

118TH CONGRESS
1ST SESSION

S. 2374

To exclude certain individuals subject to certain deferred action from eligibility for health plans offered on the Exchanges, advance payments of the premium tax credit, cost-sharing reductions, a Basic Health Program, and for Medicaid and the Children’s Health Insurance Programs, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 19, 2023

Mr. VANCE introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To exclude certain individuals subject to certain deferred action from eligibility for health plans offered on the Exchanges, advance payments of the premium tax credit, cost-sharing reductions, a Basic Health Program, and for Medicaid and the Children’s Health Insurance Programs, 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 “Narrow Obamacare
5 for Illegal Aliens Act”.

1 **SEC. 2. TREATMENT OF INDIVIDUALS SUBJECT TO CER-**
2 **TAIN DEFERRED ACTION FOR PURPOSES OF**
3 **ENROLLMENT IN HEALTH PLANS OFFERED**
4 **ON THE EXCHANGES.**

5 (a) **ENROLLMENT INELIGIBILITY.**—Section
6 1312(f)(3) of the Patient Protection and Affordable Care
7 Act (42 U.S.C. 18032(f)(3)) is amended by adding at the
8 end the following: “Any alien who is lawfully present solely
9 because such individual was granted deferred action pur-
10 suant to the memorandum of the Department of Home-
11 land Security entitled ‘Exercising Prosecutorial Discretion
12 with Respect to Individuals Who Came to the United
13 States as Children’ issued on June 15, 2012, shall not
14 be treated as lawfully present for purposes of the pre-
15 ceding sentence.”.

16 (b) **INELIGIBILITY FOR CREDIT FOR COVERAGE**
17 **UNDER A QUALIFIED HEALTH PLAN.**—Paragraph (2) of
18 section 36B(e) of the Internal Revenue Code of 1986 is
19 amended by adding at the end the following: “Any alien
20 who is lawfully present solely because such individual was
21 granted deferred action pursuant to the memorandum of
22 the Department of Homeland Security entitled ‘Exercising
23 Prosecutorial Discretion with Respect to Individuals Who
24 Came to the United States as Children’ issued on June
25 15, 2012, shall not be treated as lawfully present for pur-
26 poses of the preceding sentence.”.

1 **SEC. 3. ENSURING THAT TAXPAYER FUNDS FOR HEALTH**
2 **INSURANCE COVERAGE ARE AVAILABLE**
3 **ONLY TO AUTHORIZED INDIVIDUALS.**

4 (a) BASIC HEALTH PROGRAMS.—

5 (1) IN GENERAL.—Section 1331(e) of the Pa-
6 tient Protection and Affordable Care Act (42 U.S.C.
7 18051(e)) is amended—

8 (A) by redesignating paragraph (2) as
9 paragraph (3);

10 (B) in paragraph (1), by striking the sec-
11 ond sentence; and

12 (C) by inserting after paragraph (1), the
13 following new paragraph:

14 “(2) EXCLUSIONS.—Such term shall not in-
15 clude the following:

16 “(A) Any individual who is not a qualified
17 individual under section 1312 who is eligible to
18 be covered by a qualified health plan offered
19 through an Exchange.

20 “(B) Any individual who is neither a cit-
21 izen or national of the United States nor an
22 alien lawfully present in the United States. Any
23 alien who is lawfully present solely because such
24 individual was granted deferred action pursuant
25 to the memorandum of the Department of
26 Homeland Security entitled ‘Exercising Pros-

1 ecutorial Discretion with Respect to Individuals
2 Who Came to the United States as Children’
3 issued on June 15, 2012, shall not be treated
4 as lawfully present for purposes of the pre-
5 ceding sentence.”.

6 (2) LIMITATION ON USE OF FUNDS.—Section
7 1331(d) of the Patient Protection and Affordable
8 Care Act (42 U.S.C. 18051(d)) is amended by add-
9 ing at the end the following new paragraph:

10 “(5) PROHIBITION ON USE OF PASS-THROUGH
11 FUNDING FOR CERTAIN INDIVIDUALS.—No amounts
12 transferred to a State under this section may be
13 used to offset the cost of health insurance coverage
14 (including through premium or cost sharing reduc-
15 tions) or to provide any other benefit with respect to
16 an individual who is not an eligible individual (as de-
17 fined in subsection (e)).”.

18 (b) STATE INNOVATION WAIVERS.—

19 (1) IN GENERAL.—Section 1332(a)(2)(B) of the
20 Patient Protection and Affordable Care Act (42
21 U.S.C. 18052(a)(2)(B)) is amended by inserting
22 “(other than the requirement described in section
23 1312(f)(3))” before the period.

24 (2) PROHIBITION ON USE OF PASS-THROUGH
25 FUNDING FOR CERTAIN INDIVIDUALS.—Section

1 1332(a)(3) of the Patient Protection and Affordable
2 Care Act (42 U.S.C. 18052(a)(3)) is amended by
3 adding at the end the following new sentence: “No
4 amounts paid to a State under this paragraph may
5 be used to offset the cost of health insurance cov-
6 erage (including through premium or cost sharing
7 reductions) or to provide any other benefit with re-
8 spect to an individual who is not a citizen or na-
9 tional of the United States or an alien lawfully
10 present in the United States. Any alien who is law-
11 fully present solely because such individual was
12 granted deferred action pursuant to the memo-
13 randum of the Department of Homeland Security
14 entitled ‘Exercising Prosecutorial Discretion with
15 Respect to Individuals Who Came to the United
16 States as Children’ issued on June 15, 2012, shall
17 not be treated as lawfully present for purposes of
18 the preceding sentence.”.

19 (c) MEDICAID AND CHIP.—

20 (1) EXCLUSION FROM DEFINITION OF QUALI-
21 FIED ALIEN UNDER PRWORA.—Section 431 of the
22 Personal Responsibility and Work Opportunity Rec-
23 onciliation Act of 1996 (8 U.S.C. 1641) is amended
24 by adding at the end the following new subsection:

1 “(d) TREATMENT OF CERTAIN DEFERRED ACTION
2 UNDER MEDICAID AND CHIP.—For purposes of this title,
3 the term ‘qualified alien’ shall not include any alien who
4 is lawfully present solely because such individual was
5 granted deferred action pursuant to the memorandum of
6 the Department of Homeland Security entitled ‘Exercising
7 Prosecutorial Discretion with Respect to Individuals Who
8 Came to the United States as Children’ issued on June
9 15, 2012, but only with respect to the designated Federal
10 program defined in section 402(b)(3)(C) (relating to the
11 Medicaid program) and the State Children’s Health Insur-
12 ance Program established under title XXI of the Social
13 Security Act (42 U.S.C. 1397aa et seq.). An individual
14 granted deferred action pursuant to the memorandum de-
15 scribed in the preceding sentence shall not be treated as
16 lawfully present or lawfully residing for purposes of the
17 designated Federal program defined in section
18 402(b)(3)(C) (relating to the Medicaid program) or the
19 State Children’s Health Insurance Program established
20 under title XXI of the Social Security Act (42 U.S.C.
21 1397aa et seq.).”.

22 (2) EXCLUSION FROM CHIPRA COVERAGE OP-
23 TION.—

1 (A) MEDICAID.—Section 1903(v)(4) of the
2 Social Security Act (42 U.S.C. 1396b(v)(4)) is
3 amended—

4 (i) in subparagraph (A), by striking
5 “A State may” and inserting “Subject to
6 subparagraph (D), a State may”; and

7 (ii) by adding at the end the following
8 new subparagraph:

9 “(D) Any alien who is lawfully present in the United
10 States solely because such individual was granted deferred
11 action pursuant to the memorandum of the Department
12 of Homeland Security entitled ‘Exercising Prosecutorial
13 Discretion with Respect to Individuals Who Came to the
14 United States as Children’ issued on June 15, 2012, shall
15 not be treated as lawfully present or lawfully residing for
16 purposes of an election by a State to provide medical as-
17 sistance to a category of aliens under subparagraph (A)
18 and shall not be considered to be described within either
19 or both of the eligibility categories described in such sub-
20 paragraph.”.

21 (B) CHIP.—Section 2107(e)(1)(O) of the
22 Social Security Act (42 U.S.C.
23 1397gg(e)(1)(O)) is amended by inserting “,
24 and subject to subparagraph (D) of such para-
25 graph” after “title XIX”.

1 (3) EXCLUSION FROM OTHER PREGNANCY-RE-
2 LATED COVERAGE OPTIONS UNDER CHIP.—

3 (A) DEFINITION OF CHILD.—Section
4 2110(c)(1) of the Social Security Act (42
5 U.S.C. 1397jj(c)(1)) is amended by adding at
6 the end the following new sentence: “Such
7 term, including as applied under section 457.10
8 of title 42, Code of Federal Regulations (as in
9 effect on the date of enactment of this sen-
10 tence), shall not include any alien who is law-
11 fully present solely because such individual was
12 granted deferred action pursuant to the memo-
13 randum of the Department of Homeland Secu-
14 rity entitled ‘Exercising Prosecutorial Discre-
15 tion with Respect to Individuals Who Came to
16 the United States as Children’ issued on June
17 15, 2012, and any such individual shall not be
18 treated as lawfully present or lawfully residing
19 in the United States for purposes of eligibility
20 for child health assistance under a State plan
21 under this title.”.

22 (B) TARGETED LOW-INCOME PREGNANT
23 WOMEN.—Section 2112 of the Social Security
24 Act (42 U.S.C. 1397ll) is amended—

1 (i) in subsection (d)(2), by inserting
2 after and below subparagraph (C), the fol-
3 lowing new flush sentence:

4 “Such term shall not include any alien who is law-
5 fully present solely because such individual was
6 granted deferred action pursuant to the memo-
7 randum of the Department of Homeland Security
8 entitled ‘Exercising Prosecutorial Discretion with
9 Respect to Individuals Who Came to the United
10 States as Children’ issued on June 15, 2012, and
11 any such individual shall not be treated as lawfully
12 present or lawfully residing in the United States for
13 purposes of eligibility for pregnancy-related assist-
14 ance or child health assistance under a State plan
15 under this title.”; and

16 (ii) in subsection (f), by adding at the
17 end the following new paragraph:

18 “(4) LIMITATION.—Notwithstanding paragraph
19 (3), a State shall not provide child health assistance
20 under any authority described in paragraph (1)(A)
21 or pregnancy-related services under a waiver speci-
22 fied in paragraph (1)(B) to any alien who is lawfully
23 present solely because such individual was granted
24 deferred action pursuant to the memorandum of the
25 Department of Homeland Security entitled ‘Exer-

1 cising Prosecutorial Discretion with Respect to Indi-
2 viduals Who Came to the United States as Children’
3 issued on June 15, 2012, and any such individual
4 shall not be treated as lawfully present or lawfully
5 residing in the United States for purposes of eligi-
6 bility for pregnancy-related assistance or child health
7 assistance under a State plan under this title.”.

8 (d) RESCISSION OF CERTAIN WAIVERS.—Not later
9 than 30 days after the date of the enactment of this Act,
10 the Secretary of Health and Human Services shall rescind
11 any waiver approved under section 1331 or 1332 of the
12 Patient Protection and Affordable Care Act (42 U.S.C.
13 18051, 18052) or under title XIX or XXI of the Social
14 Security Act (42 U.S.C. 1396 et seq., 1397aa et seq.) be-
15 fore such date that would not have been so approved had
16 the amendments made by this section been in effect at
17 the time of such approval.

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