year or measure by a State under this title.”.

15 (2) CHIP.—Section 2102 of the Social Security
16 Act (42 U.S.C. 1397bb) is amended by adding at
17 the end the following new subsection:

18 “(e) PROHIBITION ON THE USE OF QUALITY-AD-
19 JUSTED LIFE YEARS AND SIMILAR MEASURES.—A State
20 child health plan shall provide for compliance with the re-
21 quirements of section 1182(e) (relating to prohibiting the
22 use of certain measures in coverage determinations, reim-
23 bursement, and incentive programs).”.

24 (3) MEDICARE ADVANTAGE.—Section 1852 of
25 the Social Security Act (42 U.S.C. 1395w–22) is

1 amended by adding at the end the following new
2 subsection:

3 “(o) PROHIBITION ON USE OF QUALITY-ADJUSTED
4 LIFE YEARS.—The provisions of section 1182(e) shall
5 apply to the utilization of a dollars-per-quality adjusted
6 life year or similar measure (as described in such section)
7 by an MA plan under such plan in the same manner as
8 such provisions apply to the utilization of such a year or
9 measure by the Secretary under this title.”.

