

105TH CONGRESS
1ST SESSION

H. R. 2110

To require employer health benefit plans to meet standards relating to the nondiscriminatory treatment of neurobiological disorders, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 8, 1997

Ms. DELAURO (for herself, Mr. GEJDENSON, Mr. GONZALEZ, Mr. EVANS, Mr. ABERCROMBIE, Ms. KILPATRICK, Mr. STARK, Mr. DELLUMS, and Ms. RIVERS) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committees on Education and the Workforce, and Commerce, 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 require employer health benefit plans to meet standards relating to the nondiscriminatory treatment of neurobiological disorders, 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. SHORT TITLE.**

4 This Act may be cited as the “Equitable Health Care
5 for Neurobiological Disorders Act of 1997”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

1 (1) there are sufficient neuroscientific data to
2 document that many severe “mental” illnesses are
3 actually physical illnesses known as neurobiological
4 disorders that are characterized by significant
5 neuroanatomical and neurochemical abnormalities;

6 (2) American families should have adequate
7 health insurance protection for the costs of treating
8 neurobiological disorders that is commensurate with
9 the protections provided for other illnesses;

10 (3) currently, many public and private health
11 insurance programs discriminate against persons
12 with neurobiological disorders by providing more re-
13 strictive coverage for treatments of those illnesses in
14 comparison to coverage provided for treatments of
15 other medical problems;

16 (4) unequal health insurance coverage contrib-
17 utes to the destructive and unfair stigmatization of
18 persons with neurobiological disorders that are as
19 beyond the control of the individuals as are cancer,
20 diabetes, and other serious physical health problems;

21 (5) about 95 percent of what is known about
22 both normal and abnormal structure and function of
23 the brain has been learned in the last 10 years, but
24 millions of severely mentally ill people have yet to

1 benefit from these startling research advances in
2 clinical and basic neuroscience; and

3 (6) according to the National Institutes of Men-
4 tal Health, equitable insurance coverage for severe
5 mental disorders will yield \$2.2 billion annually in
6 net savings through decreased use of general medical
7 services and a substantial decrease in social costs.

8 **SEC. 3. STANDARDS FOR NONDISCRIMINATORY TREAT-**
9 **MENT OF NEUROBIOLOGICAL DISORDERS**
10 **FOR EMPLOYER HEALTH BENEFIT PLANS.**

11 (a) IN GENERAL.—The standards for the nondiscrim-
12 inatory and equitable treatment by employer health bene-
13 fit plans of individuals with neurobiological disorders are
14 requirements that such plans (and carriers offering such
15 plans) provide for coverage of services that are essential
16 to the effective treatment of neurobiological disorders in
17 a manner that—

18 (1) is not more restrictive than coverage pro-
19 vided for other major physical illnesses;

20 (2) provides adequate financial protection to the
21 person requiring the medical treatment for a
22 neurobiological disorder; and

23 (3) is consistent with effective and common
24 methods of controlling health care costs for other
25 major physical illnesses.

1 (b) PLAN DEEMED TO MEET STANDARDS.—An em-
 2 ployer health benefit plan shall be deemed to meet the
 3 standards described in subsection (a) if the plan provides
 4 for the following:

5 (1) Stop-loss protection for catastrophic ex-
 6 penses.

7 (2) Coverage of facility-based care.

8 (3) Coverage of outpatient medical management
 9 on a par with other medical procedures to encourage
 10 the use of cost-effective ambulatory treatment, in-
 11 cluding treatment in non-traditional settings.

12 (4) Coverage of visits for psychological support-
 13 ive, therapeutic, and rehabilitative services, with co-
 14 insurance and fees set to ensure effective cost con-
 15 trol of high demand services.

16 (5) Coverage of prescription drugs essential to
 17 the cost effective treatment of neurobiological dis-
 18 orders.

19 (6) Coverage of medically necessary services for
 20 comorbidity of other disorders.

21 **SEC. 4. ENFORCEMENT THROUGH EXCISE TAX.**

22 (a) IN GENERAL.—Chapter 43 of the Internal Reve-
 23 nue Code of 1986 (relating to qualified pension, etc.,
 24 plans) is amended by adding at the end thereof the follow-
 25 ing new section:

1 **“SEC. 4980F. FAILURE TO COMPLY WITH EMPLOYER**
2 **HEALTH BENEFIT PLAN STANDARDS FOR**
3 **NONDISCRIMINATORY TREATMENT FOR**
4 **NEUROBIOLOGICAL DISORDERS.**

5 “(a) IMPOSITION OF TAX.—There is hereby imposed
6 a tax on the failure of a carrier or an employer health
7 benefit plan to comply with the standards relating to the
8 nondiscriminatory treatment of neurobiological disorders
9 under section 3 of the Equitable Health Care for
10 Neurobiological Disorders Act of 1997.

11 “(b) AMOUNT OF TAX.—

12 “(1) IN GENERAL.—Subject to paragraph (2),
13 the tax imposed by subsection (a) shall be an
14 amount not to exceed 25 percent of the amounts re-
15 ceived by the carrier or under the plan for coverage
16 during the period such failure persists.

17 “(2) LIMITATION IN CASE OF INDIVIDUAL FAIL-
18 URES.—In the case of a failure that only relates to
19 specified individuals or employers (and not to the
20 plan generally), the amount of the tax imposed by
21 subsection (a) shall not exceed the aggregate of
22 \$100 for each day during which such failure persists
23 for each individual to which such failure relates. A
24 rule similar to the rule of section 4980B(b)(3) shall
25 apply for purposes of this section.

1 “(c) LIABILITY FOR TAX.—The tax imposed by this
2 section shall be paid by the carrier.

3 “(d) EXCEPTIONS.—

4 “(1) CORRECTIONS WITHIN 30 DAYS.—No tax
5 shall be imposed by subsection (a) by reason of any
6 failure if—

7 “(A) such failure was due to reasonable
8 cause and not to willful neglect, and

9 “(B) such failure is corrected within the
10 30-day period beginning on earliest date the
11 carrier knew, or exercising reasonable diligence
12 would have known, that such failure existed.

13 “(2) WAIVER BY SECRETARY.—In the case of a
14 failure which is due to reasonable cause and not to
15 willful neglect, the Secretary may waive part or all
16 of the tax imposed by subsection (a) to the extent
17 that payment of such tax would be excessive relative
18 to the failure involved.

19 “(e) DEFINITIONS.—For purposes of this section, the
20 terms ‘carrier’ and ‘employer health benefit plan’ have the
21 respective meanings given such terms in section 5 of the
22 Equitable Health Care for Neurobiological Disorders Act
23 of 1997.”

1 (b) CLERICAL AMENDMENT.—The table of sections
 2 for chapter 43 of such Code is amended by adding at the
 3 end thereof the following new item:

“Sec. 4980F. Failure to comply with employer health benefit plan
 standards for nondiscriminatory treatment for
 neurobiological disorders.”.

4 (c) EFFECTIVE DATE.—The amendments made by
 5 this subsection shall apply to plan years beginning after
 6 December 31, 1998.

7 **SEC. 5. DEFINITIONS.**

8 In this Act, the following definitions shall apply:

9 (1) CARRIER.—The term “carrier” means any
 10 entity which provides health insurance or health ben-
 11 efits in a State, and includes a licensed insurance
 12 company, a prepaid hospital or medical service plan,
 13 a health maintenance organization, the plan sponsor
 14 of a multiple employer welfare arrangement or an
 15 employee benefit plan (as defined under the Em-
 16 ployee Retirement Income Security Act of 1974), or
 17 any other entity providing a plan of health insurance
 18 subject to State insurance regulation.

19 (2) EMPLOYER HEALTH BENEFIT PLAN.—The
 20 term “employer health benefit plan” means a health
 21 benefit plan (including an employee welfare benefit
 22 plan, as defined in section 3(1) of the Employee Re-
 23 tirement Income Security Act of 1974) which is of-
 24 fered to employees through an employer and for

1 which the employer provides for any contribution to
2 such plan or any premium for such plan are de-
3 ducted by the employer from compensation to the
4 employee.

5 (3) HEALTH BENEFIT PLAN.—The term
6 “health benefit plan” means any hospital or medical
7 expense incurred policy or certificate, hospital or
8 medical service plan contract, or health maintenance
9 subscriber contract, or a multiple employer welfare
10 arrangement or employee benefit plan (as defined
11 under the Employee Retirement Income Security Act
12 of 1974) which provides benefits with respect to
13 health care services, but does not include—

14 (A) coverage only for accident, dental, vi-
15 sion, disability income, or long-term care insur-
16 ance, or any combination thereof,

17 (B) medicare supplemental health insur-
18 ance,

19 (C) coverage issued as a supplement to li-
20 ability insurance,

21 (D) worker’s compensation or similar in-
22 surance, or

23 (E) automobile medical-payment insurance,
24 or any combination thereof.

25 (4) NEUROBIOLOGICAL DISORDER.—

1 (A) IN GENERAL.—An individual with a
2 “neurobiological disorder” is an individual diag-
3 nosed with one or more of the following condi-
4 tions:

5 (i) Affective disorders, including bipo-
6 lar disorder and major depressive disorder.

7 (ii) Anxiety disorders, including obses-
8 sive-compulsive disorder and panic dis-
9 order.

10 (iii) Attention deficit disorders.

11 (iv) Autism and other pervasive devel-
12 opmental disorders.

13 (v) Psychotic disorders, including
14 schizophrenia spectrum disorders.

15 (vi) Tourette’s disorder.

16 (B) PERIODIC REVIEW OF DEFINITION.—

17 (i) IN GENERAL.—Not later than 6
18 months after the date of the enactment of
19 this Act, the Secretary of Health and
20 Human Services shall promulgate regula-
21 tions directing the National Institute of
22 Mental Health to conduct a biannual re-
23 view of the definition of neurobiological
24 disorders under subparagraph (A). In con-
25 ducting such review, the National Institute

1 of Mental Health shall consult with extra-
2 mural researchers to review such definition
3 and make recommendations for necessary
4 revisions.

5 (ii) REVIEW BY ADVISORY COUNCIL
6 REQUIRED.—The Secretary may not pro-
7 mulgate any regulation modifying the defi-
8 nition of neurobiological disorders under
9 subsection (a) until the recommendations
10 of the National Institute of Mental Health
11 under clause (i) have been reviewed by the
12 National Advisory Mental Health Council.

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