

110TH CONGRESS
1ST SESSION

H. R. 1903

To amend the Public Health Service Act and Employee Retirement Income Security Act of 1974 to require that group and individual health insurance coverage and group health plans provide coverage for reconstructive prosthetic urology surgery if they provide coverage for prostate cancer treatment.

IN THE HOUSE OF REPRESENTATIVES

APRIL 17, 2007

Mr. TOWNS introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on Education and Labor, 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 and Employee Retirement Income Security Act of 1974 to require that group and individual health insurance coverage and group health plans provide coverage for reconstructive prosthetic urology surgery if they provide coverage for prostate cancer treatment.

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; FINDINGS.**

2 (a) SHORT TITLE.—This Act may be cited as the
3 “Post-Prostate Cancer Treatment Equity Act of 2007”.

4 (b) FINDINGS.—Congress finds the following:

5 (1) Prostate cancer will strike about one in six
6 men during their lifetime.

7 (2) Many of these men will have a prostatec-
8 tomy and about half of those will experience signifi-
9 cant complications.

10 (3) For some 6,000 of these men annually re-
11 constructive prosthetic urology surgery is their only
12 option to address these complications.

13 (4) Medicare covers reconstructive prosthetic
14 urology surgery, as does two-third of private health
15 benefits coverage. However, about one-third of pri-
16 vate health benefits coverage does not cover this sur-
17 gery.

18 (5) To address a similar concern with respect to
19 breast cancer, Congress enacted the Women’s
20 Health and Cancer Rights Act of 1998 that requires
21 private health benefits coverage to provide coverage
22 for reconstructive surgery following mastectomies.

23 (6) Men should have a right to access to recon-
24 structive surgery following a prostatectomy just as
25 women have the right to access to reconstructive
26 surgery following a mastectomy.

1 **SEC. 2. AMENDMENTS TO THE EMPLOYEE RETIREMENT IN-**
2 **COME SECURITY ACT OF 1974.**

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

7 **“SEC. 714. REQUIRED COVERAGE FOR RECONSTRUCTIVE**
8 **PROSTHETIC UROLOGY SURGERY FOL-**
9 **LOWING PROSTATE CANCER TREATMENT.**

10 “(a) IN GENERAL.—A group health plan, and a
11 health insurance issuer providing health insurance cov-
12 erage in connection with a group health plan, that provides
13 medical and surgical benefits with respect to prostate can-
14 cer treatment shall provide, in a case of a participant or
15 beneficiary who is receiving benefits in connection with
16 such prostate cancer treatment, coverage for—

17 “(1) all stages of reconstructive prosthetic urol-
18 ogy surgery; and

19 “(2) prostheses and physical complications of
20 prostatectomy;

21 in a manner determined in consultation with the attending
22 physician and the patient. Such coverage may be subject
23 to annual deductibles and coinsurance provisions as may
24 be deemed appropriate and as are consistent with those
25 established for other benefits under the plan or coverage.
26 Written notice of the availability of such coverage shall

1 be delivered to the participant upon enrollment and annu-
2 ally thereafter.

3 “(b) NOTICE.—A group health plan, and a health in-
4 surance issuer providing health insurance coverage in con-
5 nection with a group health plan shall provide notice to
6 each participant and beneficiary under such plan regard-
7 ing the coverage required by this section in accordance
8 with regulations promulgated by the Secretary. Such no-
9 tice shall be in writing and prominently positioned in any
10 literature or correspondence made available or distributed
11 by the plan or issuer and shall be transmitted—

12 “(1) in the next mailing made by the plan or
13 issuer to the participant or beneficiary;

14 “(2) as part of any yearly informational packet
15 sent to the participant or beneficiary; or

16 “(3) not later than January 1, 2008;

17 whichever is earlier.

18 “(c) PROHIBITIONS.—A group health plan, and a
19 health insurance issuer offering group health insurance
20 coverage in connection with a group health plan, may
21 not—

22 “(1) deny to a patient eligibility or continued
23 eligibility, to enroll or to renew coverage under the
24 terms of the plan, solely for the purposes of avoiding
25 the requirements of this section; and

1 “(2) penalize or otherwise reduce or limit the
2 reimbursement of an attending provider, or provide
3 incentives (monetary or otherwise) to an attending
4 provider, to induce such provider to provide care to
5 an individual participant or beneficiary in a manner
6 inconsistent with this section.

7 “(d) RULE OF CONSTRUCTION.—Nothing in this sec-
8 tion shall be construed to prevent a group health plan or
9 a health insurance issuer offering group health insurance
10 coverage from negotiating the level and type of reimburse-
11 ment with a provider for care provided in accordance with
12 this section.

13 “(e) PREEMPTION, RELATION TO STATE LAWS.—

14 “(1) IN GENERAL.—Nothing in this section
15 shall be construed to preempt any State law in effect
16 on the date of enactment of this section with respect
17 to health insurance coverage that requires coverage
18 of at least the coverage of reconstructive prosthetic
19 urology surgery otherwise required in this section.

20 “(2) ERISA.—Nothing in this section shall be
21 construed to affect or modify the provisions of sec-
22 tion 514 with respect to group health plans.”.

23 “(b) CLERICAL AMENDMENT.—The table of contents
24 in section 1 of the Employee Retirement Income Security
25 Act of 1974 (29 U.S.C. 1001 note) is amended by insert-

1 ing after the item relating to section 713 the following
 2 new item:

“Sec. 714. Required coverage for reconstructive prosthetic urology surgery fol-
 lowing prostate cancer treatment.”.

3 (c) EFFECTIVE DATES.—

4 (1) IN GENERAL.—The amendments made by
 5 this section shall apply with respect to plan years be-
 6 ginning on or after the first day of the sixth month
 7 beginning after the date of the enactment of this
 8 Act.

9 (2) SPECIAL RULE FOR COLLECTIVE BAR-
 10 GAINING AGREEMENTS.—In the case of a group
 11 health plan maintained pursuant to 1 or more collec-
 12 tive bargaining agreements between employee rep-
 13 resentative and 1 or more employers, any plan
 14 amendment made pursuant to a collective bargaining
 15 agreement relating to the plan which amends the
 16 plan solely to conform to any requirement added by
 17 this section shall not be treated as a termination of
 18 such collective bargaining agreement.

19 **SEC. 3. AMENDMENTS TO THE PUBLIC HEALTH SERVICE**
 20 **ACT.**

21 (a) GROUP MARKET.—Subpart 2 of part A of title
 22 XXVII of the Public Health Service Act (42 U.S.C.
 23 300gg-4 et seq.) is amended by adding at the end the fol-
 24 lowing new section:

1 **“SEC. 2707. REQUIRED COVERAGE FOR RECONSTRUCTIVE**
2 **PROSTHETIC UROLOGY SURGERY FOL-**
3 **LOWING PROSTATE CANCER TREATMENT.**

4 “The provisions of section 714 of the Employee Re-
5 tirement Income Security Act of 1974 shall apply to group
6 health plans, and health insurance issuers providing health
7 insurance coverage in connection with group health plans,
8 as if included in this subpart.”.

9 (b) INDIVIDUAL MARKET.—Subpart 3 of part B of
10 title XXVII of the Public Health Service Act (42 U.S.C.
11 300gg–51 et seq.) is amended by adding at the end the
12 following new section:

13 **“SEC. 2753. REQUIRED COVERAGE FOR RECONSTRUCTIVE**
14 **PROSTHETIC UROLOGY SURGERY FOL-**
15 **LOWING PROSTATE CANCER TREATMENT.**

16 “The provisions of section 2707 of the title shall
17 apply to health insurance coverage offered by a health in-
18 surance issuer in the individual market in the same man-
19 ner as they apply to health insurance coverage offered by
20 a health insurance issuer in connection with a group
21 health plan in the small or large group market.”.

22 (c) EFFECTIVE DATES.—

23 (1) GROUP PLANS.—

24 (A) IN GENERAL.—The amendment made
25 by subsection (a) shall apply to group health
26 plans for plan years beginning on or after the

1 first day of the sixth month beginning after the
2 date of the enactment of this Act.

3 (B) SPECIAL RULE FOR COLLECTIVE BAR-
4 GAINING AGREEMENT.—In the case of a group
5 health plan maintained pursuant to 1 or more
6 collective bargaining agreements between em-
7 ployee representatives and 1 or more employers,
8 any plan amendment made pursuant to a collec-
9 tive bargaining agreement relating to the plan
10 which amends the plan solely to conform to any
11 requirement added by the amendment made by
12 subsection (a) shall not be treated as a termi-
13 nation of such collective bargaining agreement.

14 (2) INDIVIDUAL PLANS.—The amendment made
15 by subsection (b) shall apply with respect to health
16 insurance coverage offered, sold, issued, renewed, in
17 effect, or operated in the individual market on or
18 after the first day of the sixth month beginning after
19 the date of the enactment of this Act.

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