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111TH CONGRESS
1ST SESSION

S. 969

To amend the Public Health Service Act to ensure fairness in the coverage of women in the individual health insurance market.

IN THE SENATE OF THE UNITED STATES

MAY 5, 2009

Mr. KERRY 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 ensure fairness in the coverage of women in the individual health insurance market.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Women's Health Insurance Fairness Act of 2009''.

SEC. 2. ELIMINATION OF GENDER RATING IN THE INDIVIDUAL INSURANCE MARKET.

(a) IN GENERAL.—Subpart 2 of part B of title XXVII of the Public Health Service Act (42 U.S.C.

300gg–51 et seq.) is amended by adding at the end the following:

"SEC. 2754. ELIMINATION OF GENDER RATING.

"A health insurance issuer offering health insurance coverage in the individual market may not consider the gender of an enrollee when determining the amount of premiums to assess such enrollee for such coverage.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to health insurance coverage in the individual market for plan years beginning on or after the date that is 6 months after the date of enactment of this Act.

SEC. 3. PREVENTING INSURERS FROM DENYING OR LIMITING COVERAGE BASED ON PREGNANCY AND COVERAGE OF MATERNITY CARE.

(a) IN GENERAL.—Subpart 2 of part B of title XXVII of the Public Health Service Act (42 U.S.C. 300gg–51 et seq.), as amended by section 2, is further amended by adding at the end the following:

"SEC. 2755. STANDARDS RELATING TO PREGNANCY AND MATERNITY CARE.

"(a) PREGNANCY, METHOD OF DELIVERY, AND OUTCOME.—A health insurance issuer offering health insurance coverage in the individual market may not impose any preexisting condition exclusion (as such term is de-

fined in section 2701(b)(1)(A)) relating to pregnancy as a pre-existing condition, impose any waiting period, deny, refuse to issue, renew, or reissue, substandard rate, re-underwrite, cancel or otherwise terminate a policy, add any surcharge or rating factor to the premium, exclude, limit, or cap benefits relating to a condition, or otherwise discriminate in the provision of coverage, or in assessing premiums for such coverage, against women on the basis of a current or past pregnancy, or past or future method of delivery, and past pregnancy outcome.

"(b) MATERNITY CARE.—

"(1) IN GENERAL.—The Secretary shall—

"(A) propose a rule to develop a minimum benefit standard for the provision of comprehensive maternity coverage under an individual health plan, which standard shall require coverage for the full scope of maternity services from preconception through postpartum, as determined by the Secretary; and

"(B) periodically review the minimum benefit standard for the provision of comprehensive maternity coverage under an individual health plan to ensure the minimum benefit standard reflects current standards of care.

"(2) REQUIREMENT.—A health insurance issuer offering health insurance coverage in the individual market shall ensure that the minimum benefit standard developed under paragraph (1) is included in any such coverage.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to health insurance coverage in the individual market for plan years beginning on or after the date that is 6 months after the date of enactment of this Act.

SEC. 4. ENFORCEMENT AND COMPLIANCE.

(a) PROVISION OF DATA.—The Secretary of Health and Human Services shall promulgate regulations to require health insurance issuers that offer health insurance coverage in the individual market provide data to the Secretary to enable the Secretary to monitor the compliance of such issuers with the requirements of the amendment made by this Act.

(b) FAILURE TO COMPLY.—Any health insurance issuer that fails to submit the data required under the regulations promulgated under subsection (a) shall be subject to a civil monetary penalty in an amount that is not less than $10,000 (as determined by the Secretary).

(c) DEFINITIONS.—The definitions contained in section 2791 of the Public Health Service Act (42 U.S.C. 300gg–91) shall apply for purposes of this section.

SEC. 5. STUDY OF THE INDIVIDUAL MARKET.

Not later than December 31, 2010, the Comptroller General of the United States shall submit to the appropriate committees of Congress, a report concerning health insurance coverage offered on the individual insurance market in all 50 States and the District of Columbia, on problems remaining for women after the enactment of this Act.

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