

105TH CONGRESS
1ST SESSION

H. R. 760

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 screening mammography and pap smears.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 13, 1997

Mr. FOX of Pennsylvania (for himself, Mrs. CARSON, Ms. JACKSON-LEE of Texas, and Mr. ROMERO-BARCELÓ) introduced the following bill; which was referred to the Committee on Commerce, and in addition to the Committee on 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

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 screening mammography and pap smears.

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 “Women’s Preventive
5 Health Care Act of 1997”.

1 **SEC. 2. REQUIRING COVERAGE OF SCREENING MAMMOG-**
 2 **RAPHY AND PAP SMEARS UNDER HEALTH**
 3 **PLANS.**

4 (a) GROUP HEALTH PLANS.—

5 (1) PUBLIC HEALTH SERVICE ACT AMEND-
 6 MENTS.—(A) Subpart 2 of part A of title XXVII of
 7 the Public Health Service Act, as amended by sec-
 8 tion 703(a) of Public Law 104–204, is amended by
 9 adding at the end the following new section:

10 **“SEC. 2706. STANDARDS RELATING TO BENEFITS FOR**
 11 **SCREENING MAMMOGRAPHY AND PAP**
 12 **SMEARS.**

13 “(a) REQUIREMENTS FOR COVERAGE OF SCREENING
 14 MAMMOGRAPHY AND PAP SMEARS.—

15 “(1) IN GENERAL.—A group health plan, and a
 16 health insurance issuer offering group health insur-
 17 ance coverage, shall include (consistent with this sec-
 18 tion)—

19 “(A) coverage for screening pap smears,
 20 and

21 “(B) coverage for low-dose screening mam-
 22 mography.

23 “(b) DEFINITIONS RELATING TO COVERAGE.—In
 24 this section:

25 “(1) LOW-DOSE SCREENING MAMMOGRAPHY.—

26 The term ‘low-dose screening mammography’ means

1 a radiologic procedure for the early detection of
2 breast cancer provided to an asymptomatic women
3 using equipment dedicated specifically for mammog-
4 raphy and at a facility which meets mammography
5 accreditation standards established by the Secretary
6 of Health and Human Services for coverage of
7 screening mammography under the medicare pro-
8 gram under title XVIII of the Social Security Act.
9 Such term also includes a physician's interpretation
10 of the results of the procedure.

11 “(2) SCREENING PAP SMEAR.—The term
12 ‘screening pap smear’ means a diagnostic laboratory
13 test consisting of a routine exfoliative cytology test
14 (Papanicolaou test) provided to a woman for the
15 purpose of early detection of cervical cancer and in-
16 cludes the examination, the laboratory test itself,
17 and a physician's interpretation of the results of the
18 test. If the Secretary of Health and Human Services
19 establishes qualify standards for facilities furnishing
20 screening pap smears, such term shall only include
21 a test if the test is performed in a facility that has
22 been determined to meet such standards.

23 “(c) RESTRICTIONS ON COST-SHARING.—The cov-
24 erage under this section shall not provide for the applica-
25 tion of deductibles, coinsurance, or other limitations for

1 low-dose screening mammography or screening pap
 2 smears that are greater than the deductibles, coinsurance,
 3 and limitations that are applied to similar services under
 4 the health insurance coverage or group health plan.

5 “(d) FREQUENCY OF COVERAGE OF SCREENING
 6 MAMMOGRAPHY.—

7 “(1) IN GENERAL.—Coverage of low-dose
 8 screening mammography is consistent with this sec-
 9 tion only if it is provided consistent with the follow-
 10 ing periodicity schedule:

11 “(A) Coverage is made available for one
 12 baseline low-dose screening mammography for
 13 any woman between 35 and 40 years of age.

14 “(B) Coverage is made available for such
 15 mammography on an annual basis to any
 16 woman who is 50 years of age or older or who
 17 is determined by a physician to be at-risk of
 18 breast cancer (as defined in paragraph (2)).

19 “(C) Coverage is made available for such
 20 mammography for a woman at least once every
 21 other year.

22 “(2) AT-RISK OF BREAST CANCER.—For pur-
 23 poses of paragraph (1)(B), a woman is considered to
 24 be ‘at-risk of breast cancer’ if any of the following
 25 is true:

1 “(A) The woman has a personal history of
2 breast cancer.

3 “(B) The woman has a personal history of
4 biopsy-proven benign breast disease.

5 “(C) The woman’s mother, sister, or
6 daughter has or has had breast cancer.

7 “(D) The woman has not given birth prior
8 to the age of 30.

9 “(e) FREQUENCY OF COVERAGE OF SCREENING PAP
10 SMEARS.—Coverage of screening pap smears is consistent
11 with this section only if it is provided not more often than
12 once every year (or more frequently if recommended by
13 a physician).

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

18 “(1) deny to a woman eligibility, or continued
19 eligibility, to enroll or to renew coverage under the
20 terms of the plan, solely for the purpose of avoiding
21 the requirements of this section;

22 “(2) provide monetary payments or rebates to
23 women to encourage such women to accept less than
24 the minimum protections available under this sec-
25 tion;

1 “(3) penalize or otherwise reduce or limit the
2 reimbursement of an attending provider because
3 such provider provided care to an individual partici-
4 pant or beneficiary in accordance with this section;
5 or

6 “(4) provide incentives (monetary or otherwise)
7 to an attending provider to induce such provider to
8 provide care to an individual participant or bene-
9 ficiary in a manner inconsistent with this section.

10 “(g) RULE OF CONSTRUCTION.—Nothing in this sec-
11 tion shall be construed to require a woman who is a partici-
12 pant or beneficiary to undergo a screening mammograph
13 or screening pap smear.

14 “(h) NOTICE.—A group health plan under this part
15 shall comply with the notice requirement under section
16 713(d) of the Employee Retirement Income Security Act
17 of 1974 with respect to the requirements of this section
18 as if such section applied to such plan.

19 “(i) LEVEL AND TYPE OF REIMBURSEMENTS.—
20 Nothing in this section shall be construed to prevent a
21 group health plan or a health insurance issuer offering
22 group health insurance coverage from negotiating the level
23 and type of reimbursement with a provider for care pro-
24 vided in accordance with this section.

25 “(j) PREEMPTION.—

1 “(1) IN GENERAL.—The provisions of this sec-
 2 tion do not preempt State law relating to health in-
 3 surance coverage to the extent such State law pro-
 4 vides greater protection to women in relation to the
 5 benefits provided under this section.

6 “(2) CONSTRUCTION.—Section 2723(a)(1) shall
 7 not be construed as superseding a State law de-
 8 scribed in paragraph (1).”.

9 (B) Section 2723(c) of such Act (42 U.S.C.
 10 300gg-23(c)), as amended by section 604(b)(2) of
 11 Public Law 104-204, is amended by striking “sec-
 12 tion 2704” and inserting “sections 2704 and 2706”.

13 (2) ERISA AMENDMENTS.—(A) Subpart B of
 14 part 7 of subtitle B of title I of the Employee Re-
 15 tirement Income Security Act of 1974, as amended
 16 by section 702(a) of Public Law 104-204, is amend-
 17 ed by adding at the end the following new section:

18 **“SEC. 713. STANDARDS RELATING TO BENEFITS FOR**
 19 **SCREENING MAMMOGRAPHY AND PAP**
 20 **SMEARS.**

21 “(a) REQUIREMENTS FOR COVERAGE OF SCREENING
 22 MAMMOGRAPHY AND PAP SMEARS.—

1 “(1) IN GENERAL.—A group health plan, and a
2 health insurance issuer offering group health insur-
3 ance coverage, shall include (consistent with this sec-
4 tion)—

5 “(A) coverage for screening pap smears,
6 and

7 “(B) coverage for low-dose screening mam-
8 mography.

9 “(b) DEFINITIONS RELATING TO COVERAGE.—In
10 this section:

11 “(1) LOW-DOSE SCREENING MAMMOGRAPHY.—

12 The term ‘low-dose screening mammography’ means
13 a radiologic procedure for the early detection of
14 breast cancer provided to an asymptomatic women
15 using equipment dedicated specifically for mammog-
16 raphy and at a facility which meets mammography
17 accreditation standards established by the Secretary
18 of Health and Human Services for coverage of
19 screening mammography under the medicare pro-
20 gram under title XVIII of the Social Security Act.
21 Such term also includes a physician’s interpretation
22 of the results of the procedure.

23 “(2) SCREENING PAP SMEAR.—The term
24 ‘screening pap smear’ means a diagnostic laboratory
25 test consisting of a routine exfoliative cytology test

1 (Papanicolaou test) provided to a woman for the
2 purpose of early detection of cervical cancer and in-
3 cludes the examination, the laboratory test itself,
4 and a physician's interpretation of the results of the
5 test. If the Secretary of Health and Human Services
6 establishes qualify standards for facilities furnishing
7 screening pap smears, such term shall only include
8 a test if the test is performed in a facility that has
9 been determined to meet such standards.

10 “(c) RESTRICTIONS ON COST-SHARING.—The cov-
11 erage under this section shall not provide for the applica-
12 tion of deductibles, coinsurance, or other limitations for
13 low-dose screening mammography or screening pap
14 smears that are greater than the deductibles, coinsurance,
15 and limitations that are applied to similar services under
16 the health insurance coverage or group health plan.

17 “(d) FREQUENCY OF COVERAGE OF SCREENING
18 MAMMOGRAPHY.—

19 “(1) IN GENERAL.—Coverage of low-dose
20 screening mammography is consistent with this sec-
21 tion only if it is provided consistent with the follow-
22 ing periodicity schedule:

23 “(A) Coverage is made available for one
24 baseline low-dose screening mammography for
25 any woman between 35 and 40 years of age.

1 “(B) Coverage is made available for such
2 mammography on an annual basis to any
3 woman who is 50 years of age or older or who
4 is determined by a physician to be at-risk of
5 breast cancer (as defined in paragraph (2)).

6 “(C) Coverage is made available for such
7 mammography for a woman at least once every
8 other year.

9 “(2) AT-RISK OF BREAST CANCER.—For pur-
10 poses of paragraph (1)(B), a woman is considered to
11 be ‘at-risk of breast cancer’ if any of the following
12 is true:

13 “(A) The woman has a personal history of
14 breast cancer.

15 “(B) The woman has a personal history of
16 biopsy-proven benign breast disease.

17 “(C) The woman’s mother, sister, or
18 daughter has or has had breast cancer.

19 “(D) The woman has not given birth prior
20 to the age of 30.

21 “(e) FREQUENCY OF COVERAGE OF SCREENING PAP
22 SMEARS.—Coverage of screening pap smears is consistent
23 with this section only if it is provided not more often than
24 once every year (or more frequently if recommended by
25 a physician).

1 “(f) PROHIBITIONS.—A group health plan, and a
2 health insurance issuer offering group health insurance
3 coverage in connection with a group health plan, may
4 not—

5 “(1) deny to a woman eligibility, or continued
6 eligibility, to enroll or to renew coverage under the
7 terms of the plan, solely for the purpose of avoiding
8 the requirements of this section;

9 “(2) provide monetary payments or rebates to
10 women to encourage such women to accept less than
11 the minimum protections available under this sec-
12 tion;

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

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

22 “(g) RULE OF CONSTRUCTION.—Nothing in this sec-
23 tion shall be construed to require a woman who is a partici-
24 pant or beneficiary to undergo a screening mammograph
25 or screening pap smear.

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

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

17 “(j) PREEMPTION.—

18 “(1) IN GENERAL.—The provisions of this sec-
19 tion do not preempt State law relating to health in-
20 surance coverage to the extent such State law pro-
21 vides greater protection to women in relation to the
22 benefits provided under this section.

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

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

5 (C) Section 732(a) of such Act (29 U.S.C.
 6 1191a(a)), as amended by section 603(b)(2) of Pub-
 7 lic Law 104–204, is amended by striking “section
 8 711” and inserting “sections 711 and 713”.

9 (D) The table of contents in section 1 of such
 10 Act is amended by inserting after the item relating
 11 to section 712 the following new item:

“Sec. 713. Standards relating to benefits for screening mammography and pap
 smears.

12 (b) INDIVIDUAL HEALTH INSURANCE.—(1) Part B
 13 of title XXVII of the Public Health Service Act, as amend-
 14 ed by section 605(a) of Public Law 104–204, is amended
 15 by inserting after section 2751 the following new section:

16 **“SEC. 2752. STANDARDS RELATING TO BENEFITS FOR**
 17 **SCREENING MAMMOGRAPHY AND PAP**
 18 **SMEARS.**

19 “(a) IN GENERAL.—The provisions of section 2706
 20 (other than subsection (h)) shall apply to health insurance
 21 coverage offered by a health insurance issuer in the indi-
 22 vidual market in the same manner as it applies to health
 23 insurance coverage offered by a health insurance issuer

1 in connection with a group health plan in the small or
2 large group market.

3 “(b) NOTICE.—A health insurance issuer under this
4 part shall comply with the notice requirement under sec-
5 tion 713(h) of the Employee Retirement Income Security
6 Act of 1974 with respect to the requirements referred to
7 in subsection (a) as if such section applied to such issuer
8 and such issuer were a group health plan.

9 “(c) PREEMPTION.—

10 “(1) IN GENERAL.—The provisions of this sec-
11 tion do not preempt State law relating to health in-
12 surance coverage to the extent such State law pro-
13 vides greater protection to women in relation to the
14 benefits provided under this section.

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

18 (2) Section 2762(b)(2) of such Act (42 U.S.C.
19 300gg–62(b)(2)), as added by section 605(b)(3)(B) of
20 Public Law 104–204, is amended by striking “section
21 2751” and inserting “sections 2751 and 2752”.

22 (c) EFFECTIVE DATES.—(1) The amendments made
23 by subsection (a) shall apply with respect to group health
24 plans for plan years beginning on or after January 1,
25 1998.

1 (2) The amendment made by subsection (b) shall
2 apply with respect to health insurance coverage offered,
3 sold, issued, renewed, in effect, or operated in the individ-
4 ual market on or after such date.

○