H. R. 1028

To provide for equal access to COBRA continuation coverage.

IN THE HOUSE OF REPRESENTATIVES

March 10, 2011

Mr. Weiner (for himself, Mr. Frank of Massachusetts, Mr. Polis, Ms. Baldwin, Mr. Cicilline, Ms. Richardson, Mr. Honda, Mr. Gutierrez, Ms. Norton, Ms. Berkley, Mr. Langevin, Mr. Rothman of New Jersey, Ms. Brown of Florida, Mr. Doyle, Mr. Capuano, Mr. Ackerman, Mr. Berman, Ms. Moore, Mr. Towns, Mr. Grijalva, Mr. Israel, Mr. Ellison, Mr. Brady of Pennsylvania, Mr. McGovern, Mr. Nadler, Mr. Moran, Mr. Serrano, Mrs. Maloney, Mr. George Miller of California, Mr. Hinchey, Ms. Chu, Mr. Engel, Ms. Woolsey, Ms. Zoe Lofgren of California, Mr. Pallone, Mr. Michaud, Ms. Eddie Bernice Johnson of Texas, Ms. Pingree of Maine, Mr. Filner, Mrs. Capps, Mr. Stark, Mr. Holt, Mr. Higgins, Mr. Sherman, and Ms. Speier) introduced the following bill; which was referred to the Committee on Education and the Workforce, and in addition to the Committees on Energy and Commerce and Ways and Means, 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 provide for equal access to COBRA continuation coverage.

1 Be it enacted by the Senate and House of Representa-
2 tives of the United States of America in Congress assembled,
SECTION 1. SHORT TITLE.

This Act may be cited as the “Equal Access to COBRA Act of 2011”.

SEC. 2. AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986.

(a) QUALIFIED BENEFICIARY.—Section 4980B(g)(1)(A) of the Internal Revenue Code of 1986 is amended—

(1) in clause (i), by striking “or” at the end thereof;

(2) in clause (ii), by striking the period and inserting a comma; and

(3) by inserting after clause (ii), the following:

“(iii) as the domestic partner of the employee, as such term is defined by the group health plan, or

“(iv) as the dependent child of the domestic partner (as defined in clause (iii)).”.

(b) SPECIAL RULE FOR RETIREES AND WIDOWS.—

Section 4980B(g)(1)(D) of the Internal Revenue Code of 1986 is amended by striking clauses (i) through (iii), and inserting the following:

“(i) as the spouse or domestic partner (described in subparagraph (A)(iii)) of the covered employee,
“(ii) as the dependent child of the covered employee or the covered employee’s domestic partner (described in clause (i)), or
“(iii) as the surviving spouse or surviving domestic partner (described in clause (i)) of the covered employee.”.

(c) Special Rule for Certain Bankruptcy Proceedings.—Section 4980B(f)(2)(B)(i)(III) of the Internal Revenue Code of 1986 is amended by striking “or dependent children of the covered employee” and inserting “, surviving domestic partner (described in subsection (g)(1)(A)(iii)), or dependent children of the covered employee or such surviving domestic partner”.

(d) Qualifying Event.—Section 4980B(f)(3)(C) of the Internal Revenue Code of 1986 is amended by inserting before the period the following: “, or the covered employee’s domestic partner (described in subsection (g)(1)(A)(iii)) ceasing to be such covered employee’s domestic partner under the terms of the group health plan”.

(e) Notice Requirements.—Section 4980B(f)(6)(A) of the Internal Revenue Code of 1986 is amended by striking “and spouse of the employee (if any)” and inserting “and, if any, such covered employee’s qualified beneficiaries who are age 19 or older”.
SEC. 3. AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.

(a) QUALIFIED BENEFICIARY.—Section 607(3)(A) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1167(3)(A)) is amended—

(1) in clause (i), by striking “or” at the end thereof;

(2) in clause (ii), by striking the period and inserting a comma; and

(3) by inserting after clause (ii), the following:

“(iii) as the domestic partner of the employee, as such term is defined by the group health plan, or

“(iv) as the dependent child of the domestic partner (as defined in clause (iii)).”.

(b) SPECIAL RULE FOR RETIREES AND WIDOWS.—

Section 607(3)(C) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1167(3)(C)) is amended by striking clauses (i) through (iii) and inserting the following:

“(i) as the spouse or domestic partner (described in paragraph (3)(A)(iii)) of the covered employee,

“(ii) as the dependent child of the covered employee or the covered employee’s
domestic partner (described in clause (i)), or

“(iii) as the surviving spouse or surviving domestic partner (described in clause (i)) of the covered employee.”.

(c) SPECIAL RULE FOR CERTAIN BANKRUPTCY PROCEEDINGS.—Section 602(2)(A)(iii) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1162(2)(A)(iii)) is amended by striking “or dependent children of the covered employee” and inserting “, surviving domestic partner (described in section 607(3)(A)(iii)), or dependent children of the covered employee or such surviving domestic partner”.

(d) QUALIFYING EVENT.—Section 603(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1163) is amended by inserting before the period the following: “, or the covered employee’s domestic partner (described in section 607(3)(A)(iii)) ceasing to be such covered employee’s domestic partner under the terms of the group health plan”.

(e) NOTICE REQUIREMENTS.—Section 606(a)(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1166(a)(1)) is amended by striking “and spouse of the employee (if any)” and inserting “and, if
any, such covered employee’s qualified beneficiaries who are age 19 or older”.

SEC. 4. AMENDMENTS TO THE PUBLIC HEALTH SERVICE ACT.

(a) QUALIFIED BENEFICIARY.—Section 2208(3)(A) of the Public Health Service Act (42 U.S.C. 300bb–8(3)(A)) is amended—

(1) in clause (i), by striking “or” at the end thereof;

(2) in clause (ii), by striking the period and inserting a comma; and

(3) by inserting after clause (ii), the following:

“(iii) as the domestic partner of the employee, as such term is defined by the group health plan, or

“(iv) as the dependent child of the domestic partner (as defined in clause (iii)).”.

(b) QUALIFYING EVENT.—Section 2203(3) of the Public Health Service Act (42 U.S.C. 300bb–3(3)) is amended by inserting before the period the following: “, or the covered employee’s domestic partner (described in section 2208(3)(A)(iii)) ceasing to be such covered employee’s domestic partner under the terms of the group health plan”.

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(c) NOTICE REQUIREMENTS.—Section 2206(1) of the Public Health Service Act (42 U.S.C. 300bb–6(1)) is amended by striking “and spouse of the employee (if any)” and inserting “and, if any, such covered employee’s qualified beneficiaries who are age 19 or older”.

SEC. 5. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by this Act shall apply with respect to plan years beginning after 180 days after the date of the enactment of this Act.

(b) SPECIAL RULE FOR COLLECTIVE BARGAINING AGREEMENTS.—In the case of a group health plan maintained pursuant to one or more collective bargaining agreements between employee representatives and one or more employers ratified before the date of the enactment of this Act, the amendments made by this Act shall not apply to plan years beginning before the earlier of—

(1) the date on which the last of the collective bargaining agreements relating to the plan terminates (determined without regard to any extension thereof agreed to after the date of the enactment of this Act); or

(2) 3 years after the date of the enactment of this Act.
For purposes of paragraph (1), any plan amendment made pursuant to a collective bargaining agreement relating to the plan which amends the plan solely to conform to any requirement added by this Act shall not be treated as a termination of such collective bargaining agreement.