

**SUBCOMMITTEE ON ENERGY AND ENVIRONMENT -- 111TH CONGRESS
ROLL CALL VOTE #**

BILL: H.R. 3200, the "America's Affordable Health Choices Act of 2009".

Require states to allow consumers to enter private plans

AMENDMENT: Amendment by Rep. Barton

DISPOSITION: **FAILED/AGREED TO**, by a roll call vote of 21 yeas to 33 nays.

REPRESENTATIVE	YEAS	NAYS	PRESENT	REPRESENTATIVE	YEAS	NAYS	PRESENT
Mr. Waxman		✓		Mr. Barton	✓		
Mr. Dingell				Mr. Hall	✓		
Mr. Markey		✓		Mr. Upton	✓		
Mr. Boucher				Mr. Stearns	-		
Mr. Pallone		✓		Mr. Deal	✓		
Mr. Gordon		✓		Mr. Whitfield	✓		
Mr. Rush				Mr. Shimkus			
Ms. Eshoo		✓		Mr. Shadegg	✓		
Mr. Stupak		✓		Mr. Blunt	✓		
Mr. Engel		✓		Mr. Buyer	✓		
Mr. Green		✓		Mr. Radanovich	✓		
Ms. DeGette		✓		Mr. Pitts	✓		
Ms. Capps		✓		Ms. Bono Mack	✓		
Mr. Doyle		✓		Mr. Walden	✓		
Ms. Harman		✓		Mr. Terry	✓		
Ms. Schakowsky		✓		Mr. Rogers	✓		
Mr. Gonzalez		✓		Ms. Myrick	✓		
Mr. Inslee		✓		Mr. Sullivan	✓		
Ms. Baldwin		✓		Mr. Murphy (PA)	✓		
Mr. Ross		✓		Mr. Burgess	✓		
Mr. Weiner		✓		Ms. Blackburn	✓		
Mr. Matheson		✓		Mr. Gingrey	✓		
Mr. Butterfield		✓		Mr. Scalise	✓		
Mr. Melancon		✓					
Mr. Barrow		✓					
Mr. Hill		✓					
Ms. Matsui		✓					
Ms. Christensen		✓					
Ms. Castor		✓					
Mr. Sarbanes		✓					
Mr. Murphy (CT)		✓					
Mr. Space		✓					
Mr. McNerney		✓					
Ms. Sutton		✓					
Mr. Braley		✓					
Mr. Welch		✓					

Current as of 1/13/09

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**AMENDMENT TO THE AMENDMENT IN THE
NATURE OF A SUBSTITUTE TO H.R. 3200
OFFERED BY M . _____**

(AINS-EC_001)

Add at the end of title VII of division B the following new subtitle:

1 **Subtitle I—Beneficiary Choice**
2 **Under Medicaid and SCHIP**

3 **SEC. 1781. EASING ADMINISTRATIVE BARRIERS TO STATE**
4 **COOPERATION WITH EMPLOYER-SPONSORED**
5 **INSURANCE COVERAGE.**

6 (a) REQUIRING SOME COVERAGE FOR EMPLOYER-
7 SPONSORED INSURANCE.—

8 (1) IN GENERAL.—Section 2102(a) of the So-
9 cial Security Act (42 U.S.C. 1397b(a)) is amend-
10 ed—

11 (A) in paragraph (6), by striking “and” at
12 the end;

13 (B) in paragraph (7), by striking the pe-
14 riod at the end and inserting “; and”; and

15 (C) by adding at the end the following new
16 paragraph:

1 “(8) effective for plan years beginning on or
2 after October 1, 2010, how the plan will provide for
3 child health assistance with respect to targeted low-
4 income children who have access to coverage under
5 a group health plan.”.

6 (2) EFFECTIVE DATE.—The amendments made
7 by paragraph (1) shall apply beginning with fiscal
8 year 2011.

9 (b) FEDERAL FINANCIAL PARTICIPATION FOR EM-
10 PLOYER-SPONSORED INSURANCE.—Section 2105 of such
11 Act (42 U.S.C. 1397d) is amended—

12 (1) in subsection (a)(1)(C), by inserting before
13 the semicolon at the end the following: “and, subject
14 to paragraph (3)(C) of subsection (c), in the form of
15 payment of the premiums for coverage under a
16 group health plan that includes coverage of targeted
17 low-income children and benefits supplemental to
18 such coverage”; and

19 (2) by amending paragraph (3) of subsection
20 (c) to read as follows:

21 “(3) PURCHASE OF EMPLOYER-SPONSORED IN-
22 SURANCE.—

23 “(A) IN GENERAL.—Payment may be
24 made to a State under subsection (a)(1)(C),
25 subject to the provisions of this paragraph, for

1 the purchase of family coverage under a group
2 health plan that includes coverage of targeted
3 low-income children unless such coverage would
4 otherwise substitute for coverage that would be
5 provided to such children but for the purchase
6 of family coverage.

7 “(B) WAIVER OF CERTAIN PROVISIONS.—
8 With respect to coverage described in subpara-
9 graph (A)—

10 “(i) notwithstanding section 2102, no
11 minimum benefits requirement (other than
12 those otherwise applicable with respect to
13 services within the categories of basic serv-
14 ices described in section 2103(c)(1) and
15 emergency services) under this title shall
16 apply; and

17 “(ii) no limitation on beneficiary cost-
18 sharing otherwise applicable under this
19 title or title XIX shall apply.

20 “(C) REQUIRED PROVISION OF SUPPLE-
21 MENTAL BENEFITS.—If the coverage described
22 in subparagraph (A) does not provide coverage
23 for the services in each of the categories of
24 basic services described in section 2103(c)(1)
25 and for emergency services, the State child

1 health plan shall provide coverage of such serv-
2 ices as supplemental benefits.

3 “(D) LIMITATION ON FFP.—The amount
4 of the payment under subsection (a)(1)(C) for
5 coverage described in subparagraph (A) (and
6 supplemental benefits under subparagraph (C)
7 for individuals so covered) during a fiscal year
8 may not exceed the product of—

9 “(i) the national per capita expendi-
10 ture under this title (taking into account
11 both Federal and State expenditures) for
12 the previous fiscal year (as determined by
13 the Secretary using the best available
14 data);

15 “(ii) the enhanced FMAP for the
16 State and fiscal year involved; and

17 “(iii) the number of targeted low-in-
18 come children for whom such coverage is
19 provided.

20 “(E) VOLUNTARY ENROLLMENT.—A State
21 child health plan—

22 “(i) may not require a targeted low-
23 income child to enroll in family coverage
24 described in subparagraph (A) in order to

1 obtain child health assistance under this
2 title;

3 “(ii) before providing such child
4 health assistance for such coverage of a
5 child, shall make available (which may be
6 through an Internet website or other
7 means) to the parent or guardian of the
8 child information on the coverage available
9 under this title, including benefits and
10 cost-sharing; and

11 “(iii) shall provide at least one oppor-
12 tunity per fiscal year for beneficiaries to
13 switch coverage under this title from cov-
14 erage described in subparagraph (A) to the
15 coverage that is otherwise made available
16 under this title.

17 “(F) INFORMATION ON COVERAGE OP-
18 TIONS.—A State child health plan shall—

19 “(i) describe how the State will notify
20 potential beneficiaries of coverage de-
21 scribed in subparagraph (A);

22 “(ii) provide such notification in writ-
23 ing at least during the initial application
24 for enrollment under this title and during
25 redeterminations of eligibility if the indi-

1 vidual was enrolled before October 1, 2009;
2 and

3 “(iii) post a description of these cov-
4 erage options on any official Internet
5 website that may be established by the
6 State in connection with the plan.

7 “(G) SEMIANNUAL VERIFICATION OF COV-
8 ERAGE.—If coverage described in subparagraph
9 (A) is provided under a group health plan with
10 respect to a targeted low-income child, the
11 State child health plan shall provide for the col-
12 lection, at least once every six months, of proof
13 from the plan that the child is enrolled in such
14 coverage.

15 “(H) RULE OF CONSTRUCTION.—Nothing
16 in this section is to be construed to prohibit a
17 State from—

18 “(i) offering wrap around benefits in
19 order for a group health plan to meet any
20 State-established minimum benefit require-
21 ments;

22 “(ii) establishing a cost-effectiveness
23 test to qualify for coverage under such a
24 plan;

1 “(iii) establishing limits on beneficiary
2 cost-sharing under such a plan;

3 “(iv) paying all or part of a bene-
4 ficiary’s cost-sharing requirements under
5 such a plan;

6 “(v) paying less than the full cost of
7 the employee’s share of the premium under
8 such a plan, including prorating the cost of
9 the premium to pay for only what the
10 State determines is the portion of the pre-
11 mium that covers targeted low-income chil-
12 dren;

13 “(vi) using State funds to pay for
14 benefits above the Federal upper limit es-
15 tablished under subparagraph (D);

16 “(vii) allowing beneficiaries enrolled in
17 group health plans from changing plans to
18 another coverage option available under
19 this title at any time; or

20 “(viii) providing any guidance or in-
21 formation it deems appropriate in order to
22 help beneficiaries make an informed deci-
23 sion regarding the option to enroll in cov-
24 erage described in subparagraph (A).

1 “(I) GROUP HEALTH PLAN DEFINED.—In
2 this paragraph, the term ‘group health plan’
3 has the meaning given such term in section
4 2791(a)(1) of the Public Health Service Act (42
5 U.S.C. 300gg–91(a)(1)).

6 “(J) ATTESTATION REQUIREMENT FOR
7 CERTAIN HIGHER INCOME CHILDREN.—Effec-
8 tive October 1, 2011, any State that provides
9 for child health assistance under this title for
10 children in families with gross income (as deter-
11 mined without regard to any income disregards
12 or expense exclusions) that exceeds 200 percent
13 of the poverty line shall require, as a condition
14 of eligibility for child health assistance under
15 this title (other than in the form of premium
16 assistance under this paragraph) that there
17 must be executed an attestation (under penalty
18 of perjury) that the child is not eligible for cov-
19 erage under any group health plan.”.

20 **SEC. 1782. IMPROVING BENEFICIARY CHOICE IN SCHIP.**

21 (a) REQUIRING OFFERING OF ALTERNATIVE COV-
22 ERAGE OPTIONS.—Section 2102 of the Social Security Act
23 (42 U.S.C. 1397b), as amended by section 1781, is
24 amended—

25 (1) in subsection (a)—

1 (A) in paragraph (7), by striking “and” at
2 the end;

3 (B) in paragraph (8), by striking the pe-
4 riod at the end and inserting “; and”; and

5 (C) by adding at the end the following new
6 paragraph:

7 “(9) effective for plan years beginning on or
8 after October 1, 2010, how the plan will provide for
9 child health assistance with respect to targeted low-
10 income children through alternative coverage options
11 in accordance with subsection (d).”; and

12 (2) by adding at the end the following new sub-
13 section:

14 “(d) ALTERNATIVE COVERAGE OPTIONS.—

15 “(1) IN GENERAL.—Effective October 1, 2010,
16 a State child health plan shall provide for the offer-
17 ing of any qualified alternative coverage that a
18 qualified entity seeks to offer to targeted low-income
19 children through the plan in the State.

20 “(2) APPLICATION OF UNIFORM FINANCIAL
21 LIMITATION FOR ALL ALTERNATIVE COVERAGE OP-
22 TIONS.—With respect to all qualified alternative cov-
23 erage offered in a State, the State child health plan
24 shall establish a uniform dollar limitation on the per
25 capita monthly amount that will be paid by the

1 State to the qualified entity with respect to such
2 coverage provided to a targeted low-income child.
3 Such limitation may not be less than 90 percent of
4 the per capita monthly payment made for coverage
5 offered under the State child health plan that is not
6 in the form of an alternative coverage option. Noth-
7 ing in this paragraph shall be construed—

8 “(A) as requiring a State to provide for
9 the full payment of premiums for qualified al-
10 ternative coverage;

11 “(B) as preventing a State from charging
12 additional premiums to cover the difference be-
13 tween the cost of qualified alternative coverage
14 and the amount of such payment limitation;

15 “(C) as preventing a State from using its
16 own funds to provide a dollar limitation that ex-
17 ceeds the Federal financial participation as lim-
18 ited under section 2105(c)(8).

19 “(3) QUALIFIED ALTERNATIVE COVERAGE DE-
20 FINED.—In this section, the term ‘qualified alter-
21 native coverage’ means health insurance coverage
22 that—

23 “(A) meets the coverage requirements of
24 section 2103 (other than cost-sharing require-
25 ments of such section); and

1 “(B) is offered by a qualified insurer, and
2 not directly by the State.

3 “(4) QUALIFIED INSURER DEFINED.—In this
4 section, the term ‘qualified insurer’ means, with re-
5 spect to a State, an entity that is licensed to offer
6 health insurance coverage in the State.”.

7 (b) FEDERAL FINANCIAL PARTICIPATION FOR
8 QUALIFIED ALTERNATIVE COVERAGE.—Section 2105 of
9 such Act (42 U.S.C. 1397d), as amended by sections
10 301(a) and 601(a) of the Children’s Health Insurance
11 Program Reauthorization Act of 2009 (Public Law 111–
12 5), is amended—

13 (1) in subsection (a)(1)(C), as amended by sec-
14 tion 1781(b)(1), by inserting before the semicolon at
15 the end the following: “and, subject to subsection
16 (c)(12)(C), in the form of payment of the premiums
17 for coverage for qualified alternative coverage”; and

18 (2) by adding at the end of subsection (c) the
19 following new paragraph:

20 “(12) PURCHASE OF QUALIFIED ALTERNATIVE
21 COVERAGE.—

22 “(A) IN GENERAL.—Payment may be
23 made to a State under subsection (a)(1)(C),
24 subject to the provisions of this paragraph, for
25 the purchase of qualified alternative coverage.

1 “(B) WAIVER OF CERTAIN PROVISIONS.—

2 With respect to coverage described in subpara-
3 graph (A), no limitation on beneficiary cost-
4 sharing otherwise applicable under this title or
5 title XIX shall apply.

6 “(C) LIMITATION ON FFP.—The amount of
7 the payment under paragraph (1)(C) for cov-
8 erage described in subparagraph (A) during a
9 fiscal year in the aggregate for all such cov-
10 erage in the State may not exceed the product
11 of—

12 “(i) the national per capita expendi-
13 ture under this title (taking into account
14 both Federal and State expenditures) for
15 the previous fiscal year (as determined by
16 the Secretary using the best available
17 data);

18 “(ii) the enhanced FMAP for the
19 State and fiscal year involved; and

20 “(iii) the number of targeted low-in-
21 come children for whom such coverage is
22 provided.

23 “(D) VOLUNTARY ENROLLMENT.—A State
24 child health plan—

1 “(i) may not require a targeted low-
2 income child to enroll in coverage described
3 in subparagraph (A) in order to obtain
4 child health assistance under this title;

5 “(ii) before providing such child
6 health assistance for such coverage of a
7 child, shall make available (which may be
8 through an Internet website or other
9 means) to the parent or guardian of the
10 child information on the coverage available
11 under this title, including benefits and
12 cost-sharing; and

13 “(iii) shall provide at least one oppor-
14 tunity per fiscal year for beneficiaries to
15 switch coverage under this title from cov-
16 erage described in subparagraph (A) to the
17 coverage that is otherwise made available
18 under this title.

19 “(E) INFORMATION ON COVERAGE OP-
20 TIONS.—A State child health plan shall—

21 “(i) describe how the State will notify
22 potential beneficiaries of coverage de-
23 scribed in subparagraph (A);

24 “(ii) provide such notification in writ-
25 ing at least during the initial application

1 for enrollment under this title and during
2 redeterminations of eligibility if the indi-
3 vidual was enrolled before October 1, 2009;
4 and

5 “(iii) post a description of these cov-
6 erage options on any official website that
7 may be established by the State in connec-
8 tion with the plan.

9 “(F) RULE OF CONSTRUCTION.—Nothing
10 in this section is to be construed to prohibit a
11 State from—

12 “(i) establishing limits on beneficiary
13 cost-sharing under such alternative cov-
14 erage;

15 “(ii) paying all or part of a bene-
16 ficiary’s cost-sharing requirements under
17 such coverage;

18 “(iii) paying less than the full cost of
19 a child’s share of the premium under such
20 coverage, insofar as the premium for such
21 coverage exceeds the limitation established
22 by the State under subparagraph (C);

23 “(iv) using State funds to pay for
24 benefits above the Federal upper limit es-
25 tablished under subparagraph (C); or

1 “(v) providing any guidance or infor-
2 mation it deems appropriate in order to
3 help beneficiaries make an informed deci-
4 sion regarding the option to enroll in cov-
5 erage described in subparagraph (A).”.

6 **SEC. 1783. APPLICATION TO MEDICAID.**

7 In accordance with rules established by the Secretary
8 of Health and Human Services, the requirements imposed
9 under a State child health plan under title XXI of the
10 Social Security Act under the amendments made by the
11 preceding sections of this subtitle shall apply in the same
12 manner to a State plan under title XIX of such Act, except
13 that—

14 (1) such requirements shall not apply to indi-
15 viduals whose eligibility for medical assistance under
16 such title is based on being aged, blind, or disabled
17 or to individuals with a category of individuals de-
18 scribed in section 1937(a)(2)(B) of such Act;

19 (2) the national per capita expenditures shall
20 be determined based on a benchmark coverage de-
21 scribed in section 1937(b)(1) of such Act but with-
22 out regard to expenditures for individuals described
23 in paragraph (1) or for nursing facility services and
24 other long-term care services (as determined by the
25 Secretary).

1 **SEC. 1784. EXPANSION OF HEALTH OPPORTUNITY AC-**
2 **COUNT PROGRAM.**

3 (a) **IN GENERAL.**—Section 613 of the Children’s
4 Health Insurance Program Reauthorization Act of 2009
5 (Public Law 111–3) is repealed.

6 (b) **EXPANSION.**—Section 1938(a)(2) of the Social
7 Security Act (42 U.S.C. 1396u–8(a)(2)) is amended—

8 (1) in subparagraph (A) by striking everything
9 following the first sentence; and

10 (2) by striking subparagraph (B).

