

108TH CONGRESS
1ST SESSION

H. R. 296

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.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 8, 2003

Mrs. KELLY introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committees on Ways and Means and Education and the Workforce, 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 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 2003”.

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 is amended by adding
10 at the end the following new section:

11 **“SEC. 2707. STANDARDS RELATING TO BENEFITS FOR**
12 **MINOR CHILD’S CONGENITAL OR DEVELOP-**
13 **MENTAL DEFORMITY OR DISORDER.**

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

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

24 “(2) REQUIREMENTS.—Any coverage provided
25 under paragraph (1) shall be subject to pre-author-
26 ization or pre-certification as required by the plan or

1 issuer, and such coverage shall include any surgical
2 treatment which, in the opinion of the treating phy-
3 sician, is medically necessary to approximate a nor-
4 mal appearance.

5 “(3) TREATMENT DEFINED.—

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

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

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

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

24 “(b) NOTICE.—A group health plan under this part
25 shall comply with the notice requirement under section

1 714(b) of the Employee Retirement Income Security Act
2 of 1974 with respect to the requirements of this section
3 as if such section applied to such plan.”.

4 (B) Section 2723(c) of such Act (42 U.S.C.
5 300gg-23(c)) is amended by striking “section 2704”
6 and inserting “sections 2704 and 2707”.

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

11 **“SEC. 714. STANDARDS RELATING TO BENEFITS FOR MINOR**
12 **CHILD’S CONGENITAL OR DEVELOPMENTAL**
13 **DEFORMITY OR DISORDER.**

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

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

24 “(2) REQUIREMENTS.—Any coverage provided
25 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 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 (B) Section 731(e) of such Act (29 U.S.C.
12 1191(e)) is amended by striking “section 711” and
13 inserting “sections 711 and 714”.

14 (C) Section 732(a) of such Act (29 U.S.C.
15 1191a(a)) is amended by striking “section 711” and
16 inserting “sections 711 and 714”.

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

“Sec. 714. Standards relating to benefits for minor child’s congenital or develop-
mental deformity or disorder.”.

20 (3) INTERNAL REVENUE CODE AMEND-
21 MENTS.—Subchapter B of chapter 100 of the Inter-
22 nal Revenue Code of 1986 is amended—

1 (A) in the table of sections, by inserting
2 after the item relating to section 9812 the fol-
3 lowing new item:

“Sec. 9813. Standards relating to benefits for minor child’s con-
genital or developmental deformity or disorder.”;

4 and

5 (B) by inserting after section 9812 the fol-
6 lowing:

7 **“SEC. 9813. STANDARDS RELATING TO BENEFITS FOR**
8 **MINOR CHILD’S CONGENITAL OR DEVELOP-**
9 **MENTAL DEFORMITY OR DISORDER.**

10 “(a) REQUIREMENTS FOR RECONSTRUCTIVE SUR-
11 GERY.—

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

20 “(2) REQUIREMENTS.—Any coverage provided
21 under paragraph (1) shall be subject to pre-author-
22 ization or pre-certification as required by the plan or
23 issuer, and such coverage shall include any surgical
24 treatment which, in the opinion of the treating phy-

1 sician, is medically necessary to approximate a nor-
2 mal appearance.

3 “(3) TREATMENT DEFINED.—

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

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

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

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

22 (b) INDIVIDUAL HEALTH INSURANCE.—(1) Part B
23 of title XXVII of the Public Health Service Act is amend-
24 ed by inserting after section 2752 the following new sec-
25 tion:

1 **“SEC. 2753. STANDARDS RELATING TO BENEFITS FOR**
2 **MINOR CHILD’S CONGENITAL OR DEVELOP-**
3 **MENTAL DEFORMITY OR DISORDER.**

4 “(a) REQUIREMENTS FOR RECONSTRUCTIVE SUR-
5 GERY.—

6 “(1) IN GENERAL.—A group health plan, and a
7 health insurance issuer offering group health insur-
8 ance coverage, that provides coverage for surgical
9 benefits shall provide coverage for outpatient and in-
10 patient diagnosis and treatment of a minor child’s
11 congenital or developmental deformity, disease, or
12 injury. A minor child shall include any individual
13 through 21 years of age.

14 “(2) REQUIREMENTS.—Any coverage provided
15 under paragraph (1) shall be subject to pre-author-
16 ization or pre-certification as required by the plan or
17 issuer, and such coverage shall include any surgical
18 treatment which, in the opinion of the treating phy-
19 sician, is medically necessary to approximate a nor-
20 mal appearance.

21 “(3) TREATMENT DEFINED.—

22 “(A) IN GENERAL.—In this section, the
23 term ‘treatment’ includes reconstructive sur-
24 gical procedures (procedures that are generally
25 performed to improve function, but may also be
26 performed to approximate a normal appear-

1 ance) that are performed on abnormal struc-
2 tures of the body caused by congenital defects,
3 developmental abnormalities, trauma, infection,
4 tumors, or disease, including—

5 “(i) procedures that do not materially
6 affect the function of the body part being
7 treated; and

8 “(ii) procedures for secondary condi-
9 tions and follow-up treatment.

10 “(B) EXCEPTION.—Such term does not in-
11 clude cosmetic surgery performed to reshape
12 normal structures of the body to improve ap-
13 pearance or self-esteem.

14 “(b) NOTICE.—A health insurance issuer under this
15 part shall comply with the notice requirement under sec-
16 tion 714(b) of the Employee Retirement Income Security
17 Act of 1974 with respect to the requirements referred to
18 in subsection (a) as if such section applied to such issuer
19 and such issuer were a group health plan.”.

20 (2) Section 2762(b)(2) of such Act (42 U.S.C.
21 300gg-62(b)(2)) is amended by striking “section 2751”
22 and inserting “sections 2751 and 2753”.

23 (c) EFFECTIVE DATES.—(1) The amendments made
24 by subsection (a) shall apply with respect to group health

1 plans for plan years beginning on or after January 1,
2 2004.

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

7 (d) COORDINATED REGULATIONS.—Section 104(1)
8 of Health Insurance Portability and Accountability Act of
9 1996 is amended by striking “this subtitle (and the
10 amendments made by this subtitle and section 401)” and
11 inserting “the provisions of part 7 of subtitle B of title
12 I of the Employee Retirement Income Security Act of
13 1974, the provisions of parts A and C of title XXVII of
14 the Public Health Service Act, and chapter 100 of the In-
15 ternal Revenue Code of 1986”.

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