



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

September 29, 2010
(Senate)

STATEMENT OF ADMINISTRATION POLICY

S.J. Res. 39 – Disapproval of the Rule Relating to Status as a Grandfathered Health Plan Under the Patient Protection and Affordable Care Act (Sen. Enzi, R-Wyoming)

The Administration strongly opposes Senate passage of S.J. Res. 39, which would undermine important protections offered to Americans and businesses under the Affordable Care Act. This resolution is an attempt to put insurance companies back in charge of Americans' health care by allowing them to dramatically reduce benefits and increase costs while evading the new protections that the Affordable Care Act provides to consumers.

By dismantling the Interim Final Rule that set out the conditions under which health plans can qualify for "grandfather" status, the resolution would limit individuals' and businesses' choice to keep the plan they had in place when the Affordable Care Act was enacted. Adoption of the joint resolution would result in significant uncertainty as to what kind of changes may be made to coverage without a loss of grandfather status. If S.J. Res. 39 were approved, it could be argued that any change in coverage could be made while retaining grandfather status, creating confusion about which plans are actually grandfathered and stripping consumers of additional benefits and protections.

The Interim Final Rule provides guidance that is essential for businesses, individuals, and issuers to determine when health coverage has changed to the point that it can no longer be regarded as the grandfathered plan in effect on the date of enactment. In specifying what changes can be made without the loss of grandfather status, the Interim Final Rule strikes a careful balance between the goals of the Affordable Care Act of providing new patient protections while minimizing disruption in existing markets. It achieves these goals by allowing businesses and health insurance issuers flexibility to make the kinds of normal adjustments they have historically made to contain costs and innovate. The Interim Final Rule ensures that if individuals or businesses choose to change their health coverage so significantly that it is no longer the coverage in place on March 23, the plan will need to provide additional consumer protections required by the Affordable Care Act, such as preventive health benefits without out-of-pocket costs and the right to independent appeals of health plan coverage determinations and claims. Moreover, the regulators are considering potential specific improvements to and clarifications of the Interim Final Rule in order to be responsive to stakeholders' comments on particular aspects of the rule while continuing to meet issuers', employers' and families' needs for clear guidance.

S.J. Res. 39 would replace the clarity of a reasoned set of rules for maintaining grandfather status with confusion and uncertainty that will be disruptive for both employers and their workers and families and result in unnecessary litigation. The Administration estimates that 145 million Americans with employer-sponsored health insurance—who make up the vast majority of those with private health insurance today—will be in grandfathered health plans. Further, the

Administration estimates that 70 percent of small business health plans will be grandfathered in 2011. To help sustain and promote small business coverage, the Affordable Care Act includes a tax credit for small businesses of up to 35 percent of their premium contributions for employees starting in 2010.

The Affordable Care Act supports Americans' ability to maintain their current health plan if they like it and if an employer continues to offer it without significant changes. Under the legislation, individuals are guaranteed new benefits and protections if their plan is significantly changed or if they lose their plan or select a new plan. S.J. Res. 39 would dismantle this balance and would undermine key provisions of the Affordable Care Act that preserve market stability and flexibility and enhance consumer protections for businesses, health plans and individuals. If the President is presented with a Resolution of Disapproval, his senior advisors would recommend that he veto the Resolution.

* * * * *