

107TH CONGRESS  
2D SESSION

# S. 2393

To amend the Public Health Service Act to provide protections for individuals who need mental health services, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

APRIL 29, 2002

Mr. DURBIN (for himself, Mr. KENNEDY, Mr. WELLSTONE, and Mr. CORZINE) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

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## A BILL

To amend the Public Health Service Act to provide protections for individuals who need mental health services, and for other purposes.

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 Pa-  
5 tients’ Rights Act”.

1 **SEC. 2. AMENDMENTS TO THE PUBLIC HEALTH SERVICE**  
 2 **ACT.**

3 Subpart 1 of part B of the Public Health Service Act  
 4 (42 U.S.C. 300gg–41 et seq.) is amended by adding at  
 5 the end the following:

6 **“SEC. 2745. LIMITATION ON PREEXISTING CONDITION EX-**  
 7 **CLUSION PERIOD AND PREMIUMS WITH RE-**  
 8 **SPECT TO MENTAL HEALTH.**

9 “(a) **LIMITATION ON PREEXISTING CONDITION EX-**  
 10 **CLUSION PERIOD.—**

11 “(1) **IN GENERAL.—**Notwithstanding any other  
 12 provision of law, a health insurance issuer that of-  
 13 fers health insurance coverage in the individual mar-  
 14 ket in a State may, with respect to an individual or  
 15 dependent of such individual, impose a preexisting  
 16 condition exclusion relating to a preexisting mental  
 17 health condition only if—

18 “(A) such exclusion relates to a mental  
 19 health condition, regardless of the cause of the  
 20 condition, for which medical advice, diagnosis,  
 21 care, or treatment was recommended or re-  
 22 ceived within the 6-month period ending on the  
 23 enrollment date;

24 “(B) such exclusion extends for a period of  
 25 not more than 12 months after the enrollment  
 26 date; and

1           “(C) the period of any such preexisting  
2 condition exclusion is reduced by the aggregate  
3 of the periods of creditable coverage (if any, as  
4 defined in paragraph (3)(A)) applicable to the  
5 individual or dependent of such individual as of  
6 the enrollment date.

7           “(2) DEFINITIONS.—In this section:

8           “(A) PREEXISTING MENTAL HEALTH CON-  
9 DITION.—The term ‘preexisting mental health  
10 condition’ means, with respect to coverage, a  
11 mental health condition, including all categories  
12 of mental health conditions listed in the Diag-  
13 nostic and Statistical Manual of Mental Dis-  
14 orders, Fourth Edition (DSM IV–TR), or the  
15 most recent edition if different than the Fourth  
16 Edition, that was present before the date of en-  
17 rollment of such coverage, whether or not any  
18 medical advice, diagnosis, care, or treatment  
19 was recommended or received before such date.

20           “(B) OTHER TERMS.—The terms ‘pre-  
21 existing condition exclusion’, ‘enrollment date’,  
22 and ‘late enrollee’ shall have the meanings given  
23 such terms in section 2701 as relating to indi-  
24 vidual health insurance coverage.

1           “(3) CREDITING PREVIOUS COVERAGE.—For  
 2 purposes of subsection (a), the term ‘creditable cov-  
 3 erage’ has the meaning given such term in section  
 4 2701(e) and includes coverage of the individual  
 5 under any of the following:

6           “(A) A college-sponsored health plan, or a  
 7 plan under which health benefits are offered by  
 8 or through an institution of higher education  
 9 (as defined in section 481(a) of the Higher  
 10 Education Act of 1965 (20 U.S.C. 1088(a)) in  
 11 relation to students at the institution (not in-  
 12 cluding benefits offered to such a student as a  
 13 participant or beneficiary in a group health  
 14 plan).

15           “(B) Title XXI of the Social Security Act.

16           “(C) A State or local employee health plan.

17           “(b) PROHIBITION ON INCREASED PREMIUMS BASED  
 18 ON PREEXISTING MENTAL HEALTH CONDITION.—A  
 19 health insurance issuer that offers health insurance cov-  
 20 erage in the individual market in a State may not, with  
 21 respect to an individual or dependent of such individual,  
 22 require any individual (as a condition of enrollment or con-  
 23 tinued enrollment) with a preexisting mental health condi-  
 24 tion to pay a premium or contribution which is greater  
 25 than a premium or contribution for an individual without

1 a preexisting mental health condition based solely on the  
2 determination that such individual has a preexisting men-  
3 tal health condition, as such term is defined in subsection  
4 (a)(2)(A).

5       “(c) NONAPPLICABILITY OF ACCEPTABLE ALTER-  
6 NATIVE MECHANISMS.—The provisions of section  
7 2741(a)(2) shall not apply to a health insurance issuer  
8 that offers health insurance coverage in the individual  
9 market in a State, but only with respect to an individual,  
10 or dependent of such individual, with a preexisting mental  
11 health condition desiring to enroll in such individual health  
12 insurance coverage.”.

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