

107TH CONGRESS
1ST SESSION

H. R. 1111

To require equitable coverage of prescription contraceptive drugs and devices,
and contraceptive services under health plans.

IN THE HOUSE OF REPRESENTATIVES

MARCH 20, 2001

Mr. GREENWOOD (for himself, Mrs. LOWEY, Mrs. JOHNSON of Connecticut, Mrs. MCCARTHY of New York, Mrs. ROUKEMA, Mr. WEINER, Mr. SHAYS, Mrs. TAUSCHER, Mr. OSE, Mrs. THURMAN, Mr. BOEHLERT, Ms. SCHAKOWSKY, Mr. BLAGOJEVICH, Ms. WOOLSEY, Mrs. KELLY, Mr. LARSEN of Washington, Mr. TIERNEY, Mr. ALLEN, Mrs. JONES of Ohio, Mr. SANDERS, Mr. BALDACCI, Mr. INSLEE, Mr. STARK, Mr. HINCHEY, Mr. BRADY of Pennsylvania, Mr. FRANK, Mr. OLVER, Mr. BONIOR, Mr. BENTSEN, Mr. ABERCROMBIE, Mr. PRICE of North Carolina, Mr. BARRETT, Mr. HOLT, Ms. HOOLEY of Oregon, Mr. BERMAN, Ms. HARMAN, Ms. SOLIS, Ms. DELAURO, Mr. MORAN of Virginia, Mr. FILNER, Mr. CAPUANO, Mr. BLUMENAUER, Ms. SANCHEZ, Mr. MCGOVERN, Ms. BALDWIN, Ms. SLAUGHTER, Ms. PELOSI, Mr. DEFazio, Mr. SCHIFF, Mr. JEFFERSON, Mr. PAYNE, Mr. CROWLEY, Mr. NADLER, Mr. HOEFFEL, Mr. GONZALEZ, Mr. EVANS, Mr. McDERMOTT, Mr. RODRIGUEZ, Ms. MCCARTHY of Missouri, Mr. THOMPSON of California, Mr. CUMMINGS, and Mr. GEORGE MILLER of California) introduced the following bill; which was referred to the Committee on Education and the Workforce, and in addition to the Committee on Energy and Commerce, 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 require equitable coverage of prescription contraceptive drugs and devices, and contraceptive services under health plans.

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 “Equity in Prescription
5 Insurance and Contraceptive Coverage Act of 2001”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

8 (1) each year, 3,000,000 pregnancies, or one
9 half of all pregnancies, in this country are unin-
10 tended;

11 (2) contraceptive services are part of basic
12 health care, allowing families to both adequately
13 space desired pregnancies and avoid unintended
14 pregnancy;

15 (3) studies show that contraceptives are cost ef-
16 fective: for every \$1 of public funds invested in fam-
17 ily planning, \$4 to \$14 of public funds is saved in
18 pregnancy and health care-related costs;

19 (4) by reducing rates of unintended pregnancy,
20 contraceptives help reduce the need for abortion;

21 (5) unintended pregnancies lead to higher rates
22 of infant mortality, low-birth weight, and maternal
23 morbidity, and threaten the economic viability of
24 families;

1 (6) the National Commission to Prevent Infant
2 Mortality determined that “infant mortality could be
3 reduced by 10 percent if all women not desiring
4 pregnancy used contraception”;

5 (7) most women in the United States, including
6 three-quarters of women of childbearing age, rely on
7 some form of private insurance (through their own
8 employer, a family member’s employer, or the indi-
9 vidual market) to defray their medical expenses;

10 (8) the vast majority of private insurers cover
11 prescription drugs, but many exclude coverage for
12 prescription contraceptives;

13 (9) private insurance provides extremely limited
14 coverage of contraceptives: half of traditional indem-
15 nity plans and preferred provider organizations, 20
16 percent of point-of-service networks, and 7 percent
17 of health maintenance organizations cover no contra-
18 ceptive methods other than sterilization;

19 (10) women of reproductive age spend 68 per-
20 cent more than men on out-of-pocket health care
21 costs, with contraceptives and reproductive health
22 care services accounting for much of the difference;

23 (11) the lack of contraceptive coverage in health
24 insurance places many effective forms of contracep-

1 tives beyond the financial reach of many women,
2 leading to unintended pregnancies;

3 (12) the Institute of Medicine Committee on
4 Unintended Pregnancy recommended that “financial
5 barriers to contraception be reduced by increasing
6 the proportion of all health insurance policies that
7 cover contraceptive services and supplies”;

8 (13) in 1998, Congress agreed to provide con-
9 traceptive coverage to the 1,200,000 women of re-
10 productive age who are participating in the Federal
11 Employees Health Benefits Program, the largest
12 employer-sponsored health insurance plan in the
13 world; and

14 (14) eight in 10 privately insured adults sup-
15 port contraceptive coverage.

16 **SEC. 3. AMENDMENTS TO THE EMPLOYEE RETIREMENT IN-**
17 **COME SECURITY ACT OF 1974.**

18 (a) IN GENERAL.—Subpart B of part 7 of subtitle
19 B of title I of the Employee Retirement Income Security
20 Act of 1974 (29 U.S.C. 1185 et seq.) is amended by add-
21 ing at the end the following new section:

22 **“SEC. 714. STANDARDS RELATING TO BENEFITS FOR CON-**
23 **TRACEPTIVES.**

24 “(a) REQUIREMENTS FOR COVERAGE.—A group
25 health plan, and a health insurance issuer providing health

1 insurance coverage in connection with a group health plan,
2 may not—

3 “(1) exclude or restrict benefits for prescription
4 contraceptive drugs or devices approved by the Food
5 and Drug Administration, or generic equivalents ap-
6 proved as substitutable by the Food and Drug Ad-
7 ministration, if such plan provides benefits for other
8 outpatient prescription drugs or devices; or

9 “(2) exclude or restrict benefits for outpatient
10 contraceptive services if such plan provides benefits
11 for other outpatient services provided by a health
12 care professional (referred to in this section as ‘out-
13 patient health care services’).

14 “(b) PROHIBITIONS.—A group health plan, and a
15 health insurance issuer providing health insurance cov-
16 erage in connection with a group health plan, may not—

17 “(1) deny to an individual eligibility, or contin-
18 ued eligibility, to enroll or to renew coverage under
19 the terms of the plan because of the individual’s or
20 enrollee’s use or potential use of items or services
21 that are covered in accordance with the requirements
22 of this section;

23 “(2) provide monetary payments or rebates to
24 a covered individual to encourage such individual to

1 accept less than the minimum protections available
2 under this section;

3 “(3) penalize or otherwise reduce or limit the
4 reimbursement of a health care professional because
5 such professional prescribed contraceptive drugs or
6 devices, or provided contraceptive services, described
7 in subsection (a), in accordance with this section; or

8 “(4) provide incentives (monetary or otherwise)
9 to a health care professional to induce such profes-
10 sional to withhold from a covered individual contra-
11 ceptive drugs or devices, or contraceptive services,
12 described in subsection (a).

13 “(c) RULES OF CONSTRUCTION.—

14 “(1) IN GENERAL.—Nothing in this section
15 shall be construed—

16 “(A) as preventing a group health plan
17 and a health insurance issuer providing health
18 insurance coverage in connection with a group
19 health plan from imposing deductibles, coinsur-
20 ance, or other cost-sharing or limitations in re-
21 lation to—

22 “(i) benefits for contraceptive drugs
23 under the plan, except that such a deduct-
24 ible, coinsurance, or other cost-sharing or
25 limitation for any such drug may not be

1 greater than such a deductible, coinsur-
2 ance, or cost-sharing or limitation for any
3 outpatient prescription drug otherwise cov-
4 ered under the plan;

5 “(ii) benefits for contraceptive devices
6 under the plan, except that such a deduct-
7 ible, coinsurance, or other cost-sharing or
8 limitation for any such device may not be
9 greater than such a deductible, coinsur-
10 ance, or cost-sharing or limitation for any
11 outpatient prescription device otherwise
12 covered under the plan; and

13 “(iii) benefits for outpatient contra-
14 ceptive services under the plan, except that
15 such a deductible, coinsurance, or other
16 cost-sharing or limitation for any such
17 service may not be greater than such a de-
18 ductible, coinsurance, or cost-sharing or
19 limitation for any outpatient health care
20 service otherwise covered under the plan;
21 and

22 “(B) as requiring a group health plan and
23 a health insurance issuer providing health in-
24 surance coverage in connection with a group
25 health plan to cover experimental or investiga-

1 tional contraceptive drugs or devices, or experi-
2 mental or investigational contraceptive services,
3 described in subsection (a), except to the extent
4 that the plan or issuer provides coverage for
5 other experimental or investigational outpatient
6 prescription drugs or devices, or experimental
7 or investigational outpatient health care serv-
8 ices.

9 “(2) LIMITATIONS.—As used in paragraph (1),
10 the term ‘limitation’ includes—

11 “(A) in the case of a contraceptive drug or
12 device, restricting the type of health care pro-
13 fessionals that may prescribe such drugs or de-
14 vices, utilization review provisions, and limits on
15 the volume of prescription drugs or devices that
16 may be obtained on the basis of a single con-
17 sultation with a professional; or

18 “(B) in the case of an outpatient contra-
19 ceptive service, restricting the type of health
20 care professionals that may provide such serv-
21 ices, utilization review provisions, requirements
22 relating to second opinions prior to the coverage
23 of such services, and requirements relating to
24 preauthorizations prior to the coverage of such
25 services.

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

11 “(e) PREEMPTION.—Nothing in this section shall be
12 construed to preempt any provision of State law to the
13 extent that such State law establishes, implements, or con-
14 tinues in effect any standard or requirement that provides
15 protections for enrollees that are greater than the protec-
16 tions provided under this section.

17 “(f) DEFINITION.—In this section, the term ‘out-
18 patient contraceptive services’ means consultations, exami-
19 nations, procedures, and medical services, provided on an
20 outpatient basis and related to the use of contraceptive
21 methods (including natural family planning) to prevent an
22 unintended pregnancy.”.

23 (b) CLERICAL AMENDMENT.—The table of contents
24 in section 1 of the Employee Retirement Income Security
25 Act of 1974 (29 U.S.C. 1001 note) is amended by insert-

1 ing after the item relating to section 713 the following
 2 new item:

“Sec. 714. Standards relating to benefits for contraceptives.”.

3 (c) **EFFECTIVE DATE.**—The amendments made by
 4 this section shall apply with respect to plan years begin-
 5 ning on or after January 1, 2002.

6 **SEC. 4. AMENDMENTS TO THE PUBLIC HEALTH SERVICE**
 7 **ACT RELATING TO THE GROUP MARKET.**

8 (a) **IN GENERAL.**—Subpart 2 of part A of title
 9 XXVII of the Public Health Service Act (42 U.S.C.
 10 300gg-4 et seq.) is amended by adding at the end the fol-
 11 lowing new section:

12 **“SEC. 2707. STANDARDS RELATING TO BENEFITS FOR CON-**
 13 **TRACEPTIVES.**

14 “(a) **REQUIREMENTS FOR COVERAGE.**—A group
 15 health plan, and a health insurance issuer providing health
 16 insurance coverage in connection with a group health plan,
 17 may not—

18 “(1) exclude or restrict benefits for prescription
 19 contraceptive drugs or devices approved by the Food
 20 and Drug Administration, or generic equivalents ap-
 21 proved as substitutable by the Food and Drug Ad-
 22 ministration, if such plan provides benefits for other
 23 outpatient prescription drugs or devices; or

24 “(2) exclude or restrict benefits for outpatient
 25 contraceptive services if such plan provides benefits

1 for other outpatient services provided by a health
2 care professional (referred to in this section as ‘out-
3 patient health care services’).

4 “(b) PROHIBITIONS.—A group health plan, and a
5 health insurance issuer providing health insurance cov-
6 erage in connection with a group health plan, may 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 because of the individual’s or
10 enrollee’s use or potential use of items or services
11 that are covered in accordance with the requirements
12 of this section;

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

17 “(3) penalize or otherwise reduce or limit the
18 reimbursement of a health care professional because
19 such professional prescribed contraceptive drugs or
20 devices, or provided contraceptive services, described
21 in subsection (a), in accordance with this section; or

22 “(4) provide incentives (monetary or otherwise)
23 to a health care professional to induce such profes-
24 sional to withhold from covered individual contracep-

1 tive drugs or devices, or contraceptive services, de-
2 scribed in subsection (a).

3 “(c) RULES OF CONSTRUCTION.—

4 “(1) IN GENERAL.—Nothing in this section
5 shall be construed—

6 “(A) as preventing a group health plan
7 and a health insurance issuer providing health
8 insurance coverage in connection with a group
9 health plan from imposing deductibles, coinsur-
10 ance, or other cost-sharing or limitations in re-
11 lation to—

12 “(i) benefits for contraceptive drugs
13 under the plan, except that such a deduct-
14 ible, coinsurance, or other cost-sharing or
15 limitation for any such drug may not be
16 greater than such a deductible, coinsur-
17 ance, or cost-sharing or limitation for any
18 outpatient prescription drug otherwise cov-
19 ered under the plan;

20 “(ii) benefits for contraceptive devices
21 under the plan, except that such a deduct-
22 ible, coinsurance, or other cost-sharing or
23 limitation for any such device may not be
24 greater than such a deductible, coinsur-
25 ance, or cost-sharing or limitation for any

1 outpatient prescription device otherwise
2 covered under the plan; and

3 “(iii) benefits for outpatient contra-
4 ceptive services under the plan, except that
5 such a deductible, coinsurance, or other
6 cost-sharing or limitation for any such
7 service may not be greater than such a de-
8 ductible, coinsurance, or cost-sharing or
9 limitation for any outpatient health care
10 service otherwise covered under the plan;
11 and

12 “(B) as requiring a group health plan and
13 a health insurance issuer providing health in-
14 surance coverage in connection with a group
15 health plan to cover experimental or investiga-
16 tional contraceptive drugs or devices, or experi-
17 mental or investigational contraceptive services,
18 described in subsection (a), except to the extent
19 that the plan or issuer provides coverage for
20 other experimental or investigational outpatient
21 prescription drugs or devices, or experimental
22 or investigational outpatient health care serv-
23 ices.

24 “(2) LIMITATIONS.—As used in paragraph (1),
25 the term ‘limitation’ includes—

1 “(A) in the case of a contraceptive drug or
2 device, restricting the type of health care pro-
3 fessionals that may prescribe such drugs or de-
4 vices, utilization review provisions, and limits on
5 the volume of prescription drugs or devices that
6 may be obtained on the basis of a single con-
7 sultation with a professional; or

8 “(B) in the case of an outpatient contra-
9 ceptive service, restricting the type of health
10 care professionals that may provide such serv-
11 ices, utilization review provisions, requirements
12 relating to second opinions prior to the coverage
13 of such services, and requirements relating to
14 preauthorizations prior to the coverage of such
15 services.

16 “(d) NOTICE.—A group health plan under this part
17 shall comply with the notice requirement under section
18 714(d) of the Employee Retirement Income Security Act
19 of 1974 with respect to the requirements of this section
20 as if such section applied to such plan.

21 “(e) PREEMPTION.—Nothing in this section shall be
22 construed to preempt any provision of State law to the
23 extent that such State law establishes, implements, or con-
24 tinues in effect any standard or requirement that provides

1 protections for enrollees that are greater than the protec-
 2 tions provided under this section.

3 “(f) DEFINITION.—In this section, the term ‘out-
 4 patient contraceptive services’ means consultations, exami-
 5 nations, procedures, and medical services, provided on an
 6 outpatient basis and related to the use of contraceptive
 7 methods (including natural family planning) to prevent an
 8 unintended pregnancy.”.

9 (b) EFFECTIVE DATE.—The amendments made by
 10 this section shall apply with respect to group health plans
 11 for plan years beginning on or after January 1, 2002.

12 **SEC. 5. AMENDMENT TO THE PUBLIC HEALTH SERVICE ACT**
 13 **RELATING TO THE INDIVIDUAL MARKET.**

14 (a) IN GENERAL.—Part B of title XXVII of the Pub-
 15 lic Health Service Act (42 U.S.C. 300gg-41 et seq.) is
 16 amended—

17 (1) by redesignating the first subpart 3 (relat-
 18 ing to other requirements) as subpart 2; and

19 (2) by adding at the end of subpart 2 the fol-
 20 lowing new section:

21 **“SEC. 2753. STANDARDS RELATING TO BENEFITS FOR CON-**
 22 **TRACEPTIVES.**

23 “The provisions of section 2707 shall apply to health
 24 insurance coverage offered by a health insurance issuer
 25 in the individual market in the same manner as they apply

1 to health insurance coverage offered by a health insurance
2 issuer in connection with a group health plan in the small
3 or large group market.”.

4 (b) EFFECTIVE DATE.—The amendment made by
5 this section shall apply with respect to health insurance
6 coverage offered, sold, issued, renewed, in effect, or oper-
7 ated in the individual market on or after January 1, 2002.

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