

ONE HUNDRED TWELFTH CONGRESS
Congress of the United States
House of Representatives
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Opening Statement of Rep. Henry A. Waxman
Ranking Member, Committee on Energy and Commerce
Markup of H.R. 1206, the Access to Professional Health Insurance Advisors Act of 2011
and H.R. 1063, the Strengthening Medicare and Repaying Taxpayers Act of 2011
Full Committee
September 20, 2012

Today we mark up two health bills. H.R. 1063 and H.R. 1206. On H.R. 1063, the Medicare secondary payer bill, we have consensus. On H.R. 1206, which weakens an important consumer protection in the Affordable Care Act, we do not.

The reason I oppose H.R. 1206 is that it will increase the cost of health insurance. In passing health reform, we took a number of steps to help hold down health insurance premiums. These provisions are working.

Already Americans have received \$1 billion in rebates because of the medical loss ratio consumer protection. And scrutiny of premium increases has exerted downward pressure and moderated them, resulting in another \$1 billion in savings.

The medical loss ratio consumer protection we enacted requires that insurers spend 80 to 85% of premium dollars on benefits and quality improvement. Administrative costs such as salaries, marketing, and profit are limited to 15 to 20%. If an insurer spends more than 15 to 20% on administrative costs, they are required to rebate consumers.

H.R. 1206 weakens this protection by exempting from the medical loss ratio agent and broker commissions. Commissions have always been recognized as part of administrative costs. This bill would reverse this and cause the consumer to pay more for coverage or get less in benefits. That is not a result we want.

Already, nearly 13 million Americans have received a total of \$1.1 billion in premium rebates because of the MLR provision, including a number of people in this room. The average family rebate was \$151. That is money that could help a family buy groceries or fix a car in need of repair.

These are tangible results -- real premium reductions. Less tangible but equally important is that nearly 90% of all insurers have met the medical loss ratio requirement while continuing to pay agents and broker commissions. Ranking Member Pallone has made a persuasive case that in New Jersey, there has long been an MLR standard equal to that required by the ACA and brokers have thrived.

There is another reason to oppose this bill that is often overlooked. This bill would allow a state to effectively eliminate the medical loss ratio protections.

The law allows states to apply for waivers if they can show that access to agents and brokers or to health insurance would be harmed by enforcement of the medical loss ratio. This bill would expand this sensible compromise to allow states to waive an important consumer protection without proving need. That would harm consumers and increase health insurance costs needlessly. In fact, there were ten states that sought waivers in 2011 and 2012 but could not prove access to agents or insurance would be diminished. If those unsubstantiated waivers had been granted, premiums would have been \$360 million higher for at least nearly 4 million consumers in those states.

Agents and brokers play an important role in the health insurance market -- helping consumers choose insurance and battling with their insurers when there are disputes. And they will be able to continue to do so, helping millions of new customers under health reform as agents and brokers or as navigators. But the medical loss ratio consumer protection does not need to be weakened for this to happen.

The other bill we are marking up today is the Medicare Secondary Payer legislation, H.R. 1063. The goal of the Medicare Secondary Payer bill is to reduce the burdens of the secondary payer process for beneficiaries and other stakeholders in a way that makes sure we are also protecting taxpayer dollars and the Medicare trust fund.

We've worked hard in a bipartisan way to achieve this result. We may still have work to do with CBO and the Administration before we are ready to go to the floor, but I am confident we can continue to work together. I congratulate my colleagues who have been working on this bill -- on both sides of the aisle -- on a job well done.