

108TH CONGRESS
1ST SESSION

S. 647

To amend title 10, United States Code, to provide for Department of Defense funding of continuation of health benefits plan coverage for certain Reserves called or ordered to active duty and their dependents, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 18, 2003

Mr. KENNEDY introduced the following bill; which was read twice and referred to the Committee on Armed Services

A BILL

To amend title 10, United States Code, to provide for Department of Defense funding of continuation of health benefits plan coverage for certain Reserves called or ordered to active duty and their dependents, 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. DEPARTMENT OF DEFENSE PAYMENT FOR**
4 **CONTINUATION OF NON-TRICARE HEALTH**
5 **BENEFITS COVERAGE FOR CERTAIN MOBI-**
6 **LIZED RESERVES.**

7 (a) PAYMENT OF PREMIUMS.—

1 (1) REQUIREMENT TO PAY PREMIUMS.—Chap-
2 ter 55 of title 10, United States Code, is amended
3 by inserting after section 1078a the following new
4 section:

5 **“§ 1078b. Continuation of non-TRICARE health bene-**
6 **fits plan coverage for certain Reserves**
7 **called or ordered to active duty and their**
8 **dependents**

9 “(a) PAYMENT OF PREMIUMS.—The Secretary con-
10 cerned shall pay the applicable premium to continue in
11 force any qualified health benefits plan coverage for an
12 eligible reserve component member for the benefits cov-
13 erage continuation period if timely elected by the member
14 in accordance with regulations prescribed under sub-
15 section (h).

16 “(b) ELIGIBLE MEMBER.—A member of a reserve
17 component who is called or ordered to active duty for a
18 period of more than 30 days under a provision of law re-
19 ferred to in section 101(a)(13)(B) of this title is eligible
20 for payment of the applicable premium for continuation
21 of qualified health benefits plan coverage under subsection
22 (a).

23 “(c) QUALIFIED HEALTH BENEFITS PLAN COV-
24 ERAGE.—For the purposes of this section, health benefits

1 plan coverage for a member called or ordered to active
 2 duty is qualified health benefits plan coverage if—

3 “(1) the coverage was in force on the date on
 4 which the Secretary notified the member that
 5 issuance of the call or order was pending or, if no
 6 such notification was provided, the date of the call
 7 or order; and

8 “(2) on that date, the coverage applied to the
 9 member and dependents of the member.

10 “(d) APPLICABLE PREMIUM.—The applicable pre-
 11 mium payable under this section for continuation of health
 12 benefits plan coverage in the case of a member is the
 13 amount of the premium payable by the member for the
 14 coverage of the member and dependents.

15 “(e) BENEFITS COVERAGE CONTINUATION PE-
 16 RIOD.—The benefits coverage continuation period under
 17 this section for qualified health benefits plan coverage in
 18 the case of a member called or ordered to active duty is
 19 the period that—

20 “(1) begins on the date of the call or order; and

21 “(2) ends on the earlier of the date on which—

22 “(A) the member’s eligibility for transi-
 23 tional health care under section 1145(a) of this
 24 title terminates under paragraph (3) of such
 25 section;

1 “(B) the member or the dependents of the
 2 member eligible for benefits under the qualified
 3 health benefits plan coverage become covered by
 4 another health benefits plan that is not
 5 TRICARE; or

6 “(C) the member elects to terminate the
 7 continued qualified health benefits plan cov-
 8 erage of the dependents of the member.

9 “(f) EXTENSION OF PERIOD OF COBRA COV-
 10 ERAGE.—Notwithstanding any other provision of law—

11 “(1) any period of coverage under a COBRA
 12 continuation provision (as defined in section
 13 9832(d)(1) of the Internal Revenue Code of 1986)
 14 for a member under this section shall be deemed to
 15 be equal to the benefits coverage continuation period
 16 for such member under this section; and

17 “(2) with respect to the election of any period
 18 of coverage under a COBRA continuation provision
 19 (as so defined), rules similar to the rules under sec-
 20 tion 4980B(f)(5)(C) of such Code shall apply.

21 “(g) SPECIAL RULE WITH RESPECT TO INDIVIDUAL
 22 HEALTH INSURANCE COVERAGE.—With respect to a
 23 member of a reserve component described in subsection
 24 (b) who was enrolled in individual health insurance cov-
 25 erage (as such term is defined in section 2791(b)(5) of

1 the Public Health Service Act) on the date on which the
2 member was called or ordered to active duty, the health
3 insurance issuer may not—

4 “(1) decline to offer such coverage to, or deny
5 re-enrollment of, such individual during the benefits
6 coverage continuation period described in subsection
7 (e);

8 “(2) impose any preexisting condition exclusion
9 (as defined in section 2701(b)(1)(A) of the Public
10 Health Service Act) with respect to the re-enroll-
11 ment of such member for such coverage during such
12 period; or

13 “(3) increase the premium rate for re-enroll-
14 ment of such member under such coverage during
15 such period above the rate that was paid for the cov-
16 erage prior to the date of such call or order.

17 “(h) NONDUPLICATION OF BENEFITS.—A dependent
18 of a member who is eligible for benefits under qualified
19 health benefits plan coverage paid on behalf of a member
20 by the Secretary concerned under this section is not eligi-
21 ble for benefits under TRICARE during a period of the
22 coverage for which so paid.

23 “(i) REVOCABILITY OF ELECTION.—A member who
24 makes an election under subsection (a) may revoke the
25 election. Upon such a revocation, the member’s depend-

1 ents shall become eligible for TRICARE as provided for
2 under this chapter.

3 “(j) REGULATIONS.—The Secretary of Defense shall
4 prescribe regulations for carrying out this section. The
5 regulations shall include such requirements for making an
6 election of payment of applicable premiums as the Sec-
7 retary considers appropriate.”.

8 (2) CLERICAL AMENDMENT.—The table of sec-
9 tions at the beginning of such chapter is amended
10 by inserting after the item relating to section 1078a
11 the following new item:

“1078b. Continuation of non-TRICARE health benefits plan coverage for cer-
tain Reserves called or ordered to active duty and their depend-
ents.”.

12 (b) APPLICABILITY.—Section 1078b of title 10,
13 United States Code (as added by subsection (a)), shall
14 apply with respect to calls or orders of members of reserve
15 components of the Armed Forces to active duty as de-
16 scribed in subsection (b) of such section, that are issued
17 by the Secretary of a military department on or after the
18 date of the enactment of this Act.

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