

108TH CONGRESS
2D SESSION

S. 2265

To require group and individual health plans to provide coverage for colorectal cancer screenings.

IN THE SENATE OF THE UNITED STATES

MARCH 31, 2004

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

A BILL

To require group and individual health plans to provide coverage for colorectal cancer screenings.

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; FINDINGS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “Eliminate Colorectal Cancer Act of 2004”.

6 (b) **FINDINGS.**—The Congress finds the following:

7 (1) Colorectal cancer is the second leading
8 cause of cancer deaths in the United States for men
9 and women combined.

1 (2) It is estimated that in 2004, 146,940 new
2 cases of colorectal cancer will be diagnosed in men
3 and women in the United States.

4 (3) Colorectal cancer is expected to kill 56,730
5 individuals in the United States in 2004.

6 (4) When colorectal cancer is diagnosed early,
7 at a localized stage, more than 90 percent of pa-
8 tients survive for 5 years or more. Once the disease
9 has metastasized, 92 percent of patients die within
10 5 years. Yet, only 37 percent of colorectal cancer
11 cases are diagnosed while the disease is still in the
12 localized stage.

13 (5) If all men and women age 50 and over prac-
14 ticed regular colorectal cancer screening, without
15 any new scientific discoveries, the United States
16 could see up to a 50 to 90 percent reduction in
17 deaths from this disease.

18 (6) Currently, many private insurance health
19 plans are not providing coverage for the full range
20 of colorectal cancer screening tests. Lack of insur-
21 ance coverage can act as a barrier to care.

22 (7) Assuring coverage for the full range of
23 colorectal cancer tests is an important step in in-
24 creasing screening rates for these life saving tests.

1 **SEC. 2. COVERAGE FOR COLORECTAL CANCER SCREENING.**

2 (a) GROUP HEALTH PLANS.—

3 (1) PUBLIC HEALTH SERVICE ACT AMEND-
 4 MENTS.—The Public Health Service Act (42 U.S.C.
 5 201 et seq.) is amended by adding at the end the
 6 following:

7 **“TITLE XXIX—MISCELLANEOUS**
 8 **HEALTH COVERAGE**

9 **“SEC. 2901. COVERAGE FOR COLORECTAL CANCER SCREEN-**
 10 **ING.**

11 “(a) COVERAGE FOR COLORECTAL CANCER SCREEN-
 12 ING.—

13 “(1) IN GENERAL.—A group health plan, and a
 14 health insurance issuer offering group health insur-
 15 ance coverage, shall provide coverage for colorectal
 16 cancer screening consistent with this subsection to—

17 “(A) any participant or beneficiary age 50
 18 or over; and

19 “(B) any participant or beneficiary under
 20 the age of 50 who is at a high risk for
 21 colorectal cancer.

22 “(2) DEFINITION OF HIGH RISK.—For purposes
 23 of subsection (a)(1)(B), the term ‘high risk for
 24 colorectal cancer’ has the meaning given such term
 25 in section 1861(pp)(2) of the Social Security Act (42
 26 U.S.C. 1395x(pp)(2)).

1 “(3) REQUIREMENT FOR SCREENING.—The
2 group health plan or health insurance issuer shall
3 cover methods of colorectal cancer screening that—

4 “(A) are deemed appropriate by a physi-
5 cian (as defined in section 1861(r) of the Social
6 Security Act (42 U.S.C. 1395x(r))) treating the
7 participant or beneficiary, in consultation with
8 the participant or beneficiary;

9 “(B) are—

10 “(i) described in section 1861(pp)(1)
11 of the Social Security Act (42 U.S.C.
12 1395x(pp)(1)) or section 410.37 of title
13 42, Code of Federal Regulations; or

14 “(ii) specified by the Secretary, based
15 upon the recommendations of appropriate
16 organizations with special expertise in the
17 field of colorectal cancer; and

18 “(C) are performed at a frequency not
19 greater than that—

20 “(i) described for such method in sec-
21 tion 1834(d) of the Social Security Act (42
22 U.S.C. 1395m(d)) or section 410.37 of
23 title 42, Code of Federal Regulations; or

24 “(ii) specified by the Secretary for
25 such method, if the Secretary finds, based

1 upon new scientific knowledge and con-
2 sistent with the recommendations of appro-
3 priate organizations with special expertise
4 in the field of colorectal cancer, that a dif-
5 ferent frequency would not adversely affect
6 the effectiveness of such screening.

7 “(b) NOTICE.—A group health plan under this sec-
8 tion shall comply with the notice requirement under sec-
9 tion 714(b) of the Employee Retirement Income Security
10 Act of 1974 with respect to the requirements of this sec-
11 tion as if such section applied to such plan.

12 “(c) NON-PREEMPTION OF MORE PROTECTIVE
13 STATE LAW WITH RESPECT TO HEALTH INSURANCE
14 ISSUERS.—This section shall not be construed to super-
15 sede any provision of State law which establishes, imple-
16 ments, or continues in effect any standard or requirement
17 solely relating to health insurance issuers in connection
18 with group health insurance coverage that provides great-
19 er protections to participants and beneficiaries than the
20 protections provided under this section.

21 “(d) DEFINITIONS AND ENFORCEMENT.—The defini-
22 tions and enforcement provisions of title XXVII shall
23 apply for purposes of this section.”.

24 (2) ERISA AMENDMENTS.—

1 (A) IN GENERAL.—Subpart B of part 7 of
 2 subtitle B of title I of the Employee Retirement
 3 Income Security Act of 1974 (29 U.S.C. 1185
 4 et seq.) is amended by adding at the end the
 5 following new section:

6 **“SEC. 714. COVERAGE FOR COLORECTAL CANCER SCREEN-**
 7 **ING.**

8 “(a) COVERAGE FOR COLORECTAL CANCER SCREEN-
 9 ING.—

10 “(1) IN GENERAL.—A group health plan, and a
 11 health insurance issuer offering group health insur-
 12 ance coverage, shall provide coverage for colorectal
 13 cancer screening consistent with this subsection to—

14 “(A) any participant or beneficiary age 50
 15 or over; and

16 “(B) any participant or beneficiary under
 17 the age of 50 who is at a high risk for
 18 colorectal cancer.

19 “(2) DEFINITION OF HIGH RISK.—For purposes
 20 of subsection (a)(1)(B), the term ‘high risk for
 21 colorectal cancer’ has the meaning given such term
 22 in section 1861(pp)(2) of the Social Security Act (42
 23 U.S.C. 1395x(pp)(2)).

1 “(3) REQUIREMENT FOR SCREENING.—The
2 group health plan or health insurance issuer shall
3 cover methods of colorectal cancer screening that—

4 “(A) are deemed appropriate by a physi-
5 cian (as defined in section 1861(r) of the Social
6 Security Act (42 U.S.C. 1395x(r))) treating the
7 participant or beneficiary, in consultation with
8 the participant or beneficiary;

9 “(B) are—

10 “(i) described in section 1861(pp)(1)
11 of the Social Security Act (42 U.S.C.
12 1395x(pp)(1)) or section 410.37 of title
13 42, Code of Federal Regulations; or

14 “(ii) specified by the Secretary, based
15 upon the recommendations of appropriate
16 organizations with special expertise in the
17 field of colorectal cancer; and

18 “(C) are performed at a frequency not
19 greater than that—

20 “(i) described for such method in sec-
21 tion 1834(d) of the Social Security Act (42
22 U.S.C. 1395m(d)) or section 410.37 of
23 title 42, Code of Federal Regulations; or

24 “(ii) specified by the Secretary for
25 such method, if the Secretary finds, based

1 upon new scientific knowledge and con-
2 sistent with the recommendations of appro-
3 priate organizations with special expertise
4 in the field of colorectal cancer, that a dif-
5 ferent frequency would not adversely affect
6 the effectiveness of such screening.

7 “(b) NOTICE UNDER GROUP HEALTH PLAN.—The
8 imposition of the requirements of this section shall be
9 treated as a material modification in the terms of the plan
10 described in section 102(a), for purposes of assuring no-
11 tice of such requirements under the plan; except that the
12 summary description required to be provided under the
13 third to last sentence of section 104(b)(1) with respect to
14 such modification shall be provided by not later than 60
15 days after the first day of the first plan year in which
16 such requirements apply.”.

17 (B) TECHNICAL AND CONFORMING AMEND-
18 MENTS.—

19 (i) Section 731(c) of the Employee
20 Retirement Income Security Act of 1974
21 (29 U.S.C. 1191(c)) is amended by strik-
22 ing “section 711” and inserting “sections
23 711 and 714”.

24 (ii) Section 732(a) of the Employee
25 Retirement Income Security Act of 1974

1 (29 U.S.C. 1191a(a)) is amended by strik-
 2 ing “section 711” and inserting “sections
 3 711 and 714”.

4 (iii) The table of contents in section 1
 5 of the Employee Retirement Income Secu-
 6 rity Act of 1974 is amended by inserting
 7 after the item relating to section 713 the
 8 following new item:

“Sec. 714. Coverage for colorectal cancer screening.”.

9 (b) INDIVIDUAL HEALTH INSURANCE.—

10 (1) IN GENERAL.—Part B of title XXVII of the
 11 Public Health Service Act (42 U.S.C. 300gg–41 et
 12 seq.) is amended by inserting after section 2752 the
 13 following new section:

14 **“SEC. 2753. COVERAGE FOR COLORECTAL CANCER SCREEN-**
 15 **ING.**

16 “(a) IN GENERAL.—The provisions of section
 17 2901(a) shall apply to health insurance coverage offered
 18 by a health insurance issuer in the individual market in
 19 the same manner as it applies to health insurance coverage
 20 offered by a health insurance issuer in connection with a
 21 group health plan in the small or large group market.

22 “(b) NOTICE.—A health insurance issuer under this
 23 part shall comply with the notice requirement under sec-
 24 tion 714(b) of the Employee Retirement Income Security
 25 Act of 1974 with respect to the requirements referred to

1 in subsection (a) as if such section applied to such issuer
2 and such issuer were a group health plan.”.

3 (2) TECHNICAL AMENDMENT.—Section
4 2762(b)(2) of the Public Health Service Act (42
5 U.S.C. 300gg–62(b)(2)) is amended by striking
6 “section 2751” and inserting “sections 2751 and
7 2753”.

8 (c) EFFECTIVE DATES.—

9 (1) GROUP HEALTH PLANS.—The amendments
10 made by subsection (a) shall apply with respect to
11 group health plans for plan years beginning on or
12 after January 1, 2005.

13 (2) INDIVIDUAL HEALTH INSURANCE.—The
14 amendments made by subsection (b) shall apply with
15 respect to health insurance coverage offered, sold,
16 issued, renewed, in effect, or operated in the indi-
17 vidual market on or after January 1, 2005.

18 (d) COORDINATED REGULATIONS.—The Secretary of
19 Labor and the Secretary of Health and Human Services
20 shall ensure, through the execution of an interagency
21 memorandum of understanding among such Secretaries,
22 that—

23 (1) regulations, rulings, and interpretations
24 issued by such Secretaries relating to the same mat-
25 ter over which both Secretaries have responsibility

1 under the provisions of this section (and the amend-
2 ments made thereby) are administered so as to have
3 the same effect at all times; and

4 (2) coordination of policies relating to enforcing
5 the same requirements through such Secretaries in
6 order to have a coordinated enforcement strategy
7 that avoids duplication of enforcement efforts and
8 assigns priorities in enforcement.

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