

105TH CONGRESS  
2D SESSION

# H. R. 4737

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 for treatment of a minor child's congenital or developmental deformity or disorder due to trauma, infection, tumor, or disease.

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## IN THE HOUSE OF REPRESENTATIVES

OCTOBER 8, 1998

Mrs. KELLY (for herself, Mr. FROST, Mr. GANSKE, Mrs. MCCARTHY of New York, Mr. GILMAN, Mr. CONDIT, Mr. LOBIONDO, and 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

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## 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 for treatment of a minor child's congenital or developmental deformity or disorder due to trauma, infection, tumor, or disease.

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 “Treatment of Chil-  
3 dren’s Deformities Act of 1998”.

4 **SEC. 2. COVERAGE OF MINOR CHILD’S CONGENITAL OR DE-**  
5 **VELOPMENTAL DEFORMITY OR DISORDER.**

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, as amended by sec-  
10 tion 703(a) of Public Law 104–204, is amended by  
11 adding at the end the following new section:

12 **“SEC. 2706. STANDARDS RELATING TO BENEFITS FOR**  
13 **MINOR CHILD’S CONGENITAL OR DEVELOP-**  
14 **MENTAL DEFORMITY OR DISORDER.**

15 **“(a) REQUIREMENTS FOR RECONSTRUCTIVE SUR-**  
16 **GERY.—**

17 **“(1) IN GENERAL.—**A group health plan, and a  
18 health insurance issuer offering group health insur-  
19 ance coverage, that provides coverage for surgical  
20 benefits shall provide coverage for outpatient and in-  
21 patient diagnosis and treatment of a minor child’s  
22 congenital or developmental deformity, disease, or  
23 injury. A minor child shall include any individual  
24 through 21 years of age.

25 **“(2) REQUIREMENTS.—**Any coverage provided  
26 under paragraph (1) shall be subject to pre-author-

1        ization or pre-certification as required by the plan or  
2        issuer, and such coverage shall include any surgical  
3        treatment which, in the opinion of the treating phy-  
4        sician, is medically necessary to approximate a nor-  
5        mal appearance.

6            “(3) TREATMENT DEFINED.—

7            “(A) IN GENERAL.—In this section, the  
8            term ‘treatment’ includes reconstructive sur-  
9            gical procedures (procedures that are generally  
10           performed to improve function, but may also be  
11           performed to approximate a normal appear-  
12           ance) that are performed on abnormal struc-  
13           tures of the body caused by congenital defects,  
14           developmental abnormalities, trauma, infection,  
15           tumors, or disease, including—

16                    “(i) procedures that do not materially  
17                    affect the function of the body part being  
18                    treated; and

19                    “(ii) procedures for secondary condi-  
20                    tions and follow-up treatment.

21            “(B) EXCEPTION.—Such term does not in-  
22            clude cosmetic surgery performed to reshape  
23            normal structures of the body to improve ap-  
24            pearance or self-esteem.

1       “(b) NOTICE.—A group health plan under this part  
2 shall comply with the notice requirement under section  
3 713(b) of the Employee Retirement Income Security Act  
4 of 1974 with respect to the requirements of this section  
5 as if such section applied to such plan.”.

6           (B) Section 2723(c) of such Act (42 U.S.C.  
7 300gg-23(c)), as amended by section 604(b)(2) of  
8 Public Law 104-204, is amended by striking “sec-  
9 tion 2704” and inserting “sections 2704 and 2706”.

10          (2) ERISA AMENDMENTS.—(A) Subpart B of  
11 part 7 of subtitle B of title I of the Employee Re-  
12 tirement Income Security Act of 1974, as amended  
13 by section 702(a) of Public Law 104-204, is amend-  
14 ed by adding at the end the following new section:

15 **“SEC. 713. STANDARDS RELATING TO BENEFITS FOR MINOR**  
16 **CHILD’S CONGENITAL OR DEVELOPMENTAL**  
17 **DEFORMITY OR DISORDER.**

18       “(a) REQUIREMENTS FOR RECONSTRUCTIVE SUR-  
19 GERY.—

20           “(1) IN GENERAL.—A group health plan, and a  
21 health insurance issuer offering group health insur-  
22 ance coverage, that provides coverage for surgical  
23 benefits shall provide coverage for outpatient and in-  
24 patient diagnosis and treatment of a minor child’s  
25 congenital or developmental deformity, disease, or

1 injury. A minor child shall include any individual  
2 through 21 years of age.

3 “(2) REQUIREMENTS.—Any coverage provided  
4 under paragraph (1) shall be subject to pre-author-  
5 ization or pre-certification as required by the plan or  
6 issuer, and such coverage shall include any surgical  
7 treatment which, in the opinion of the treating phy-  
8 sician, is medically necessary to approximate a nor-  
9 mal appearance.

10 “(3) TREATMENT DEFINED.—

11 “(A) IN GENERAL.—In this section, the  
12 term ‘treatment’ includes reconstructive sur-  
13 gical procedures (procedures that are generally  
14 performed to improve function, but may also be  
15 performed to approximate a normal appear-  
16 ance) that are performed on abnormal struc-  
17 tures of the body caused by congenital defects,  
18 developmental abnormalities, trauma, infection,  
19 tumors, or disease, including—

20 “(i) procedures that do not materially  
21 affect the function of the body part being  
22 treated; and

23 “(ii) procedures for secondary condi-  
24 tions and follow-up treatment.

1           “(B) EXCEPTION.—Such term does not in-  
2           clude cosmetic surgery performed to reshape  
3           normal structures of the body to improve ap-  
4           pearance or self-esteem.

5           “(b) NOTICE UNDER GROUP HEALTH PLAN.—The  
6           imposition of the requirements of this section shall be  
7           treated as a material modification in the terms of the plan  
8           described in section 102(a)(1), for purposes of assuring  
9           notice of such requirements under the plan; except that  
10          the summary description required to be provided under the  
11          last sentence of section 104(b)(1) with respect to such  
12          modification shall be provided by not later than 60 days  
13          after the first day of the first plan year in which such  
14          requirements apply.”.

15          (B) Section 731(e) of such Act (29 U.S.C.  
16          1191(e)), as amended by section 603(b)(1) of Public  
17          Law 104–204, is amended by striking “section 711”  
18          and inserting “sections 711 and 713”.

19          (C) Section 732(a) of such Act (29 U.S.C.  
20          1191a(a)), as amended by section 603(b)(2) of Pub-  
21          lic Law 104–204, is amended by striking “section  
22          711” and inserting “sections 711 and 713”.

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



1 injury. A minor child shall include any individual  
2 through 21 years of age.

3 “(2) REQUIREMENTS.—Any coverage provided  
4 under paragraph (1) shall be subject to pre-author-  
5 ization or pre-certification as required by the plan or  
6 issuer, and such coverage shall include any surgical  
7 treatment which, in the opinion of the treating phy-  
8 sician, is medically necessary to approximate a nor-  
9 mal appearance.

10 “(3) TREATMENT DEFINED.—

11 “(A) IN GENERAL.—In this section, the  
12 term ‘treatment’ includes reconstructive sur-  
13 gical procedures (procedures that are generally  
14 performed to improve function, but may also be  
15 performed to approximate a normal appear-  
16 ance) that are performed on abnormal struc-  
17 tures of the body caused by congenital defects,  
18 developmental abnormalities, trauma, infection,  
19 tumors, or disease, including—

20 “(i) procedures that do not materially  
21 affect the function of the body part being  
22 treated; and

23 “(ii) procedures for secondary condi-  
24 tions and follow-up treatment.

1           “(B) EXCEPTION.—Such term does not in-  
2           clude cosmetic surgery performed to reshape  
3           normal structures of the body to improve ap-  
4           pearance or self-esteem.”.

5           (b) INDIVIDUAL HEALTH INSURANCE.—(1) Part B  
6 of title XXVII of the Public Health Service Act, as amend-  
7 ed by section 605(a) of Public Law 104–204, is amended  
8 by inserting after section 2751 the following new section:

9           **“SEC. 2752. STANDARDS RELATING TO BENEFITS FOR**  
10                           **MINOR CHILD’S CONGENITAL OR DEVELOP-**  
11                           **MENTAL DEFORMITY OR DISORDER.**

12           “(a) REQUIREMENTS FOR RECONSTRUCTIVE SUR-  
13 GERY.—

14           “(1) IN GENERAL.—A group health plan, and a  
15           health insurance issuer offering group health insur-  
16           ance coverage, that provides coverage for surgical  
17           benefits shall provide coverage for outpatient and in-  
18           patient diagnosis and treatment of a minor child’s  
19           congenital or developmental deformity, disease, or  
20           injury. A minor child shall include any individual  
21           through 21 years of age.

22           “(2) REQUIREMENTS.—Any coverage provided  
23           under paragraph (1) shall be subject to pre-author-  
24           ization or pre-certification as required by the plan or  
25           issuer, and such coverage shall include any surgical

1 treatment which, in the opinion of the treating phy-  
2 sician, is medically necessary to approximate a nor-  
3 mal appearance.

4 “(3) TREATMENT DEFINED.—

5 “(A) IN GENERAL.—In this section, the  
6 term ‘treatment’ includes reconstructive sur-  
7 gical procedures (procedures that are generally  
8 performed to improve function, but may also be  
9 performed to approximate a normal appear-  
10 ance) that are performed on abnormal struc-  
11 tures of the body caused by congenital defects,  
12 developmental abnormalities, trauma, infection,  
13 tumors, or disease, including—

14 “(i) procedures that do not materially  
15 affect the function of the body part being  
16 treated; and

17 “(ii) procedures for secondary condi-  
18 tions and follow-up treatment.

19 “(B) EXCEPTION.—Such term does not in-  
20 clude cosmetic surgery performed to reshape  
21 normal structures of the body to improve ap-  
22 pearance or self-esteem.

23 “(b) NOTICE.—A health insurance issuer under this  
24 part shall comply with the notice requirement under sec-  
25 tion 713(b) of the Employee Retirement Income Security

1 Act of 1974 with respect to the requirements referred to  
2 in subsection (a) as if such section applied to such issuer  
3 and such issuer were a group health plan.”.

4 (2) Section 2762(b)(2) of such Act (42 U.S.C.  
5 300gg-62(b)(2)), as added by section 605(b)(3)(B) of  
6 Public Law 104-204, is amended by striking “section  
7 2751” and inserting “sections 2751 and 2752”.

8 (c) EFFECTIVE DATES.—(1) The amendments made  
9 by subsection (a) shall apply with respect to group health  
10 plans for plan years beginning on or after January 1,  
11 1999.

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

16 (d) COORDINATED REGULATIONS.—Section 104(1)  
17 of Health Insurance Portability and Accountability Act of  
18 1996 is amended by striking “this subtitle (and the  
19 amendments made by this subtitle and section 401)” and  
20 inserting “the provisions of part 7 of subtitle B of title  
21 I of the Employee Retirement Income Security Act of  
22 1974, the provisions of parts A and C of title XXVII of  
23 the Public Health Service Act, and chapter 100 of the In-  
24 ternal Revenue Code of 1986”.

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