

112TH CONGRESS  
2D SESSION

# H. R. 4470

To amend the Public Health Service Act, the Employee Retirement Income Security Act of 1974, the Internal Revenue Code of 1986, and title 5, United States Code, to require individual and group health insurance coverage and group health plans and Federal employees health benefit plans to provide coverage for routine HIV screening.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 19, 2012

Ms. WATERS (for herself, Ms. LEE of California, Mrs. CHRISTENSEN, and Ms. BORDALLO) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committees on Ways and Means, Education and the Workforce, and Oversight and Government Reform, 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

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## A BILL

To amend the Public Health Service Act, the Employee Retirement Income Security Act of 1974, the Internal Revenue Code of 1986, and title 5, United States Code, to require individual and group health insurance coverage and group health plans and Federal employees health benefit plans to provide coverage for routine HIV screening.

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 “Routine HIV Screening Coverage Act of 2012”.

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

5 (1) HIV/AIDS continues to infect and kill thou-  
6 sands of Americans, more than 30 years after the  
7 first cases were reported.

8 (2) It has been estimated that approximately  
9 1.7 million Americans have been infected with HIV  
10 since the beginning of the epidemic and over  
11 600,000 of them have died.

12 (3) The HIV/AIDS epidemic has disproportion-  
13 ately impacted African-Americans, Latino-Ameri-  
14 cans, and other racial and ethnic minorities.

15 (4) It has been estimated that 20 percent of  
16 those infected with HIV in the United States do not  
17 know they are infected.

18 (5) The Centers for Disease Control and Pre-  
19 vention has determined that increasing the propor-  
20 tion of people who know their HIV status is an es-  
21 sential component of comprehensive HIV/AIDS  
22 treatment and prevention efforts and that early di-  
23 agnosis is critical in order for people with HIV/  
24 AIDS to receive life-extending therapy.

25 (6) The Centers for Disease Control and Pre-  
26 vention recommends routine HIV screening in health

1 care settings for all patients aged 13–64, regardless  
2 of risk.

3 (7) Some health plans do not cover routine HIV  
4 screening, but only cover HIV tests for patients with  
5 known or perceived risk factors for HIV/AIDS and  
6 patients who demonstrate symptoms of AIDS.

7 (8) Not all individuals who have been infected  
8 with HIV fall into high-risk categories or dem-  
9 onstrate symptoms of AIDS.

10 (9) If health plans covered routine HIV  
11 screenings, health providers would be more likely to  
12 recommend routine HIV screening for their patients.

13 (10) Section 2713 of the Public Health Service  
14 Act (42 U.S.C. 300gg–13), as amended by section  
15 1001 of the Patient Protection and Affordable Care  
16 Act (Public Law 111–148), requires that health  
17 plans cover preventive health services without impos-  
18 ing cost sharing requirements.

19 (11) Routine HIV screening is a preventive  
20 health service.

21 (12) Requiring health plans to cover routine  
22 HIV screening as a preventive health service without  
23 imposing cost sharing requirements could play a  
24 critical role in preventing the spread of HIV and al-

1       lowing infected individuals to receive effective treat-  
2       ment.

3 **SEC. 2. COVERAGE FOR ROUTINE HIV SCREENING UNDER**  
4                   **GROUP HEALTH PLANS, HEALTH INSURANCE**  
5                   **COVERAGE, AND FEHBP.**

6       (a) GROUP HEALTH PLANS.—

7           (1) PUBLIC HEALTH SERVICE ACT AMEND-  
8       MENTS.—Subpart II of part A of title XXVII of the  
9       Public Health Service Act is amended by inserting  
10      the following new section after section 2719A:

11 **“SEC. 2719B. COVERAGE FOR ROUTINE HIV SCREENING.**

12       “(a) IN GENERAL.—A group health plan and a health  
13      insurance issuer offering group or individual health insur-  
14      ance coverage—

15           “(1) shall provide coverage for routine HIV  
16      screening; and

17           “(2) shall not impose terms and conditions (in-  
18      cluding cost sharing requirements) with respect to  
19      such screening that are less favorable for a partici-  
20      pant or beneficiary than the terms and conditions  
21      applicable to items and services described in section  
22      2713(a).

23       “(b) PROHIBITIONS.—A group health plan and a  
24      health insurance issuer offering group or individual health  
25      insurance coverage shall not—

1           “(1) deny to an individual eligibility, or contin-  
2           ued eligibility, to enroll or to renew coverage under  
3           the terms of the plan or coverage, solely for the pur-  
4           pose of avoiding the requirements of this section;

5           “(2) deny coverage for routine HIV screening  
6           on the basis that—

7                   “(A) there are no known risk factors for  
8                   HIV present; or

9                   “(B) the screening is not—

10                           “(i) clinically indicated;

11                           “(ii) medically necessary; or

12                           “(iii) pursuant to a referral or rec-  
13                           ommendation by any health care provider;

14           “(3) provide monetary payments, rebates, or  
15           other benefits to individuals to encourage such indi-  
16           viduals to accept less than the minimum protections  
17           available under this section;

18           “(4) penalize or otherwise reduce or limit the  
19           reimbursement of a provider because such provider  
20           provided care to an individual participant or bene-  
21           ficiary in accordance with this section; or

22           “(5) provide incentives (monetary or otherwise)  
23           to a provider to induce such provider to provide care  
24           to an individual participant or beneficiary in a man-  
25           ner inconsistent with this section.

1       “(c) RULES OF CONSTRUCTION.—Nothing in this  
2 section shall be construed to require an individual who is  
3 a participant or beneficiary of a group health plan or  
4 health insurance coverage to undergo HIV screening.

5       “(d) PREEMPTION.—Nothing in this section shall be  
6 construed to preempt any State law in effect on the date  
7 of enactment of this section with respect to health insur-  
8 ance coverage that requires coverage of at least the cov-  
9 erage of HIV screening otherwise required under this sec-  
10 tion.”.

11               (2) INCLUSION OF NOTICE IN UNIFORM COV-  
12 ERAGE DOCUMENTS.—Section 2715(b)(3)(B) of the  
13 Public Health Service Act (42 U.S.C. 300gg–15) is  
14 amended—

15                       (A) in clause (i), by striking “and” at the  
16 end;

17                       (B) by redesignating clause (ii) as clause  
18 (iii); and

19                       (C) by inserting after clause (i) the fol-  
20 lowing:

21                               “(ii) the coverage for routine HIV  
22 screening required under section 2719B;  
23 and”.

24               (3) ROUTINE HIV SCREENING DEFINED  
25 THROUGH CONSULTATION PROCESS.—Section

1 2791(d) is amended by adding at the end the fol-  
2 lowing new paragraph:

3 “(22) ROUTINE HIV SCREENING.—The term  
4 ‘routine HIV screening’ shall have the meaning  
5 given such term by the Secretary. In defining such  
6 term, the Secretary shall consult with the Office of  
7 National AIDS Policy, the Centers for Disease Con-  
8 trol and Prevention, health care professionals with  
9 expertise in HIV treatment and prevention, advo-  
10 cates for people living with HIV, and other qualified  
11 individuals.”.

12 (4) CONFORMING AMENDMENTS.—

13 (A) ERISA.—Section 715(a)(1) of the  
14 Employee Retirement Income Security Act of  
15 1974 (29 U.S.C. 1185d(a)(1)) is amended by  
16 inserting “and the Routine HIV Screening Cov-  
17 erage Act of 2012” after “Patient Protection  
18 and Affordable Care Act”.

19 (B) IRC.—Section 9815(a)(1) of the Inter-  
20 nal Revenue Code of 1986 is amended by in-  
21 serting “and the Routine HIV Screening Cov-  
22 erage Act of 2012” after “Patient Protection  
23 and Affordable Care Act”.

24 (b) APPLICATION UNDER FEDERAL EMPLOYEES  
25 HEALTH BENEFITS PROGRAM (FEHBP).—Section 8902

1 of title 5, United States Code, is amended by adding at  
2 the end the following new subsection:

3 “(p) A contract may not be made or a plan approved  
4 which does not comply with the requirements of section  
5 2719B of the Public Health Service Act.”.

6 (c) EFFECTIVE DATE.—This section and the amend-  
7 ments made by this section shall be effective for plan years  
8 beginning on or after the date that is 1 year after the  
9 date of the enactment of this Act.

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