

104TH CONGRESS
2D SESSION

H. R. 4135

To amend the Internal Revenue Code of 1986 to fully implement the Newborns' and Mothers' Health Protection Act of 1996 and the Mental Health Parity Act of 1996.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 24, 1996

Mr. THOMAS (for himself and Mr. STARK) introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to fully implement the Newborns' and Mothers' Health Protection Act of 1996 and the Mental Health Parity Act of 1996.

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 “Newborns’ and Moth-
5 ers’ Health Protection and Mental Health Parity Imple-
6 mentation Amendments of 1996”.

1 **SEC. 2. AMENDMENTS TO THE INTERNAL REVENUE CODE**
 2 **OF 1986 TO IMPLEMENT THE NEWBORNS' AND**
 3 **MOTHERS' HEALTH PROTECTION ACT OF 1996**
 4 **AND THE MENTAL HEALTH PARITY ACT OF**
 5 **1996.**

6 (a) IN GENERAL.—Subtitle K of the Internal Reve-
 7 nue Code of 1986 (as added by section 401(a) of the
 8 Health Insurance Portability and Accountability Act of
 9 1996) is amended—

10 (1) by striking all that precedes section 9801
 11 and inserting the following:

12 **“Subtitle K—Group Health Plan**
 13 **Requirements**

“CHAPTER 100. Group health plan requirements.

14 **“CHAPTER 100—GROUP HEALTH PLAN**
 15 **REQUIREMENTS**

“Subchapter A. Requirements relating to portability, access, and
 renewability.

“Subchapter B. Other requirements.

“Subchapter C. General provisions.

16 **“Subchapter A—Requirements Relating to**
 17 **Portability, Access, and Renewability**

“Sec. 9801. Increased portability through limitation on preexist-
 ing condition exclusions.

“Sec. 9802. Prohibiting discrimination against individual partici-
 pants and beneficiaries based on health status.

“Sec. 9803. Guaranteed renewability in multiemployer plans and
 certain multiple employer welfare arrangements.”,

18 (2) by redesignating sections 9804, 9805, and
 19 9806 as sections 9831, 9832, and 9833, respectively,

(3) by inserting before section 9831 (as so re-designated) the following:

“Subchapter C—General Provisions

“Sec. 9831. General exceptions.

“Sec. 9832. Definitions.

“Sec. 9833. Regulations.”, and

(4) by inserting after section 9803 the following:

“Subchapter B—Other Requirements

“Sec. 9811. Standards relating to benefits for mothers and newborns.

“Sec. 9812. Parity in the application of certain limits to mental health benefits.

“SEC. 9811. STANDARDS RELATING TO BENEFITS FOR MOTHERS AND NEWBORNS.

“(a) REQUIREMENTS FOR MINIMUM HOSPITAL STAY FOLLOWING BIRTH.—

“(1) IN GENERAL.—A group health plan may not—

“(A) except as provided in paragraph

(2)—

“(i) restrict benefits for any hospital length of stay in connection with childbirth for the mother or newborn child, following a normal vaginal delivery, to less than 48 hours, or

“(ii) restrict benefits for any hospital length of stay in connection with childbirth

1 for the mother or newborn child, following
2 a cesarean section, to less than 96 hours;
3 or

4 “(B) require that a provider obtain author-
5 ization from the plan or the issuer for prescrib-
6 ing any length of stay required under subpara-
7 graph (A) (without regard to paragraph (2)).

8 “(2) EXCEPTION.—Paragraph (1)(A) shall not
9 apply in connection with any group health plan in
10 any case in which the decision to discharge the
11 mother or her newborn child prior to the expiration
12 of the minimum length of stay otherwise required
13 under paragraph (1)(A) is made by an attending
14 provider in consultation with the mother.

15 “(b) PROHIBITIONS.—A group health plan may not—

16 “(1) deny to the mother or her newborn child
17 eligibility, or continued eligibility, to enroll or to
18 renew coverage under the terms of the plan, solely
19 for the purpose of avoiding the requirements of this
20 section;

21 “(2) provide monetary payments or rebates to
22 mothers to encourage such mothers to accept less
23 than the minimum protections available under this
24 section;

1 “(3) penalize or otherwise reduce or limit the
2 reimbursement of an attending provider because
3 such provider provided care to an individual partici-
4 pant or beneficiary in accordance with this section;

5 “(4) provide incentives (monetary or otherwise)
6 to an attending provider to induce such provider to
7 provide care to an individual participant or bene-
8 ficiary in a manner inconsistent with this section; or

9 “(5) subject to subsection (c)(3), restrict bene-
10 fits for any portion of a period within a hospital
11 length of stay required under subsection (a) in a
12 manner which is less favorable than the benefits pro-
13 vided for any preceding portion of such stay.

14 “(c) RULES OF CONSTRUCTION.—

15 “(1) Nothing in this section shall be construed
16 to require a mother who is a participant or bene-
17 ficiary—

18 “(A) to give birth in a hospital; or

19 “(B) to stay in the hospital for a fixed pe-
20 riod of time following the birth of her child.

21 “(2) This section shall not apply with respect to
22 any group health plan which does not provide bene-
23 fits for hospital lengths of stay in connection with
24 childbirth for a mother or her newborn child.

1 “(3) Nothing in this section shall be construed
2 as preventing a group health plan from imposing
3 deductibles, coinsurance, or other cost-sharing in re-
4 lation to benefits for hospital lengths of stay in con-
5 nection with childbirth for a mother or newborn
6 child under the plan, except that such coinsurance or
7 other cost-sharing for any portion of a period within
8 a hospital length of stay required under subsection
9 (a) may not be greater than such coinsurance or
10 cost-sharing for any preceding portion of such stay.

11 “(d) LEVEL AND TYPE OF REIMBURSEMENTS.—
12 Nothing in this section shall be construed to prevent a
13 group health plan from negotiating the level and type of
14 reimbursement with a provider for care provided in ac-
15 cordance with this section.

16 “(f) PREEMPTION; EXCEPTION FOR HEALTH INSUR-
17 ANCE COVERAGE IN CERTAIN STATES.—The require-
18 ments of this section shall not apply with respect to health
19 insurance coverage if there is a State law (including a de-
20 cision, rule, regulation, or other State action having the
21 effect of law) for a State that regulates such coverage that
22 is described in any of the following paragraphs:

23 “(1) Such State law requires such coverage to
24 provide for at least a 48-hour hospital length of stay
25 following a normal vaginal delivery and at least a

1 96-hour hospital length of stay following a cesarean
2 section.

3 “(2) Such State law requires such coverage to
4 provide for maternity and pediatric care in accord-
5 ance with guidelines established by the American
6 College of Obstetricians and Gynecologists, the
7 American Academy of Pediatrics, or other estab-
8 lished professional medical associations.

9 “(3) Such State law requires, in connection
10 with such coverage for maternity care, that the hos-
11 pital length of stay for such care is left to the deci-
12 sion of (or required to be made by) the attending
13 provider in consultation with the mother.

14 **“SEC. 9812. PARITY IN THE APPLICATION OF CERTAIN LIM-**
15 **ITS TO MENTAL HEALTH BENEFITS.**

16 “(a) IN GENERAL.—

17 “(1) AGGREGATE LIFETIME LIMITS.—In the
18 case of a group health plan that provides both medi-
19 cal and surgical benefits and mental health bene-
20 fits—

21 “(A) NO LIFETIME LIMIT.—If the plan
22 does not include an aggregate lifetime limit on
23 substantially all medical and surgical benefits,
24 the plan or coverage may not impose any aggre-
25 gate lifetime limit on mental health benefits.

1 “(B) LIFETIME LIMIT.—If the plan in-
2 cludes an aggregate lifetime limit on substan-
3 tially all medical and surgical benefits (in this
4 paragraph referred to as the ‘applicable lifetime
5 limit’), the plan shall either—

6 “(i) apply the applicable lifetime limit
7 both to the medical and surgical benefits to
8 which it otherwise would apply and to
9 mental health benefits and not distinguish
10 in the application of such limit between
11 such medical and surgical benefits and
12 mental health benefits; or

13 “(ii) not include any aggregate life-
14 time limit on mental health benefits that is
15 less than the applicable lifetime limit.

16 “(C) RULE IN CASE OF DIFFERENT LIM-
17 ITS.—In the case of a plan that is not described
18 in subparagraph (A) or (B) and that includes
19 no or different aggregate lifetime limits on dif-
20 ferent categories of medical and surgical bene-
21 fits, the Secretary shall establish rules under
22 which subparagraph (B) is applied to such plan
23 with respect to mental health benefits by sub-
24 stituting for the applicable lifetime limit an av-
25 erage aggregate lifetime limit that is computed

1 taking into account the weighted average of the
2 aggregate lifetime limits applicable to such cat-
3 egories.

4 “(2) ANNUAL LIMITS.—In the case of a group
5 health plan that provides both medical and surgical
6 benefits and mental health benefits—

7 “(A) NO ANNUAL LIMIT.—If the plan does
8 not include an annual limit on substantially all
9 medical and surgical benefits, the plan or cov-
10 erage may not impose any annual limit on men-
11 tal health benefits.

12 “(B) ANNUAL LIMIT.—If the plan includes
13 an annual limit on substantially all medical and
14 surgical benefits (in this paragraph referred to
15 as the ‘applicable annual limit’), the plan shall
16 either—

17 “(i) apply the applicable annual limit
18 both to medical and surgical benefits to
19 which it otherwise would apply and to
20 mental health benefits and not distinguish
21 in the application of such limit between
22 such medical and surgical benefits and
23 mental health benefits; or

1 “(ii) not include any annual limit on
2 mental health benefits that is less than the
3 applicable annual limit.

4 “(C) RULE IN CASE OF DIFFERENT LIM-
5 ITS.—In the case of a plan that is not described
6 in subparagraph (A) or (B) and that includes
7 no or different annual limits on different cat-
8 egories of medical and surgical benefits, the
9 Secretary shall establish rules under which sub-
10 paragraph (B) is applied to such plan with re-
11 spect to mental health benefits by substituting
12 for the applicable annual limit an average an-
13 nual limit that is computed taking into account
14 the weighted average of the annual limits appli-
15 cable to such categories.

16 “(b) CONSTRUCTION.—Nothing in this section shall
17 be construed—

18 “(1) as requiring a group health plan to provide
19 any mental health benefits; or

20 “(2) in the case of a group health plan that
21 provides mental health benefits, as affecting the
22 terms and conditions (including cost sharing, limits
23 on numbers of visits or days of coverage, and re-
24 quirements relating to medical necessity) relating to
25 the amount, duration, or scope of mental health ben-

1 efits under the plan, except as specifically provided
2 in subsection (a) (in regard to parity in the imposi-
3 tion of aggregate lifetime limits and annual limits
4 for mental health benefits).

5 “(c) EXEMPTIONS.—

6 “(1) SMALL EMPLOYER EXEMPTION.—This sec-
7 tion shall not apply to any group health plan for any
8 plan year of a small employer (as defined in section
9 4980D(d)(2)).

10 “(2) INCREASED COST EXEMPTION.—This sec-
11 tion shall not apply with respect to a group health
12 plan if the application of this section to such plan
13 results in an increase in the cost under the plan of
14 at least 1 percent.

15 “(d) SEPARATE APPLICATION TO EACH OPTION OF-
16 FERED.—In the case of a group health plan that offers
17 a participant or beneficiary two or more benefit package
18 options under the plan, the requirements of this section
19 shall be applied separately with respect to each such op-
20 tion.

21 “(e) DEFINITIONS.—For purposes of this section:

22 “(1) AGGREGATE LIFETIME LIMIT.—The term
23 ‘aggregate lifetime limit’ means, with respect to ben-
24 efits under a group health plan, a dollar limitation
25 on the total amount that may be paid with respect

1 to such benefits under the plan with respect to an
2 individual or other coverage unit.

3 “(2) ANNUAL LIMIT.—The term ‘annual limit’
4 means, with respect to benefits under a group health
5 plan, a dollar limitation on the total amount of bene-
6 fits that may be paid with respect to such benefits
7 in a 12-month period under the plan with respect to
8 an individual or other coverage unit.

9 “(3) MEDICAL OR SURGICAL BENEFITS.—The
10 term ‘medical or surgical benefits’ means benefits
11 with respect to medical or surgical services, as de-
12 fined under the terms of the plan, but does not in-
13 clude mental health benefits.

14 “(4) MENTAL HEALTH BENEFITS.—The term
15 ‘mental health benefits’ means benefits with respect
16 to mental health services, as defined under the terms
17 of the plan, but does not include benefits with re-
18 spect to treatment of substance abuse or chemical
19 dependency.

20 “(f) SUNSET.—This section shall not apply to bene-
21 fits for services furnished on or after September 30,
22 2001.”

23 (b) CONFORMING AMENDMENTS.—

24 (1) Chapter 100 of such Code (as added by sec-
25 tion 401 of the Health Insurance Portability and Ac-

1 countability Act of 1996 and as previously amended
2 by this section) is further amended—

3 (A) in the last sentence of section
4 9801(c)(1), by striking “section 9805(c)” and
5 inserting “section 9832(c)”;

6 (B) in section 9831(b), by striking
7 “9805(c)(1)” and inserting “9832(c)(1)”;

8 (C) in section 9831(c)(1), by striking
9 “9805(c)(2)” and inserting “9832(c)(2)”;

10 (D) in section 9831(c)(2), by striking
11 “9805(c)(3)” and inserting “9832(c)(3)”;

12 (E) in section 9831(c)(3), by striking
13 “9805(c)(4)” and inserting “9832(c)(4)”.

14 (2) Section 4980D of such Code (as added by
15 section 402 of the Health Insurance Portability and
16 Accountability Act of 1996) is amended—

17 (A) in subsection (c)(3)(B)(i)(I), by strik-
18 ing “9805(d)(3)” and inserting “9832(d)(3)”;

19 (B) in subsection (d)(1), by inserting
20 “(other than a failure attributable to section
21 9811)” after “on any failure”;

22 (C) in subsection (d)(3), by striking
23 “9805” and inserting “9832”;

24 (D) in subsection (f)(1), by striking
25 “9805(a)” and inserting “9832(a)”.

1 (3) The table of subtitles for such Code is
2 amended by striking the item relating to subtitle K
3 (as added by section 401(b) of the Health Insurance
4 Portability and Accountability Act of 1996) and in-
5 serting the following new item:

 “SUBTITLE K. Group health plan requirements.”

6 (c) EFFECTIVE DATE.—The amendments made by
7 this section shall apply with respect to group health plans
8 for plan years beginning on or after January 1, 1998.

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