

107TH CONGRESS
1ST SESSION

H. R. 162

To amend the Public Health Service Act, Employee Retirement Income Security Act of 1974, and the Internal Revenue Code of 1986 to prohibit group and individual health plans from imposing treatment limitations or financial requirements on the coverage of mental health benefits and on the coverage of substance abuse and chemical dependency benefits if similar limitations or requirements are not imposed on medical and surgical benefits.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 3, 2001

Mrs. ROUKEMA (for herself, Mr. DEFazio, Mr. STRICKLAND, Ms. KAPTUR, Mr. GEORGE MILLER of California, Mr. ANDREWS, Ms. DELAURO, Mrs. MORELLA, Mr. SHAYS, Mrs. KELLY, Mr. SANDERS, Mr. LEACH, Mr. BOEHLERT, Mr. FARR of California, Mr. McNULTY, Mr. HINCHEY, Mr. RAMSTAD, Mr. KLECZKA, Ms. MCCARTHY of Missouri, Mr. STARK, Mr. RUSH, Mr. NADLER, Mr. KUCINICH, Mr. PRICE of North Carolina, Mr. BALDACCI, Mr. GILMAN, Mrs. CAPPS, and Mr. TIERNEY) introduced the following bill; which was referred to the Committee on Energy and 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, Employee Retirement Income Security Act of 1974, and the Internal Revenue Code of 1986 to prohibit group and individual health plans from imposing treatment limitations or financial requirements on the coverage of mental health benefits and on the coverage of substance abuse and

chemical dependency benefits if similar limitations or requirements are not imposed on medical and surgical benefits.

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 “Mental Health and
 5 Substance Abuse Parity Amendments of 2001”.

6 **SEC. 2. REVISION IN LIMITS APPLIED TO MENTAL HEALTH**
 7 **BENEFITS.**

8 (a) APPLICATION TO GROUP HEALTH PLANS AND
 9 GROUP HEALTH INSURANCE UNDER ERISA.—

10 (1) EXPANSION TO COVER TREATMENT LIMITA-
 11 TIONS AND FINANCIAL REQUIREMENTS GEN-
 12 ERALLY.—Section 712 of the Employee Retirement
 13 Income Security Act of 1974 (29 U.S.C. 1185a) is
 14 amended—

15 (A) in the heading, by striking “**CER-**
 16 **TAIN**”;

17 (B) by amending subsections (a) and (b) to
 18 read as follows:

19 “(a) IN GENERAL.—In the case of a group health
 20 plan (or health insurance coverage offered in connection
 21 with such a plan) that provides both medical and surgical
 22 benefits and mental health benefits, such plan or coverage
 23 shall not impose treatment limitations or financial require-

1 ments on the coverage of mental health benefits if similar
2 limitations or requirements are not imposed on coverage
3 of medical and surgical benefits in comparable settings
4 (including inpatient and outpatient settings).

5 “(b) CONSTRUCTION.—Nothing in this section shall
6 be construed—

7 “(1) as prohibiting a group health plan (or
8 health insurance coverage offered in connection with
9 such a plan) from—

10 “(A) negotiating separate reimbursement
11 rates and service delivery systems for different
12 benefits; or

13 “(B) managing the provision of benefits
14 through the use of pre-admission screening,
15 prior authorization of services, and other mech-
16 anisms designed to limit coverage of items and
17 services to those deemed to be medically nec-
18 essary;

19 “(2) as requiring a group health plan (or health
20 insurance coverage offered in connection with such a
21 plan) to provide any specific mental health benefits;
22 or

23 “(3) as preventing a group health plan or
24 health insurance issuer applying subsection (a) with-
25 out regard to benefits for preventive care.”; and

1 (C) in subsection (e), by striking para-
2 graphs (1) and (2) and inserting the following:

3 “(1) TREATMENT LIMITATIONS.—The term
4 ‘treatment limitations’ means limits on the fre-
5 quency of treatment, number of visits, or other lim-
6 its on the scope and duration of treatment, as cov-
7 ered by a group health plan (or health insurance
8 coverage offered in connection with such a plan).
9 Such term does not include limits on benefits or cov-
10 erage based solely on medical necessity.

11 “(2) FINANCIAL REQUIREMENTS.—The term
12 ‘financial requirements’ means copayments,
13 deductibles, out-of-network charges, out-of-pocket
14 contributions or fees, annual limits, and lifetime ag-
15 gregate limits imposed on covered individuals.”.

16 (2) ELIMINATION OF COST EXEMPTION.—Such
17 section is further amended by striking paragraph (2)
18 of subsection (c).

19 (3) ELIMINATION OF SUNSET.—Such section is
20 further amended by striking subsection (f).

21 (4) CLERICAL AMENDMENT.—The item in the
22 table of contents in section 1 of such Act relating to
23 section 712 is amended by striking “certain”.

1 (b) APPLICATION TO GROUP HEALTH PLANS AND
2 HEALTH INSURANCE ISSUERS UNDER THE PUBLIC
3 HEALTH SERVICE ACT.—

4 (1) EXPANSION TO COVER TREATMENT LIMITA-
5 TIONS AND FINANCIAL REQUIREMENTS GEN-
6 ERALLY.—Section 2705 of the Public Health Service
7 Act (42 U.S.C. 300gg–5) is amended—

8 (A) in the heading, by striking “**CER-**
9 **TAIN**”;

10 (B) by amending subsections (a) and (b) to
11 read as follows:

12 “(a) IN GENERAL.—In the case of a group health
13 plan (or health insurance coverage offered in connection
14 with such a plan) that provides both medical and surgical
15 benefits and mental health benefits, such plan or coverage
16 shall not impose treatment limitations or financial require-
17 ments on the coverage of mental health benefits if similar
18 limitations or requirements are not imposed on coverage
19 of medical and surgical benefits in comparable settings
20 (including inpatient and outpatient settings).

21 “(b) CONSTRUCTION.—Nothing in this section shall
22 be construed—

23 “(1) as prohibiting a group health plan (or
24 health insurance coverage offered in connection with
25 such a plan) from—

1 “(A) negotiating separate reimbursement
2 rates and service delivery systems for different
3 benefits; or

4 “(B) managing the provision of benefits
5 through the use of pre-admission screening,
6 prior authorization of services, and other mech-
7 anisms designed to limit coverage of items and
8 services to those deemed to be medically nec-
9 essary;

10 “(2) as requiring a group health plan (or health
11 insurance coverage offered in connection with such a
12 plan) to provide any specific mental health benefits;
13 or

14 “(3) as preventing a group health plan or
15 health insurance issuer applying subsection (a) with-
16 out regard to benefits for preventive care.”; and

17 (C) in subsection (e), by striking para-
18 graphs (1) and (2) and inserting the following:

19 “(1) TREATMENT LIMITATIONS.—The term
20 ‘treatment limitations’ means limits on the fre-
21 quency of treatment, number of visits, or other lim-
22 its on the scope and duration of treatment, as cov-
23 ered by a group health plan (or health insurance
24 coverage offered in connection with such a plan).

1 Such term does not include limits on benefits or cov-
 2 erage based solely on medical necessity.

3 “(2) FINANCIAL REQUIREMENTS.—The term
 4 ‘financial requirements’ means copayments,
 5 deductibles, out-of-network charges, out-of-pocket
 6 contributions or fees, annual limits, and lifetime ag-
 7 gregate limits imposed on covered individuals.”.

8 (2) ELIMINATION OF COST EXEMPTION.—Such
 9 section is further amended by striking paragraph (2)
 10 of subsection (c).

11 (3) ELIMINATION OF SUNSET.—Such section is
 12 further amended by striking subsection (f).

13 (c) APPLICATION TO GROUP HEALTH PLANS UNDER
 14 THE INTERNAL REVENUE CODE OF 1986.—

15 (1) EXPANSION TO COVER TREATMENT LIMITA-
 16 TIONS AND FINANCIAL REQUIREMENTS GEN-
 17 ERALLY.—Section 9812 of the Internal Revenue
 18 Code of 1986 (relating to parity in the application
 19 of certain limits to mental health benefits) is
 20 amended—

21 (A) in the heading, by striking “**CER-**
 22 **TAIN**”;

23 (B) by amending subsections (a) and (b) to
 24 read as follows:

1 “(a) IN GENERAL.—In the case of a group health
2 plan that provides both medical and surgical benefits and
3 mental health benefits, such plan shall not impose treat-
4 ment limitations or financial requirements on the coverage
5 of mental health benefits if similar limitations or require-
6 ments are not imposed on coverage of medical and surgical
7 benefits in comparable settings (including inpatient and
8 outpatient settings).

9 “(b) CONSTRUCTION.—Nothing in this section shall
10 be construed—

11 “(1) as prohibiting a group health plan from—

12 “(A) negotiating separate reimbursement
13 rates and service delivery systems for different
14 benefits; or

15 “(B) managing the provision of benefits
16 through the use of pre-admission screening,
17 prior authorization of services, and other mech-
18 anisms designed to limit coverage of items and
19 services to those deemed to be medically nec-
20 essary;

21 “(2) as requiring a group health plan to provide
22 any specific mental health benefits; or

23 “(3) as preventing a group health plan applying
24 subsection (a) without regard to benefits for preven-
25 tive care.”; and

1 (C) in subsection (e), by striking para-
2 graphs (1) and (2) and inserting the following:

3 “(1) TREATMENT LIMITATIONS.—The term
4 ‘treatment limitations’ means limits on the fre-
5 quency of treatment, number of visits, or other lim-
6 its on the scope and duration of treatment, as cov-
7 ered by a group health plan. Such term does not in-
8 clude limits on benefits or coverage based solely on
9 medical necessity.

10 “(2) FINANCIAL REQUIREMENTS.—The term
11 ‘financial requirements’ means copayments,
12 deductibles, out-of-network charges, out-of-pocket
13 contributions or fees, annual limits, and lifetime ag-
14 gregate limits imposed on covered individuals.”.

15 (2) ELIMINATION OF COST EXEMPTIONS.—Such
16 section is further amended by striking paragraph (2)
17 of subsection (c).

18 (3) ELIMINATION OF SUNSET.—Such section is
19 further amended by striking subsection (f).

20 (4) CLERICAL AMENDMENT.—The item relating
21 to section 9812 in the table of sections of subchapter
22 B of chapter 100 of the Internal Revenue Code of
23 1986 is amended by striking “certain”.

24 (d) APPLICATION TO INDIVIDUAL HEALTH INSUR-
25 ANCE.—Part B of title XXVII of the Public Health Serv-

1 ice Act is amended by inserting after section 2752 the fol-
 2 lowing new section:

3 **“SEC. 2753. PARITY IN THE APPLICATION OF LIMITS TO**
 4 **MENTAL HEALTH BENEFITS.**

5 “The provisions of subsections (a), (b), and (e) of sec-
 6 tion 2705 shall apply to health insurance coverage offered
 7 by a health insurance issuer in the individual market in
 8 the same manner as they apply to health insurance cov-
 9 erage offered by a health insurance issuer in connection
 10 with a group health plan.”.

11 (e) EFFECTIVE DATES.—

12 (1) GROUP HEALTH PLANS.—

13 (A) IN GENERAL.—Subject to subpara-
 14 graph (B), the amendments made by sub-
 15 sections (a), (b), and (c) shall apply with re-
 16 spect to group health plans for plan years be-
 17 ginning on or after July 1, 2002.

18 (B) In the case of a group health plan
 19 maintained pursuant to 1 or more collective
 20 bargaining agreements between employee rep-
 21 resentatives and 1 or more employers ratified
 22 before the date of enactment of this Act, the
 23 amendments made by subsections (a), (b), and
 24 (c) shall not apply to plan years beginning be-
 25 fore the later of—

1 (i) the date on which the last collec-
2 tive bargaining agreements relating to the
3 plan terminates (determined without re-
4 gard to any extension thereof agreed to
5 after the date of the enactment of this
6 Act), or

7 (ii) July 1, 2002.

8 For purposes of clause (i), any plan amendment
9 made pursuant to a collective bargaining agree-
10 ment relating to the plan which amends the
11 plan solely to conform to any requirement
12 added by subsection (a), (b), or (c) shall not be
13 treated as a termination of such collective bar-
14 gaining agreement.

15 (2) INDIVIDUAL HEALTH INSURANCE COV-
16 ERAGE.—The amendment made by subsection (d)
17 shall apply with respect to health insurance coverage
18 offered, sold, issued, renewed, in effect, or operated
19 in the individual market on or after July 1, 2002.

20 (f) COORDINATION IN IMPLEMENTATION.—Effective
21 on the date of the enactment of this Act, section 104(1)
22 of the Health Insurance Portability and Accountability
23 Act of 1996 is amended by striking “this subtitle (and
24 the amendments made by this subtitle and section 401)”
25 and inserting “the provisions of part 7 of subtitle B of

1 title I of the Employee Retirement Income Security Act
 2 of 1974, the provisions of parts A and C of title XXVII
 3 of the Public Health Service Act, and chapter 1000 of the
 4 Internal Revenue Code of 1986”.

5 **SEC. 3. PARITY IN THE APPLICATION OF LIMITS TO SUB-**
 6 **STANCE ABUSE AND CHEMICAL DEPEND-**
 7 **ENCY BENEFITS.**

8 (a) APPLICATION TO GROUP HEALTH PLANS UNDER
 9 ERISA.—

10 (1) IN GENERAL.—Part 7 of subtitle B of title
 11 II of the Employee Retirement Income Security Act
 12 of 1974 is amended by inserting after section 713
 13 the following new section:

14 **“SEC. 714. PARITY IN THE APPLICATION OF LIMITS TO SUB-**
 15 **STANCE ABUSE AND CHEMICAL DEPEND-**
 16 **ENCY BENEFITS.**

17 “The provisions of section 712 shall apply to benefits
 18 with respect to treatment of substance abuse or chemical
 19 dependency in the same manner as they apply to mental
 20 health benefits.”.

21 (2) CLERICAL AMENDMENT.—The table of con-
 22 tents in section 1 of such Act is amended by insert-
 23 ing after the item relating to section 713 the fol-
 24 lowing new item:

“Sec. 714. Parity in the application of limits to substance abuse and chemical
 dependency benefits.”.

1 (b) APPLICATION TO GROUP HEALTH PLANS AND
 2 HEALTH INSURANCE ISSUERS UNDER THE PUBLIC
 3 HEALTH SERVICE ACT.—Title XXVII of the Public
 4 Health Service Act is amended by inserting after section
 5 2706 the following new section:

6 **“SEC. 2707. PARITY IN THE APPLICATION OF LIMITS TO**
 7 **SUBSTANCE ABUSE AND CHEMICAL DEPEND-**
 8 **ENCY BENEFITS.**

9 “The provisions of section 2705 shall apply to bene-
 10 fits with respect to treatment of substance abuse or chem-
 11 ical dependency in the same manner as they apply to men-
 12 tal health benefits.”.

13 (c) APPLICATION TO GROUP HEALTH PLANS UNDER
 14 THE INTERNAL REVENUE CODE OF 1986.—

15 (1) IN GENERAL.—Subchapter B of chapter
 16 100 of the Internal Revenue Code of 1986 is amend-
 17 ed by adding at the end the following new section:

18 **“SEC. 9813. PARITY IN THE APPLICATION OF LIMITS TO**
 19 **SUBSTANCE ABUSE AND CHEMICAL DEPEND-**
 20 **ENCY BENEFITS.**

21 “The provisions of section 9812 shall apply to bene-
 22 fits with respect to treatment of substance abuse or chem-
 23 ical dependency in the same manner as they apply to men-
 24 tal health benefits.”.

1 (2) CLERICAL AMENDMENT.—The table of sec-
 2 tions for such subchapter is amended by adding at
 3 the end the following new item:

 “Sec. 9813. Parity in the application of limits to substance abuse
 and chemical dependency benefits.”.

4 (d) APPLICATION TO INDIVIDUAL HEALTH INSUR-
 5 ANCE COVERAGE UNDER THE PUBLIC HEALTH SERVICE
 6 ACT.—Part B of title XXVII of the Public Health Service
 7 Act, as amended by section 2(d), is amended by inserting
 8 after section 2753 the following new section:

9 **“SEC. 2754. PARITY IN THE APPLICATION OF LIMITS TO**
 10 **MENTAL HEALTH BENEFITS.**

11 “The provisions of section 2753 shall apply to bene-
 12 fits with respect to treatment of substance abuse or chem-
 13 ical dependency in the same manner as they apply to men-
 14 tal health benefits.”.

15 (e) EFFECTIVE DATES.—

16 (1) GROUP HEALTH PLANS.—

17 (A) IN GENERAL.—Subject to subpara-
 18 graph (B), the amendments made by sub-
 19 sections (a), (b), and (c) shall apply with re-
 20 spect to group health plans for plan years be-
 21 ginning on or after July 1, 2002.

22 (B) In the case of a group health plan
 23 maintained pursuant to 1 or more collective
 24 bargaining agreements between employee rep-

1 representatives and 1 or more employers ratified
2 before the date of enactment of this Act, the
3 amendments made by subsections (a), (b), and
4 (c) shall not apply to plan years beginning be-
5 fore the later of—

6 (i) the date on which the last collec-
7 tive bargaining agreements relating to the
8 plan terminates (determined without re-
9 gard to any extension thereof agreed to
10 after the date of the enactment of this
11 Act), or

12 (ii) July 1, 2002.

13 For purposes of clause (i), any plan amendment
14 made pursuant to a collective bargaining agree-
15 ment relating to the plan which amends the
16 plan solely to conform to any requirement
17 added by subsection (a), (b), or (c) shall not be
18 treated as a termination of such collective bar-
19 gaining agreement.

20 (2) INDIVIDUAL HEALTH INSURANCE COV-
21 ERAGE.—The amendment made by subsection (d)
22 shall apply with respect to health insurance coverage
23 offered, sold, issued, renewed, in effect, or operated
24 in the individual market on or after July 1, 2002.

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