

105TH CONGRESS
2D SESSION

S. 1969

To provide health benefits for workers and their families.

IN THE SENATE OF THE UNITED STATES

APRIL 22, 1998

Mr. KENNEDY introduced the following bill; which was read twice and referred to the Committee on Labor and Human Resources

A BILL

To provide health benefits for workers and their families.

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 “Health Care for Work-
5 ing Families Act”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

8 (1) every industrialized country in the world ex-
9 cept the United States guarantees the fundamental
10 right to health care to all its citizens;

11 (2) 41,000,000 Americans are without health
12 insurance coverage;

1 (3) the number of uninsured Americans is
2 growing every year;

3 (4) the vast majority of uninsured Americans
4 are workers or dependents of workers;

5 (5) for more than half a century, Congress has
6 enacted laws to ensure that work is appropriately re-
7 warded, including laws establishing a minimum wage
8 and a 40 hour work week, laws ensuring safe and
9 healthy working conditions, and laws requiring em-
10 ployers to contribute to the cost of retirement secu-
11 rity through Social Security and Medicare; and

12 (6) as the United States approaches the 21st
13 century, it is time to enact requirements guarantee-
14 ing that jobs carry with them affordable, adequate
15 health insurance benefits.

16 **SEC. 3. HEALTH BENEFITS FOR EMPLOYEES AND THEIR**
17 **FAMILIES.**

18 (a) IN GENERAL.—The Fair Labor Standards Act of
19 1938 (29 U.S.C. 201 et seq.) is amended by adding at
20 the end thereof the following new title:

21 **“TITLE II—HEALTH BENEFITS**
22 **FOR EMPLOYEES AND THEIR**
23 **FAMILIES**

24 **“SEC. 201. HEALTH BENEFITS.**

25 “(a) OFFER TO ENROLL.—

1 “(1) IN GENERAL.—Each large employer, in ac-
 2 cordance with this title, shall offer to each of its em-
 3 ployees the opportunity to enroll in a qualifying
 4 health benefit plan that provides coverage for the
 5 employee and the family of the employee.

6 “(2) QUALIFYING HEALTH BENEFIT PLAN.—
 7 For purposes of this title, the term ‘qualifying
 8 health benefit plan’ means a plan that provides ben-
 9 efits for health care items and services that are
 10 actuarially equivalent or greater in value than the ben-
 11 efits offered as of January 1, 1998 under the Blue
 12 Cross/Blue Shield Standard Plan provided under the
 13 Federal Employees Health Benefit Program under
 14 chapter 89 of title 5, United States Code, and that
 15 meets the requirements of title XXVII of the Public
 16 Health Service Act applicable to the plan.

17 “(b) CONTRIBUTION AND WITHHOLDING.—

18 “(1) IN GENERAL.—Each large employer, in ac-
 19 cordance with this title, shall—

20 “(A) contribute to the cost of any qualify-
 21 ing health benefit plan offered to its employees
 22 under subsection (a); and

23 “(B) withhold from the wages of an em-
 24 ployee, the employee share of the premium as-

1 sessed for coverage under the qualifying health
2 benefit plan.

3 “(2) REQUIRED CONTRIBUTION.—Except as
4 provided in paragraphs (3) and (4), the portion of
5 the total premium to be paid by a large employer
6 under paragraph (1)(A) shall not be less than the
7 portion of the total premium that the Federal Gov-
8 ernment contributes under the Blue Cross/Blue
9 Shield Standard Plan provided under the Federal
10 Employees Health Benefit Program under chapter
11 89 of title 5, United States Code.

12 “(3) PART-TIME EMPLOYEES.—With respect to
13 an employee who works less than 30 hours per week,
14 the employer contribution required under paragraph
15 (2) shall be equal to the product of—

16 “(A) the contribution required under para-
17 graph (2); and

18 “(B) the ratio of number of hours worker
19 by the employee in a typical week to 30 hours.

20 “(4) LIMITATION.—No employer contribution
21 shall be required under this subsection with respect
22 to an employer who works less than 10 hours per
23 week.

24 “(c) EMPLOYEE OBLIGATION UNDER CERTAIN PRO-
25 GRAMS.—

1 “(1) IN GENERAL.—With respect to an em-
2 ployee covered under a Federal health insurance pro-
3 gram (as defined in paragraph (3)), such employee
4 shall accept an offer of health insurance coverage
5 under subsection (a) and agree to the appropriate
6 payroll withholdings under subsection (b)(1)(B) for
7 such coverage or provide for the payment of the em-
8 ployee share of premiums under paragraph (2), ex-
9 cept that this subsection shall not apply—

10 “(A) with respect to an employee who is
11 otherwise covered under an employment-based
12 qualified health benefit plan; or

13 “(B) with respect to the coverage of a fam-
14 ily member of an employee if the employee does
15 not elect coverage for such family member and
16 the family member is otherwise covered under
17 an employment-based qualified health benefit
18 plan.

19 “(2) PAYMENT OF PREMIUMS.—At the request
20 of an employee to which paragraph (1) applies, the
21 relevant Federal administrator of the Federal health
22 insurance program involved shall provide for the
23 payment of the employee share of the premium as-
24 sessed for coverage under the qualifying health bene-
25 fit plan involved. For purposes of title XIX of the

1 Social Security Act (42 U.S.C. 1396 et seq.), the re-
 2 quirement of this paragraph shall be deemed to be
 3 a requirement under the appropriate State plan
 4 under such title XIX.

5 “(3) FEDERAL HEALTH INSURANCE PRO-
 6 GRAM.—As used in this subsection, the term ‘Fed-
 7 eral health insurance program’ means—

8 “(A) the medicare or medicaid program
 9 under title XVIII or XIX of the Social Security
 10 Act (42 U.S.C. 1395 or 1396 et seq.);

11 “(B) the Federal employee health benefit
 12 program under chapter 89 of title V, United
 13 States Code; or

14 “(C) the Civilian Health and Medical Pro-
 15 gram of the Uniformed Services (CHAMPUS),
 16 as defined in section 1073(4) of title 10, United
 17 States Code.

18 “(d) LARGE EMPLOYERS.—

19 “(1) IN GENERAL.—The provisions of this title
 20 shall only apply to large employers.

21 “(2) DEFINITION.—

22 “(A) IN GENERAL.—As used in paragraph
 23 (1), the term ‘large employer’ means, with re-
 24 spect to a calendar year and plan year, an em-
 25 ployer that employed an average of at least 50

1 full-time employees on business days during the
 2 preceding calendar year and who employs not
 3 less than 50 employees on the first day of the
 4 plan year.

5 “(B) EXCEPTION.—The provisions of this
 6 title shall apply with respect to an employer
 7 that is not a large employer under subpara-
 8 graph (A) if the majority of the services per-
 9 formed by such employer consist of services per-
 10 formed on behalf of a single large employer.

11 “(3) CONTRACT WORKERS.—For purposes of
 12 this title, a contract worker of an employer shall be
 13 considered to be an employee of the employer.

14 **“SEC. 202. REQUIREMENTS RELATING TO TIMING OF COV-**
 15 **ERAGE AND WITHHOLDING.**

16 “(a) DATE OF INITIAL COVERAGE.—In the case of
 17 an employee enrolled under a qualifying health benefit
 18 plan provided by a large employer, the coverage under the
 19 plan must begin not later than 30 days after the day on
 20 which the employee first performs an hour of service as
 21 an employee of that employer.

22 “(b) WITHHOLDING PERMITTED.—No provision of
 23 State law shall prevent an employer of an employee en-
 24 rolled under a qualifying health benefit plan established
 25 under this title from withholding the amount of any pre-

1 mium due by the employee from the payroll of the em-
 2 ployee.

3 **“SEC. 203. ENFORCEMENT.**

4 “(a) CIVIL MONEY PENALTY AGAINST PRIVATE EM-
 5 PLOYERS.—The provisions of section 502—

6 “(1) relating to the commencement of civil ac-
 7 tions by the Secretary under subsection (a) of such
 8 section;

9 “(2) relating to civil money penalties under sub-
 10 section (c)(2) of such section; and

11 “(3) relating to the procedures for assessing,
 12 collecting and the judicial review of such civil money
 13 penalties;

14 shall apply with respect to any large employer that does
 15 not comply with this title.

16 “(b) INJUNCTIVE RELIEF.—The provisions of section
 17 17 shall apply with respect to violations of this title.

18 **“SEC. 204. PREEMPTION.**

19 “Nothing in this title shall be construed to prevent
 20 a State from establishing, implementing, or continuing in
 21 effect standards and requirements relating to employer
 22 provided health insurance coverage unless such standards
 23 and requirements prevent the application of a require-
 24 ments of this title.

1 **“SEC. 205. DEFINITION AND EFFECTIVE DATE.**

2 “(a) DEFINITION.—In this title the terms ‘family’
3 and ‘family member’ mean, with respect to an employee,
4 the spouse and children (including adopted children) of
5 the employee.

6 “(b) EFFECTIVE DATE.—

7 “(1) IN GENERAL.—Except as provided in para-
8 graph (2), this title shall apply with respect to em-
9 ployers on January 1, 1999.

10 “(2) COLLECTIVE BARGAINING AGREEMENTS.—

11 This title shall apply with respect to employees cov-
12 ered under a collective bargaining agreement on the
13 first day of the first plan year beginning after the
14 date of enactment of this Act, or January 1, 1999,
15 whichever occurs later.”.

16 (b) CONFORMING AMENDMENTS.—

17 (1) The Fair Labor Standards Act of 1938 is
18 amended by striking out the first section and insert-
19 ing in lieu thereof the following:

20 **“SECTION 1. SHORT TITLE.**

21 “This Act may be cited as the ‘Fair Labor Standards
22 Act of 1938’.

23 **“TITLE I—WAGES AND HOURS”.**

24 (2) The Fair Labor Standards Act of 1938 is
25 amended by striking out “this Act” each place it oc-
26 curs and inserting in lieu thereof “this title”.

1 (3) Section 17 of the Fair Labor Standards Act
2 of 1938 (29 U.S.C. 217) is amended by inserting
3 “or violations of title II” before the period.

4 **SEC. 4. AMENDMENT TO PUBLIC HEALTH SERVICE ACT.**

5 Title II of the Public Health Service Act (42 U.S.C.
6 202 et seq.) is amended by adding at the end the follow-
7 ing:

8 **“SEC. 247. REQUIREMENT FOR HEALTH INSURANCE COV-**
9 **ERAGE.**

10 “A health insurance issuer (as defined in section
11 2791(a)) that offers health insurance coverage (as defined
12 in section 2791(a)) to an employer on behalf of the em-
13 ployees of such employer shall ensure that such coverage
14 complies with the requirements of title II of the Fair
15 Labor Standards Act of 1938.”.

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