

105TH CONGRESS  
1ST SESSION

# H. R. 2152

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 annual screening mammography for any class of covered individuals if the coverage or plans include coverage for diagnostic mammography for such class, and to amend titles XVIII and XIX of the Social Security Act to provide for coverage of annual screening mammography.

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## IN THE HOUSE OF REPRESENTATIVES

JULY 11, 1997

Mr. ANDREWS introduced the following bill; which was referred to the Committee on Commerce, and in addition to the Committees on Ways and Means and Education and the Workforce, 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 and Employee Retirement Income Security Act of 1974 to require that group and individual health insurance coverage and group health plans provide coverage for annual screening mammography for any class of covered individuals if the coverage or plans include coverage for diagnostic mammography for such class, and to amend titles XVIII and XIX of the Social Security Act to provide for coverage of annual screening mammography.

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 “Screening Mammog-  
5   raphy Act of 1997”.

6   **SEC. 2. COVERAGE OF ANNUAL SCREENING MAMMOG-**  
7                   **RAPHY UNDER GROUP HEALTH PLANS.**

8       (a) PUBLIC HEALTH SERVICE ACT AMENDMENTS.—  
9                   (1) Subpart 2 of part A of title XXVII of the  
10       Public Health Service Act, as amended by section  
11       703(a) of Public Law 104–204, is amended by add-  
12       ing at the end the following new section:

13   **“SEC. 2706. STANDARDS RELATING TO BENEFITS FOR**  
14                   **SCREENING MAMMOGRAPHY.**

15       “(a) REQUIREMENTS FOR COVERAGE OF ANNUAL  
16       SCREENING MAMMOGRAPHY.—

17       “(1) IN GENERAL.—A group health plan, and a  
18       health insurance issuer offering group health insur-  
19       ance coverage, that provides coverage for diagnostic  
20       mammography for any class of participants or bene-  
21       ficiaries shall provide coverage for annual screening  
22       mammography for such class under terms and con-  
23       ditions that are not less favorable than the terms  
24       and conditions for coverage of diagnostic mammog-  
25       raphy.

1           “(2) DIAGNOSTIC AND ANNUAL SCREENING  
2           MAMMOGRAPHY DEFINED.—For purposes of this  
3           section—

4           “(A) The term ‘diagnostic mammography’  
5           means a radiologic procedure that is medically  
6           necessary for the purpose of diagnosing breast  
7           cancer and includes a physician’s interpretation  
8           of the results of the procedure.

9           “(B) The term ‘annual screening mam-  
10           mography’ means a radiologic procedure pro-  
11           vided to an individual, not more frequently than  
12           on an annual basis, for the purpose of early de-  
13           tection of breast cancer and includes a physi-  
14           cian’s interpretation of the results of the proce-  
15           dure.

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

20           “(1) deny coverage for annual screening mam-  
21           mography on the basis that the coverage is not  
22           medically necessary or on the basis that the screen-  
23           ing mammography is not pursuant to a referral, con-  
24           sent, or recommendation by any health care pro-  
25           vider;

1           “(2) deny to a participant or beneficiary eligi-  
2       bility, or continued eligibility, to enroll or to renew  
3       coverage under the terms of the plan, solely for the  
4       purpose of avoiding the requirements of this section;

5           “(3) provide monetary payments or rebates to  
6       participants or beneficiaries to encourage them to  
7       accept less than the minimum protections available  
8       under this section;

9           “(4) penalize or otherwise reduce or limit the  
10       reimbursement of an attending provider because  
11       such provider provided care to an individual partici-  
12       pant or beneficiary in accordance with this section;  
13       or

14           “(5) provide incentives (monetary or otherwise)  
15       to an attending provider to induce such provider to  
16       provide care to an individual participant or bene-  
17       ficiary in a manner inconsistent with this section.

18       “(c) RULES OF CONSTRUCTION.—

19           “(1) Nothing in this section shall be construed  
20       to require a participant or beneficiary to undergo  
21       annual screening mammography.

22           “(2) This section shall not apply with respect to  
23       any group health plan, or any group health insur-  
24       ance coverage offered by a health insurance issuer,

1       which does not provide benefits for diagnostic mam-  
2       mography.

3           “(3) Nothing in this section shall be construed  
4       as preventing a group health plan or a health insur-  
5       ance issuer offering group health plan coverage from  
6       imposing deductibles, coinsurance, or other cost-  
7       sharing in relation to benefits for annual screening  
8       mammography under the plan (or under health in-  
9       surance coverage offered in connection with a group  
10      health plan), except that such coinsurance or other  
11      cost-sharing for any portion may not be greater than  
12      such coinsurance or cost-sharing that is otherwise  
13      applicable with respect to benefits for diagnostic  
14      mammography.

15           “(4) Nothing in this section shall be construed  
16       as preventing a group health plan or a health insur-  
17       ance issuer offering group health insurance coverage  
18       from requiring that a participant or beneficiary, be-  
19       fore undergoing an annual screening mammography  
20       more frequently than on an annual basis, consult  
21       with an appropriate health care practitioner or ob-  
22       tain a written authorization from such a practitioner  
23       for submission to the plan or issuer, but nothing in  
24       this section shall be construed as requiring prior au-

1       thorization before undergoing an annual screening  
2       mammography.

3       “(d) NOTICE.—A group health plan under this part  
4       shall comply with the notice requirement under section  
5       713(d) of the Employee Retirement Income Security Act  
6       of 1974 with respect to the requirements of this section  
7       as if such section applied to such plan.

8       “(e) LEVEL AND TYPE OF REIMBURSEMENTS.—  
9       Nothing in this section shall be construed as preventing  
10      a group health plan or a health insurance issuer offering  
11      group health insurance coverage from negotiating the level  
12      and type of reimbursement with a provider for care pro-  
13      vided in accordance with this section.

14       “(f) PREEMPTION; EXCEPTION FOR HEALTH INSUR-  
15      ANCE COVERAGE IN CERTAIN STATES.—

16       “(1) IN GENERAL.—The requirements of this  
17      section shall not apply with respect to health insur-  
18      ance coverage for any class of participants or bene-  
19      ficiaries if there is a State law (as defined in section  
20      2723(d)(1)) for a State that regulates such cov-  
21      erage, that requires coverage to be provided for an-  
22      nual screening mammography for such class, and  
23      that provides at least the protections described in  
24      subsection (b).

“(2) CONSTRUCTION.—Section 2723(a)(1) shall not be construed as superseding a State law described in paragraph (1).”.

8 (b) EBISA AMENDMENTS —

14 "SEC. 713. STANDARDS RELATING TO BENEFITS FOR  
15 SCREENING MAMMOGRAPHY.

16        "(a) REQUIREMENTS FOR COVERAGE OF ANNUAL  
17 SCREENING MAMMOGRAPHY —

18                   “(1) IN GENERAL.—A group health plan, and a  
19                   health insurance issuer offering group health insur-  
20                   ance coverage, that provides coverage for diagnostic  
21                   mammography for any class of participants or bene-  
22                   ficiaries shall provide coverage for annual screening  
23                   mammography for such class under terms and con-  
24                   ditions that are not less favorable than the terms

1 and conditions for coverage of diagnostic mammog-  
2 raphy.

3 “(2) DIAGNOSTIC AND ANNUAL SCREENING  
4 MAMMOGRAPHY DEFINED.—For purposes of this  
5 section—

6 “(A) The term ‘diagnostic mammography’  
7 means a radiologic procedure that is medically  
8 necessary for the purpose of diagnosing breast  
9 cancer and includes a physician’s interpretation  
10 of the results of the procedure.

11 “(B) The term ‘annual screening mam-  
12 mography’ means a radiologic procedure pro-  
13 vided to an individual, not more frequently than  
14 on an annual basis, for the purpose of early de-  
15 tection of breast cancer and includes a physi-  
16 cian’s interpretation of the results of the proce-  
17 dure.

18 “(b) 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 coverage described in subsection  
23 (a)(1) on the basis that the coverage is not medically  
24 necessary or on the basis that the annual screening  
25 mammography is not pursuant to a referral, con-

1       sent, or recommendation by any health care pro-  
2       vider;

3           “(2) deny to a participant or beneficiary eligi-  
4       bility, or continued eligibility, to enroll or to renew  
5       coverage under the terms of the plan, solely for the  
6       purpose of avoiding the requirements of this section;

7           “(3) provide monetary payments or rebates to  
8       participants or beneficiaries to encourage them to  
9       accept less than the minimum protections available  
10      under this section;

11           “(4) penalize or otherwise reduce or limit the  
12       reimbursement of an attending provider because  
13       such provider provided care to an individual partici-  
14       pant or beneficiary in accordance with this section;  
15       or

16           “(5) provide incentives (monetary or otherwise)  
17       to an attending provider to induce such provider to  
18       provide care to an individual participant or bene-  
19       ficiary in a manner inconsistent with this section.

20       “(c) RULES OF CONSTRUCTION.—

21           “(1) Nothing in this section shall be construed  
22       to require a participant or beneficiary to undergo  
23       annual screening mammography.

24           “(2) This section shall not apply with respect to  
25       any group health plan, or any group health insur-

1       ance coverage offered by a health insurance issuer,  
2       which does not provide benefits for diagnostic mam-  
3       mography.

4           “(3) Nothing in this section shall be construed  
5       as preventing a group health plan or a health insur-  
6       ance issuer offering group health insurance coverage  
7       from imposing deductibles, coinsurance, or other  
8       cost-sharing in relation to benefits for annual  
9       screening mammography under the plan (or under  
10      health insurance coverage offered in connection with  
11      a group health plan), except that such coinsurance  
12      or other cost-sharing for any portion may not be  
13      greater than such coinsurance or cost-sharing that is  
14      otherwise applicable with respect to benefits for di-  
15      agnostic mammography.

16           “(4) Nothing in this section shall be construed  
17       as preventing a group health plan or a health insur-  
18       ance issuer offering group health insurance coverage  
19       from requiring that a participant or beneficiary, be-  
20       fore undergoing an annual screening mammography  
21       more frequently than on an annual basis, consult  
22       with an appropriate health care practitioner or ob-  
23       tain a written authorization from such a practitioner  
24       for submission to the plan or issuer, but nothing in  
25       this section shall be construed as requiring prior au-

1       thorization before undergoing an annual screening  
2       mammography.

3       “(d) NOTICE UNDER GROUP HEALTH PLAN.—The  
4       imposition of the requirements of this section shall be  
5       treated as a material modification in the terms of the plan  
6       described in section 102(a)(1), for purposes of assuring  
7       notice of such requirements under the plan; except that  
8       the summary description required to be provided under the  
9       last sentence of section 104(b)(1) with respect to such  
10      modification shall be provided by not later than 60 days  
11      after the first day of the first plan year in which such  
12      requirements apply.

13       “(e) LEVEL AND TYPE OF REIMBURSEMENTS.—  
14      Nothing in this section shall be construed as preventing  
15      a group health plan or a health insurance issuer offering  
16      group health insurance coverage from negotiating the level  
17      and type of reimbursement with a provider for care pro-  
18      vided in accordance with this section.

19       “(f) PREEMPTION; EXCEPTION FOR HEALTH INSUR-  
20      ANCE COVERAGE IN CERTAIN STATES.—

21       “(1) IN GENERAL.—The requirements of this  
22      section shall not apply with respect to health insur-  
23      ance coverage for any class of participants or bene-  
24      ficiaries if there is a State law (as defined in section  
25      731(d)(1)) for a State that regulates such coverage,

1       that requires coverage to be provided for annual  
2       screening mammography for such class, and that  
3       provides at least the protections described in sub-  
4       section (b).

5           “(2) CONSTRUCTION.—Section 731(a)(1) shall  
6       not be construed as superseding a State law de-  
7       scribed in paragraph (1).”.

8           (2) Section 731(c) of such Act (29 U.S.C.  
9       1191(c)), as amended by section 603(b)(1) of Public  
10      Law 104–204, is amended by striking “section 711”  
11      and inserting “sections 711 and 713”.

12           (3) Section 732(a) of such Act (29 U.S.C.  
13       1191a(a)), as amended by section 603(b)(2) of Pub-  
14       lic Law 104–204, is amended by striking “section  
15       711” and inserting “sections 711 and 713”.

16           (4) The table of contents in section 1 of such  
17       Act is amended by inserting after the item relating  
18       to section 712 the following new item:

“Sec. 713. Standards relating to benefits for screening mammography.”.

19           (c) EFFECTIVE DATES.—(1) Subject to paragraph  
20       (2), the amendments made by this section shall apply with  
21       respect to group health plans (and health insurance cov-  
22       erage offered in connection with group health plans) for  
23       plan years beginning on or after January 1, 1998.

24           (2) In the case of a group health plan maintained  
25       pursuant to 1 or more collective bargaining agreements

1 between employee representatives and 1 or more employ-  
2 ers ratified before the date of enactment of this Act, the  
3 amendments made by this section shall not apply to plan  
4 years beginning before the later of—

10 (B) January 1, 1998.

11 For purposes of subparagraph (A), any plan amendment  
12 made pursuant to a collective bargaining agreement relat-  
13 ing to the plan which amends the plan solely to conform  
14 to any requirement added by this section shall not be  
15 treated as a termination of such collective bargaining  
16 agreement.

17 SEC. 3. COVERAGE OF ANNUAL SCREENING MAMMOG-  
18 RAPHY UNDER INDIVIDUAL HEALTH COV-  
19 ERAGE.

20 (a) IN GENERAL.—Part B of title XXVII of the Pub-  
21 lic Health Service Act, as amended by section 605(a) of  
22 Public Law 104–204, is amended by inserting after sec-  
23 tion 2751 the following new section:

1   **“SEC. 2752. STANDARDS RELATING TO BENEFITS FOR**  
2                   **SCREENING MAMMOGRAPHY.**

3       “(a) IN GENERAL.—The provisions of section 2706  
4 (other than subsections (d) and (f)) shall apply to health  
5 insurance coverage offered by a health insurance issuer  
6 in the individual market in the same manner as it applies  
7 to health insurance coverage offered by a health insurance  
8 issuer in connection with a group health plan in the small  
9 or large group market.

10       “(b) NOTICE.—A health insurance issuer under this  
11 part shall comply with the notice requirement under sec-  
12 tion 713(d) of the Employee Retirement Income Security  
13 Act of 1974 with respect to the requirements referred to  
14 in subsection (a) as if such section applied to such issuer  
15 and such issuer were a group health plan.

16       “(c) PREEMPTION; EXCEPTION FOR HEALTH INSUR-  
17 ANCE COVERAGE IN CERTAIN STATES.—

18       “(1) IN GENERAL.—The requirements of this  
19 section shall not apply with respect to health insur-  
20 ance coverage for any class of individuals if there is  
21 a State law (as defined in section 2723(d)(1)) for a  
22 State that regulates such coverage, that requires  
23 coverage in the individual health insurance market  
24 to be provided for annual screening mammography  
25 for such class and that provides at least the protec-

1       tions described in section 2706(b) (as applied under  
2       subsection (a)).

3           “(2) CONSTRUCTION.—Section 2762(a) shall  
4       not be construed as superseding a State law de-  
5       scribed in paragraph (1).”.

6           (b) CONFORMING AMENDMENT.—Section 2763(b)(2)  
7       of such Act (42 U.S.C. 300gg–63(b)(2)), as added by sec-  
8       tion 605(b)(3)(B) of Public Law 104–204, is amended by  
9       striking “section 2751” and inserting “sections 2751 and  
10      2752”.

11           (c) EFFECTIVE DATE.—The amendments made by  
12       this section shall apply with respect to health insurance  
13       coverage offered, sold, issued, or renewed in the individual  
14       market on or after such January 1, 1998.

15 **SEC. 4. ANNUAL SCREENING MAMMOGRAPHY UNDER MEDI-**

16           **CARE PROGRAM.**

17           (a) PROVIDING ANNUAL SCREENING MAMMOGRAPHY  
18       FOR WOMEN OF ALL AGES.—Paragraph (2) of section  
19       1834(c) of the Social Security Act (42 U.S.C. 1395m(c))  
20       is amended to read as follows:

21           “(2) COVERED ON AN ANNUAL BASIS.—Pay-  
22       ment may not be made under this part for a screen-  
23       ing mammography performed within the 11 months  
24       following the month in which a previous screening  
25       mammography was performed.”.

1       (b) EFFECTIVE DATE.—The amendments made by  
2 subsection (a) shall apply to screening mammography per-  
3 formed on or after January 1, 1998.

4 **SEC. 5. COVERAGE OF ANNUAL SCREENING MAMMOG-**  
5 **RAPHY UNDER MEDICAID.**

6       (a) IN GENERAL.—Section 1905(a) of the Social Se-  
7 curity Act (42 U.S.C. 1396d(a)) is amended—

8               (1) by striking “and” at the end of paragraph  
9               (24);

10              (2) by redesignating paragraph (25) as para-  
11               graph (26); and

12              (3) by inserting after paragraph (24) the fol-  
13               lowing new paragraph:

14               “(25) annual screening mammography (as de-  
15               fined in subsection (t)) that is conducted by a facil-  
16               ty that has a certificate (or provisional certificate)  
17               issued under section 354 of the Public Health Serv-  
18               ice Act; and”.

19       (b) ANNUAL SCREENING MAMMOGRAPHY DE-  
20 FINED.—Section 1905 of such Act (42 U.S.C. 1396d) is  
21 amended by adding at the end the following new sub-  
22 section:

23               “(t) The term ‘annual screening mammography’  
24 means a radiologic procedure provided to a woman, not  
25 more frequently than on an annual basis, for the purpose

1 of early detection of breast cancer and includes a physi-  
2 cian's interpretation of the results of the procedure.”.

3 (c) MAKING COVERAGE MANDATORY.—Section  
4 1902(a)(10)(A) of such Act (42 U.S.C. 1396a(a)(10)(A))  
5 is amended by striking “(17) and (21)” and inserting  
6 “(17), (21), and (25)”.

7 (d) CONFORMING AMENDMENTS.—Section 1902 of  
8 such Act (42 U.S.C. 1396a) is amended—

9 (1) in subsection (a)(10)(C)(iv)—

10 (A) by striking “and (17)” and inserting  
11 “, (17), and (25)”, and

12 (B) by striking “through (24)” and insert-  
13 ing “through (25)”; and

14 (2) in subsection (j), by striking “through (25)”  
15 and inserting “through (26)”.

16 (e) EFFECTIVE DATE.—(1) Except as provided in  
17 paragraph (2), the amendments made by this section shall  
18 apply to screening mammography performed on or after  
19 January 1, 1998, without regard to whether or not final  
20 regulations to carry out such amendments have been pro-  
21 mulgated by such date.

22 (2) In the case of a State plan for medical assistance  
23 under title XIX of the Social Security Act which the Sec-  
24 retary of Health and Human Services determines requires  
25 State legislation (other than legislation appropriating

1 funds) in order for the plan to meet the additional require-  
2 ment imposed by the amendments made by this section,  
3 the State plan shall not be regarded as failing to comply  
4 with the requirements of such title solely on the basis of  
5 its failure to meet this additional requirement before the  
6 first day of the first calendar quarter beginning after the  
7 close of the first regular session of the State legislature  
8 that begins after the date of the enactment of this Act.  
9 For purposes of the previous sentence, in the case of a  
10 State that has a 2-year legislative session, each year of  
11 such session shall be deemed to be a separate regular ses-  
12 sion of the State legislature.

○