

118TH CONGRESS  
1ST SESSION

# H. R. 4727

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.

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## IN THE HOUSE OF REPRESENTATIVES

JULY 19, 2023

Mr. BRECHEEN (for himself, Mr. ROSENDALE, Mr. HERN, Mr. MCCLINTOCK, Mr. WEBER of Texas, Mr. DUNCAN, Mr. GROTHMAN, Mr. BURLISON, Mrs. HARSHBARGER, Mr. SESSIONS, Mr. BIGGS, Mr. NORMAN, and Mr. GOSAR) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “No Obamacare for Ille-  
3 gal Aliens Act of 2023”.

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

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

19 (b) **INELIGIBILITY FOR CREDIT FOR COVERAGE**  
20 **UNDER A QUALIFIED HEALTH PLAN.**—Paragraph (2) of  
21 section 36B(e) of the Internal Revenue Code of 1986 is  
22 amended by adding at the end the following: “Any alien  
23 who is lawfully present solely because such individual was  
24 granted deferred action pursuant to the memorandum of  
25 the Department of Homeland Security entitled ‘Exercising  
26 Prosecutorial Discretion with Respect to Individuals Who

1 Came to the United States as Children’ issued on June  
2 15, 2012, shall not be treated as lawfully present for pur-  
3 poses of the preceding sentence.”.

4 **SEC. 3. ENSURING THAT TAXPAYER FUNDS FOR HEALTH**  
5 **INSURANCE COVERAGE ARE AVAILABLE**  
6 **ONLY TO AUTHORIZED INDIVIDUALS.**

7 (a) BASIC HEALTH PROGRAMS.—

8 (1) IN GENERAL.—Section 1331(e) of the Pa-  
9 tient Protection and Affordable Care Act (42 U.S.C.  
10 18051(e)) is amended—

11 (A) by redesignating paragraph (2) as  
12 paragraph (3);

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

15 (C) by inserting after paragraph (1), the  
16 following new paragraph:

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

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

23 “(B) Any individual who is neither a cit-  
24 izen or national of the United States nor an  
25 alien lawfully present in the United States. Any

1 alien who is lawfully present solely because such  
2 individual was granted deferred action pursuant  
3 to the memorandum of the Department of  
4 Homeland Security entitled ‘Exercising Pros-  
5 ecutorial Discretion with Respect to Individuals  
6 Who Came to the United States as Children’  
7 issued on June 15, 2012, shall not be treated  
8 as lawfully present for purposes of the pre-  
9 ceding sentence.”.

10 (2) LIMITATION ON USE OF FUNDS.—Section  
11 1331(d) of the Patient Protection and Affordable  
12 Care Act (42 U.S.C. 18051(d)) is amended by add-  
13 ing at the end the following new paragraph:

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

22 (b) STATE INNOVATION WAIVERS.—

23 (1) IN GENERAL.—Section 1332(a)(2)(B) of the  
24 Patient Protection and Affordable Care Act (42  
25 U.S.C. 18052(a)(2)(B)) is amended by inserting

1 “(other than the requirement described in section  
2 1312(f)(3))” before the period.

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

23 (c) MEDICAID AND CHIP.—

24 (1) EXCLUSION FROM DEFINITION OF QUALI-  
25 FIED ALIEN UNDER PRWORA.—Section 431 of the

1 Personal Responsibility and Work Opportunity Rec-  
2 onciliation Act of 1996 (8 U.S.C. 1641) is amended  
3 by adding at the end the following new subsection:  
4 “(d) TREATMENT OF CERTAIN DEFERRED ACTION  
5 UNDER MEDICAID AND CHIP.—For purposes of this title,  
6 the term ‘qualified alien’ shall not include any alien who  
7 is lawfully present solely because such individual was  
8 granted deferred action pursuant to the memorandum of  
9 the Department of Homeland Security entitled ‘Exercising  
10 Prosecutorial Discretion with Respect to Individuals Who  
11 Came to the United States as Children’ issued on June  
12 15, 2012, but only with respect to the designated Federal  
13 program defined in section 402(b)(3)(C) (relating to the  
14 Medicaid program) and the State Children’s Health Insur-  
15 ance Program established under title XXI of the Social  
16 Security Act (42 U.S.C. 1397aa et seq.). An individual  
17 granted deferred action pursuant to the memorandum de-  
18 scribed in the preceding sentence shall not be treated as  
19 lawfully present or lawfully residing for purposes of the  
20 designated Federal program defined in section  
21 402(b)(3)(C) (relating to the Medicaid program) or the  
22 State Children’s Health Insurance Program established  
23 under title XXI of the Social Security Act (42 U.S.C.  
24 1397aa et seq.).”.

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

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

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

9                   (ii) by adding at the end the following  
10                  new subparagraph:

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

23           (B) CHIP.—Section 2107(e)(1)(O) of the  
24           Social Security Act (42 U.S.C.  
25           1397gg(e)(1)(O)) is amended by inserting “,

1 and subject to subparagraph (D) of such para-  
2 graph” after “title XIX”.

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

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



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

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

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

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

21 “(4) LIMITATION.—Notwithstanding paragraph  
22 (3), a State shall not provide child health assistance  
23 under any authority described in paragraph (1)(A)  
24 or pregnancy-related services under a waiver speci-  
25 fied in paragraph (1)(B) to any alien who is lawfully

1 present solely because such individual was granted  
2 deferred action pursuant to the memorandum of the  
3 Department of Homeland Security entitled ‘Exer-  
4 cising Prosecutorial Discretion with Respect to Indi-  
5 viduals Who Came to the United States as Children’  
6 issued on June 15, 2012, and any such individual  
7 shall not be treated as lawfully present or lawfully  
8 residing in the United States for purposes of eligi-  
9 bility for pregnancy-related assistance or child health  
10 assistance under a State plan under this title.”.

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

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