

105TH CONGRESS
2D SESSION

H. R. 4333

To amend the Public Health Service Act, the Employee Retirement Income Security Act of 1974, and the Internal Revenue Code of 1986 to require that group and individual health insurance coverage and group health plans provide coverage of annual mammograms and annual prostate cancer screening tests following the model established under the Medicare Program.

IN THE HOUSE OF REPRESENTATIVES

JULY 24, 1998

Mrs. MALONEY of New York introduced the following bill; which was referred to the Committee on Commerce, and in addition to the Committees on Education and the Workforce, and 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

A BILL

To amend the Public Health Service Act, the Employee Retirement Income Security Act of 1974, and the Internal Revenue Code of 1986 to require that group and individual health insurance coverage and group health plans provide coverage of annual mammograms and annual prostate cancer screening tests following the model established under the Medicare Program.

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 “Annual Mammogram
3 and Prostate Cancer Screening Coverage Act of 1998”.

4 **SEC. 2. COVERAGE OF ANNUAL MAMMOGRAMS AND AN-**
5 **NUAL PROSTATE CANCER SCREENING TESTS**

6 (a) GROUP HEALTH PLANS.—

7 (1) PUBLIC HEALTH SERVICE ACT AMEND-
8 MENTS.—(A) Subpart 2 of part A of title XXVII of
9 the Public Health Service Act is amended by adding
10 at the end the following new section:

11 **“SEC. 2706. STANDARDS RELATING TO BENEFITS FOR AN-**
12 **NUAL MAMMOGRAMS AND ANNUAL PROS-**
13 **TATE CANCER SCREENING TESTS.**

14 “(a) REQUIREMENT.—

15 “(1) IN GENERAL.—A group health plan, and a
16 health insurance issuer offering group health insur-
17 ance coverage, shall provide coverage for—

18 “(A) annual screening mammograms for
19 female participants and beneficiaries who are
20 40 years of age or older; and

21 “(B) annual prostate cancer screening
22 testing for male participants and beneficiaries
23 who are 50 years of age or older.

24 “(2) REGULATIONS.—The Secretary shall pro-
25 mulgate regulations to carry out this section. In pro-
26 mulgating such regulations, the Secretary shall pro-

1 vide that the coverage required under paragraph (1)
2 shall be comparable to the coverage of similar bene-
3 fits under the medicare program under part B of
4 title XVIII of the Social Security Act.

5 “(b) PROHIBITIONS.—A group health plan, and a
6 health insurance issuer offering group health insurance
7 coverage in connection with a group health plan, may
8 not—

9 “(1) deny to an individual eligibility, or contin-
10 ued eligibility, to enroll or to renew coverage under
11 the terms of the plan, solely for the purpose of
12 avoiding the requirements of this section;

13 “(2) provide monetary payments or rebates to
14 individuals to encourage such individuals to accept
15 less than the minimum protections available under
16 this section;

17 “(3) penalize or otherwise reduce or limit the
18 reimbursement of a provider because such provider
19 provided care to an individual participant or bene-
20 ficiary in accordance with this section; or

21 “(4) provide incentives (monetary or otherwise)
22 to a provider to induce such provider to provide care
23 to an individual participant or beneficiary in a man-
24 ner inconsistent with this section.

25 “(c) RULES OF CONSTRUCTION.—

1 “(1) Nothing in this section shall be construed
2 to require an individual who is a participant or bene-
3 ficiary to undergo a screening mammogram or pros-
4 tate cancer screening test.

5 “(2) Nothing in this section shall be construed
6 as preventing a group health plan or issuer from im-
7 posing deductibles, coinsurance, or other cost-shar-
8 ing in relation to benefits described in subsection (a)
9 consistent with such subsection, except that such co-
10 insurance or other cost-sharing shall not discrimi-
11 nate on any basis related to the coverage required
12 under this section.

13 “(d) NOTICE.—A group health plan under this part
14 shall comply with the notice requirement under section
15 713(d) of the Employee Retirement Income Security Act
16 of 1974 with respect to the requirements of this section
17 as if such section applied to such plan.

18 “(e) LEVEL AND TYPE OF REIMBURSEMENTS.—
19 Nothing in this section shall be construed to prevent a
20 group health plan or a health insurance issuer offering
21 group health insurance coverage from negotiating the level
22 and type of reimbursement with a provider for care pro-
23 vided in accordance with this section.”.

1 (B) Section 2723(c) of such Act (42 U.S.C.
2 300gg-23(c)) is amended by striking “section 2704”
3 and inserting “sections 2704 and 2706”.

4 (2) ERISA AMENDMENTS.—(A) Subpart B of
5 part 7 of subtitle B of title I of the Employee Re-
6 tirement Income Security Act of 1974 is amended by
7 adding at the end the following new section:

8 **“SEC. 713. STANDARDS RELATING TO BENEFITS FOR AN-**
9 **NUAL MAMMOGRAMS AND ANNUAL PROS-**
10 **TATE CANCER SCREENING TESTS.**

11 “(a) REQUIREMENT.—

12 “(1) IN GENERAL.—A group health plan, and a
13 health insurance issuer offering group health insur-
14 ance coverage, shall provide coverage for—

15 “(A) annual screening mammograms for
16 participants and beneficiaries who are 40 years
17 of age or older; and

18 “(B) annual prostate cancer screening
19 testing for male participants and beneficiaries
20 who are 50 years of age or older.

21 “(2) REGULATIONS.—The Secretary shall pro-
22 mulgate regulations to carry out this section. In pro-
23 mulgating such regulations, the Secretary shall pro-
24 vide that the coverage required under paragraph (1)
25 shall be comparable to the coverage of similar bene-

1 fits under the medicare program under part B of
2 title XVIII of the Social Security Act.

3 “(b) PROHIBITIONS.—A group health plan, and a
4 health insurance issuer offering group health insurance
5 coverage in connection with a group health plan, may
6 not—

7 “(1) deny to an individual eligibility, or contin-
8 ued eligibility, to enroll or to renew coverage under
9 the terms of the plan, solely for the purpose of
10 avoiding the requirements of this section;

11 “(2) provide monetary payments or rebates to
12 individuals to encourage such individuals to accept
13 less than the minimum protections available under
14 this section;

15 “(3) penalize or otherwise reduce or limit the
16 reimbursement of a provider because such provider
17 provided care to an individual participant or bene-
18 ficiary in accordance with this section; or

19 “(4) provide incentives (monetary or otherwise)
20 to a provider to induce such provider to provide care
21 to an individual participant or beneficiary in a man-
22 ner inconsistent with this section.

23 “(c) RULES OF CONSTRUCTION.—

24 “(1) Nothing in this section shall be construed
25 to require an individual who is a participant or bene-

1 ficiary to undergo a screening mammogram or pros-
2 tate cancer screening test.

3 “(2) Nothing in this section shall be construed
4 as preventing a group health plan or issuer from im-
5 posing deductibles, coinsurance, or other cost-shar-
6 ing in relation to benefits described in subsection (a)
7 consistent with such subsection, except that such co-
8 insurance or other cost-sharing shall not discrimi-
9 nate on any basis related to the coverage required
10 under this section.

11 “(d) NOTICE UNDER GROUP HEALTH PLAN.—The
12 imposition of the requirement of this section shall be treat-
13 ed as a material modification in the terms of the plan de-
14 scribed in section 102(a)(1), for purposes of assuring no-
15 tice of such requirements under the plan; except that the
16 summary description required to be provided under the
17 last sentence of section 104(b)(1) with respect to such
18 modification shall be provided by not later than 60 days
19 after the first day of the first plan year in which such
20 requirement apply.

21 “(e) LEVEL AND TYPE OF REIMBURSEMENTS.—
22 Nothing in this section shall be construed to prevent a
23 group health plan or a health insurance issuer offering
24 group health insurance coverage from negotiating the level

1 and type of reimbursement with a provider for care pro-
2 vided in accordance with this section.”.

3 (B) Section 731(e) of such Act (29 U.S.C.
4 1191(e)) is amended by striking “section 711” and
5 inserting “sections 711 and 713”.

6 (C) Section 732(a) of such Act (29 U.S.C.
7 1191a(a)) is amended by striking “section 711” and
8 inserting “sections 711 and 713”.

9 (D) The table of contents in section 1 of such
10 Act is amended by inserting after the item relating
11 to section 712 the following new item:

“Sec. 713. Standards relating to benefits for annual mammograms and annual
prostate cancer screening tests.”.

12 (3) INTERNAL REVENUE CODE AMEND-
13 MENTS.—Subchapter B of chapter 100 of the Inter-
14 nal Revenue Code of 1986 (as amended by section
15 1531(a) of the Taxpayer Relief Act of 1997) is
16 amended—

17 (A) in the table of sections, by inserting after
18 the item relating to section 9812 the following new
19 item:

“Sec. 9813. Standards relating to benefits for annual mammo-
grams and annual prostate cancer screening tests.”;
and

20 (B) by inserting after section 9812 the follow-
21 ing:

1 **“SEC. 9813. STANDARDS RELATING TO BENEFITS FOR AN-**
2 **NUAL MAMMOGRAMS AND ANNUAL PROS-**
3 **TATE CANCER SCREENING TESTS.**

4 “A group health plan shall comply with the require-
5 ments of section 713(a) of the Employee Retirement In-
6 come Security Act of 1974.”

7 (b) INDIVIDUAL HEALTH INSURANCE.—(1) Part B
8 of title XXVII of the Public Health Service Act is amend-
9 ed by inserting after section 2751 the following new sec-
10 tion:

11 **“SEC. 2752. STANDARDS RELATING TO BENEFITS FOR AN-**
12 **NUAL MAMMOGRAMS AND ANNUAL PROS-**
13 **TATE CANCER SCREENING TESTS.**

14 “(a) IN GENERAL.—The provisions of section 2706
15 (other than subsection (d)) shall apply to health insurance
16 coverage offered by a health insurance issuer in the indi-
17 vidual market in the same manner as it applies to health
18 insurance coverage offered by a health insurance issuer
19 in connection with a group health plan in the small or
20 large group market.

21 “(b) NOTICE.—A health insurance issuer under this
22 part shall comply with the notice requirement under sec-
23 tion 713(d) of the Employee Retirement Income Security
24 Act of 1974 with respect to the requirements referred to
25 in subsection (a) as if such section applied to such issuer
26 and such issuer were a group health plan.”.

1 (c) EFFECTIVE DATES.—(1) Subject to paragraph
2 (3), the amendments made by subsection (a) shall apply
3 with respect to group health plans for plan years begin-
4 ning on or after January 1, 1999.

5 (2) The amendment made by subsection (b) shall
6 apply with respect to health insurance coverage offered,
7 sold, issued, renewed, in effect, or operated in the individ-
8 ual market on or after such date.

9 (3) In the case of a group health plan maintained
10 pursuant to 1 or more collective bargaining agreements
11 between employee representatives and 1 or more employ-
12 ers ratified before the date of enactment of this Act, the
13 amendments made subsection (a) shall not apply to plan
14 years beginning before the later of—

15 (A) the date on which the last collective bar-
16 gaining agreements relating to the plan terminates
17 (determined without regard to any extension thereof
18 agreed to after the date of enactment of this Act),
19 or

20 (B) January 1, 1999.

21 For purposes of subparagraph (A), any plan amendment
22 made pursuant to a collective bargaining agreement relat-
23 ing to the plan which amends the plan solely to conform
24 to any requirement added by subsection (a) shall not be

1 treated as a termination of such collective bargaining
2 agreement.

3 (d) COORDINATED REGULATIONS.—Section 104(1)
4 of Health Insurance Portability and Accountability Act of
5 1996 is amended by striking “this subtitle (and the
6 amendments made by this subtitle and section 401)” and
7 inserting “the provisions of part 7 of subtitle B of title
8 I of the Employee Retirement Income Security Act of
9 1974, the provisions of parts A and C of title XXVII of
10 the Public Health Service Act, and chapter 100 of the In-
11 ternal Revenue Code of 1986”.

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