

105TH CONGRESS
1ST SESSION

S. 249

To require that health plans provide coverage for a minimum hospital stay for mastectomies and lymph node dissection for the treatment of breast cancer, coverage for reconstructive surgery following mastectomies, and coverage for secondary consultations.

IN THE SENATE OF THE UNITED STATES

JANUARY 30, 1997

Mr. D'AMATO (for himself, Ms. SNOWE, Mrs. FEINSTEIN, Mr. HOLLINGS, Mr. MOYNIHAN, Mr. DOMENICI, Mr. FAIRCLOTH, Ms. MOSELEY-BRAUN, Mr. BIDEN, Mr. INOUE, Mr. MURKOWSKI, Mr. DODD, Mr. KERREY, Mr. HATCH, Mr. GREGG, Mr. SMITH of New Hampshire, and Mr. FORD) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To require that health plans provide coverage for a minimum hospital stay for mastectomies and lymph node dissection for the treatment of breast cancer, coverage for reconstructive surgery following mastectomies, and coverage for secondary consultations.

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 Health and
5 Cancer Rights Act of 1997”.

1 **SEC. 2. FINDINGS.**

2 Congress finds that—

3 (1) the offering and operation of health plans
4 affect commerce among the States;

5 (2) health care providers located in a State
6 serve patients who reside in the State and patients
7 who reside in other States; and

8 (3) in order to provide for uniform treatment of
9 health care providers and patients among the States,
10 it is necessary to cover health plans operating in 1
11 State as well as health plans operating among the
12 several States.

13 **SEC. 3. AMENDMENTS TO THE EMPLOYEE RETIREMENT IN-**
14 **COME SECURITY ACT OF 1974.**

15 (a) IN GENERAL.—Subpart B of part 7 of subtitle
16 B of title I of the Employee Retirement Income Security
17 Act of 1974 (as added by section 603(a) of the Newborns’
18 and Mothers’ Health Protection Act of 1996 and amended
19 by section 702(a) of the Mental Health Parity Act of
20 1996) is amended by adding at the end the following new
21 section:

1 **“SEC. 713. REQUIRED COVERAGE FOR MINIMUM HOSPITAL**
 2 **STAY FOR MASTECTOMIES AND LYMPH NODE**
 3 **DISSECTIONS FOR THE TREATMENT OF**
 4 **BREAST CANCER, COVERAGE FOR RECON-**
 5 **STRUCTIVE SURGERY FOLLOWING**
 6 **MASTECTOMIES, AND COVERAGE FOR SEC-**
 7 **ONDARY CONSULTATIONS.**

8 “(a) INPATIENT CARE.—

9 “(1) IN GENERAL.—A group health plan, and a
 10 health insurance issuer providing health insurance
 11 coverage in connection with a group health plan,
 12 that provides medical and surgical benefits shall en-
 13 sure that inpatient coverage with respect to the
 14 treatment of breast cancer is provided for a period
 15 of time as is determined by the attending physician,
 16 in consultation with the patient, to be medically ap-
 17 propriate following—

18 “(A) a mastectomy;

19 “(B) a lumpectomy; or

20 “(C) a lymph node dissection for the treat-
 21 ment of breast cancer.

22 “(2) EXCEPTION.—Nothing in this section shall
 23 be construed as requiring the provision of inpatient
 24 coverage if the attending physician and patient de-
 25 termine that a shorter period of hospital stay is
 26 medically appropriate.

1 “(b) RECONSTRUCTIVE SURGERY.—A group health
 2 plan, and a health insurance issuer providing health insur-
 3 ance coverage in connection with a group health plan, that
 4 provides medical and surgical benefits with respect to a
 5 mastectomy shall ensure that, in a case in which a mastec-
 6 tomy patient elects breast reconstruction, coverage is pro-
 7 vided for—

8 “(1) all stages of reconstruction of the breast
 9 on which the mastectomy has been performed; and

10 “(2) surgery and reconstruction of the other
 11 breast to produce a symmetrical appearance;
 12 in the manner determined by the attending physician and
 13 the patient to be appropriate, and consistent with any fee
 14 schedule contained in the plan.

15 “(c) PROHIBITION ON CERTAIN MODIFICATIONS.—In
 16 implementing the requirements of this section, a group
 17 health plan, and a health insurance issuer providing health
 18 insurance coverage in connection with a group health plan,
 19 may not modify the terms and conditions of coverage
 20 based on the determination by a participant or beneficiary
 21 to request less than the minimum coverage required under
 22 subsection (a) or (b).

23 “(d) NOTICE.—A group health plan, and a health in-
 24 surance issuer providing health insurance coverage in con-
 25 nection with a group health plan shall provide notice to

1 each participant and beneficiary under such plan regard-
 2 ing the coverage required by this section in accordance
 3 with regulations promulgated by the Secretary. Such no-
 4 tice shall be in writing and prominently positioned in any
 5 literature or correspondence made available or distributed
 6 by the plan or issuer and shall be transmitted—

7 “(1) in the next mailing made by the plan or
 8 issuer to the participant or beneficiary;

9 “(2) as part of any yearly informational packet
 10 sent to the participant or beneficiary; or

11 “(3) not later than January 1, 1998;
 12 whichever is earlier.

13 “(e) SECONDARY CONSULTATIONS.—

14 “(1) IN GENERAL.—A group health plan, and a
 15 health insurance issuer providing health insurance
 16 coverage in connection with a group health plan,
 17 that provides coverage with respect to medical and
 18 surgical services provided in relation to the diagnosis
 19 and treatment of cancer shall ensure that full cov-
 20 erage is provided for secondary consultations by spe-
 21 cialists in the appropriate medical fields (including
 22 pathology, radiology, and oncology) to confirm or re-
 23 fute such diagnosis. Such plan or issuer shall ensure
 24 that full coverage is provided for such secondary
 25 consultation whether such consultation is based on a

1 positive or negative initial diagnosis. In any case in
 2 which the attending physician certifies in writing
 3 that services necessary for such a secondary con-
 4 sultation are not sufficiently available from special-
 5 ists operating under the plan with respect to whose
 6 services coverage is otherwise provided under such
 7 plan or by such issuer, such plan or issuer shall en-
 8 sure that coverage is provided with respect to the
 9 services necessary for the secondary consultation
 10 with any other specialist selected by the attending
 11 physician for such purpose at no additional cost to
 12 the individual beyond that which the individual
 13 would have paid if the specialist was participating in
 14 the network of the plan.

15 “(2) EXCEPTION.—Nothing in paragraph (1)
 16 shall be construed as requiring the provision of sec-
 17 ondary consultations where the patient determines
 18 not to seek such a consultation.

19 “(f) PROHIBITION ON PENALTIES OR INCENTIVES.—
 20 A group health plan, and a health insurance issuer provid-
 21 ing health insurance coverage in connection with a group
 22 health plan, may not—

23 “(1) penalize or otherwise reduce or limit the
 24 reimbursement of a provider or specialist because

1 the provider or specialist provided care to a partici-
 2 pant or beneficiary in accordance with this section;

3 “(2) provide financial or other incentives to a
 4 physician or specialist to induce the physician or
 5 specialist to keep the length of inpatient stays of pa-
 6 tients following a mastectomy, lumpectomy, or a
 7 lymph node dissection for the treatment of breast
 8 cancer below certain limits or to limit referrals for
 9 secondary consultations; or

10 “(3) provide financial or other incentives to a
 11 physician or specialist to induce the physician or
 12 specialist to refrain from referring a participant or
 13 beneficiary for a secondary consultation that would
 14 otherwise be covered by the plan or coverage in-
 15 volved under subsection (e).”.

16 (b) CLERICAL AMENDMENT.—The table of contents
 17 in section 1 of such Act, as amended by section 603 of
 18 the Newborns’ and Mothers’ Health Protection Act of
 19 1996 and section 702 of the Mental Health Parity Act
 20 of 1996, is amended by inserting after the item relating
 21 to section 712 the following new item:

“Sec. 713. Required coverage for minimum hospital stay for mastectomies and
 lymph node dissections for the treatment of breast cancer, cov-
 erage for reconstructive surgery following mastectomies, and
 coverage for secondary consultations.”.

22 (c) EFFECTIVE DATES.—

1 (1) IN GENERAL.—The amendments made by
 2 this section shall apply with respect to plan years be-
 3 ginning on or after the date of enactment of this
 4 Act.

5 (2) SPECIAL RULE FOR COLLECTIVE BARGAIN-
 6 ING AGREEMENTS.—In the case of a group health
 7 plan maintained pursuant to 1 or more collective
 8 bargaining agreements between employee representa-
 9 tives and 1 or more employers ratified before the
 10 date of enactment of this Act, the amendments made
 11 by this section shall not apply to plan years begin-
 12 ning before the later of—

13 (A) the date on which the last collective
 14 bargaining agreements relating to the plan ter-
 15 minates (determined without regard to any ex-
 16 tension thereof agreed to after the date of en-
 17 actment of this Act), or

18 (B) January 1, 1998.

19 For purposes of subparagraph (A), any plan amend-
 20 ment made pursuant to a collective bargaining
 21 agreement relating to the plan which amends the
 22 plan solely to conform to any requirement added by
 23 this section shall not be treated as a termination of
 24 such collective bargaining agreement.

1 **SEC. 4. AMENDMENTS TO THE PUBLIC HEALTH SERVICE**
 2 **ACT RELATING TO THE GROUP MARKET.**

3 (a) IN GENERAL.—Subpart 2 of part A of title
 4 XXVII of the Public Health Service Act (as added by sec-
 5 tion 604(a) of the Newborns’ and Mothers’ Health Protec-
 6 tion Act of 1996 and amended by section 703(a) of the
 7 Mental Health Parity Act of 1996) is amended by adding
 8 at the end the following new section:

9 **“SEC. 2706. REQUIRED COVERAGE FOR MINIMUM HOSPITAL**
 10 **STAY FOR MASTECTOMIES AND LYMPH NODE**
 11 **DISSECTIONS FOR THE TREATMENT OF**
 12 **BREAST CANCER, COVERAGE FOR RECON-**
 13 **STRUCTION SURGERY FOLLOWING**
 14 **MASTECTOMIES, AND COVERAGE FOR SEC-**
 15 **ONDARY CONSULTATIONS.**

16 “(a) INPATIENT CARE.—

17 “(1) IN GENERAL.—A group health plan, and a
 18 health insurance issuer providing health insurance
 19 coverage in connection with a group health plan,
 20 that provides medical and surgical benefits shall en-
 21 sure that inpatient coverage with respect to the
 22 treatment of breast cancer is provided for a period
 23 of time as is determined by the attending physician,
 24 in consultation with the patient, to be medically ap-
 25 propriate following—

26 “(A) a mastectomy;

1 “(B) a lumpectomy; or

2 “(C) a lymph node dissection for the treat-
3 ment of breast cancer.

4 “(2) EXCEPTION.—Nothing in this section shall
5 be construed as requiring the provision of inpatient
6 coverage if the attending physician and patient de-
7 termine that a shorter period of hospital stay is
8 medically appropriate.

9 “(b) RECONSTRUCTIVE SURGERY.—A group health
10 plan, and a health insurance issuer providing health insur-
11 ance coverage in connection with a group health plan, that
12 provides medical and surgical benefits with respect to a
13 mastectomy shall ensure that, in a case in which a mastec-
14 tomy patient elects breast reconstruction, coverage is pro-
15 vided for—

16 “(1) all stages of reconstruction of the breast
17 on which the mastectomy has been performed; and

18 “(2) surgery and reconstruction of the other
19 breast to produce a symmetrical appearance;

20 in the manner determined by the attending physician and
21 the patient to be appropriate, and consistent with any fee
22 schedule contained in the plan.

23 “(c) PROHIBITION ON CERTAIN MODIFICATIONS.—In
24 implementing the requirements of this section, a group
25 health plan, and a health insurance issuer providing health

1 insurance coverage in connection with a group health plan,
 2 may not modify the terms and conditions of coverage
 3 based on the determination by a participant or beneficiary
 4 to request less than the minimum coverage required under
 5 subsection (a) or (b).

6 “(d) NOTICE.—A group health plan, and a health in-
 7 surance issuer providing health insurance coverage in con-
 8 nection with a group health plan shall provide notice to
 9 each participant and beneficiary under such plan regard-
 10 ing the coverage required by this section in accordance
 11 with regulations promulgated by the Secretary. Such no-
 12 tice shall be in writing and prominently positioned in any
 13 literature or correspondence made available or distributed
 14 by the plan or issuer and shall be transmitted—

15 “(1) in the next mailing made by the plan or
 16 issuer to the participant or beneficiary;

17 “(2) as part of any yearly informational packet
 18 sent to the participant or beneficiary; or

19 “(3) not later than January 1, 1998;
 20 whichever is earlier.

21 “(e) SECONDARY CONSULTATIONS.—

22 “(1) IN GENERAL.—A group health plan, and a
 23 health insurance issuer providing health insurance
 24 coverage in connection with a group health plan that

1 provides coverage with respect to medical and sur-
2 gical services provided in relation to the diagnosis
3 and treatment of cancer shall ensure that full cov-
4 erage is provided for secondary consultations by spe-
5 cialists in the appropriate medical fields (including
6 pathology, radiology, and oncology) to confirm or re-
7 fute such diagnosis. Such plan or issuer shall ensure
8 that full coverage is provided for such secondary
9 consultation whether such consultation is based on a
10 positive or negative initial diagnosis. In any case in
11 which the attending physician certifies in writing
12 that services necessary for such a secondary con-
13 sultation are not sufficiently available from special-
14 ists operating under the plan with respect to whose
15 services coverage is otherwise provided under such
16 plan or by such issuer, such plan or issuer shall en-
17 sure that coverage is provided with respect to the
18 services necessary for the secondary consultation
19 with any other specialist selected by the attending
20 physician for such purpose at no additional cost to
21 the individual beyond that which the individual
22 would have paid if the specialist was participating in
23 the network of the plan.

1 “(2) EXCEPTION.—Nothing in paragraph (1)
 2 shall be construed as requiring the provision of sec-
 3 ondary consultations where the patient determines
 4 not to seek such a consultation.

5 “(f) PROHIBITION ON PENALTIES OR INCENTIVES.—
 6 A group health plan, and a health insurance issuer provid-
 7 ing health insurance coverage in connection with a group
 8 health plan, may not—

9 “(1) penalize or otherwise reduce or limit the
 10 reimbursement of a provider or specialist because
 11 the provider or specialist provided care to a partici-
 12 pant or beneficiary in accordance with this section;

13 “(2) provide financial or other incentives to a
 14 physician or specialist to induce the physician or
 15 specialist to keep the length of inpatient stays of pa-
 16 tients following a mastectomy, lumpectomy, or a
 17 lymph node dissection for the treatment of breast
 18 cancer below certain limits or to limit referrals for
 19 secondary consultations; or

20 “(3) provide financial or other incentives to a
 21 physician or specialist to induce the physician or
 22 specialist to refrain from referring a participant or
 23 beneficiary for a secondary consultation that would
 24 otherwise be covered by the plan or coverage in-
 25 volved under subsection (e).”.

1 (b) EFFECTIVE DATES.—

2 (1) IN GENERAL.—The amendments made by
3 this section shall apply to group health plans for
4 plan years beginning on or after the date of enact-
5 ment of this Act.

6 (2) SPECIAL RULE FOR COLLECTIVE BARGAIN-
7 ING AGREEMENTS.—In the case of a group health
8 plan maintained pursuant to 1 or more collective
9 bargaining agreements between employee representa-
10 tives and 1 or more employers ratified before the
11 date of enactment of this Act, the amendments made
12 by this section shall not apply to plan years begin-
13 ning before the later of—

14 (A) the date on which the last collective
15 bargaining agreements relating to the plan ter-
16 minates (determined without regard to any ex-
17 tension thereof agreed to after the date of en-
18 actment of this Act), or

19 (B) January 1, 1998.

20 For purposes of subparagraph (A), any plan amend-
21 ment made pursuant to a collective bargaining
22 agreement relating to the plan which amends the
23 plan solely to conform to any requirement added by
24 this section shall not be treated as a termination of
25 such collective bargaining agreement.

1 **SEC. 5. AMENDMENT TO THE PUBLIC HEALTH SERVICE ACT**
2 **RELATING TO THE INDIVIDUAL MARKET.**

3 (a) IN GENERAL.—Subpart 3 of part B of title
4 XXVII of the Public Health Service Act (as added by sec-
5 tion 605(a) of the Newborn’s and Mother’s Health Protec-
6 tion Act of 1996) is amended by adding at the end the
7 following new section:

8 **“SEC. 2752. REQUIRED COVERAGE FOR MINIMUM HOSPITAL**
9 **STAY FOR MASTECTOMIES AND LYMPH NODE**
10 **DISSECTIONS FOR THE TREATMENT OF**
11 **BREAST CANCER AND SECONDARY CON-**
12 **SULTATIONS.**

13 “The provisions of section 2706 shall apply to health
14 insurance coverage offered by a health insurance issuer
15 in the individual market in the same manner as they apply
16 to health insurance coverage offered by a health insurance
17 issuer in connection with a group health plan in the small
18 or large group market.”.

19 (b) EFFECTIVE DATE.—The amendment made by
20 this section shall apply with respect to health insurance
21 coverage offered, sold, issued, renewed, in effect, or oper-
22 ated in the individual market on or after the date of enact-
23 ment of this Act.

1 **SEC. 6. AMENDMENTS TO THE INTERNAL REVENUE CODE**
 2 **OF 1986.**

3 (a) IN GENERAL.—Chapter 100 of the Internal Reve-
 4 nue Code of 1986 (relating to group health plan port-
 5 ability, access, and renewability requirements) is amended
 6 by redesignating sections 9804, 9805, and 9806 as sec-
 7 tions 9805, 9806, and 9807, respectively, and by inserting
 8 after section 9803 the following new section:

9 **“SEC. 9804. REQUIRED COVERAGE FOR MINIMUM HOSPITAL**
 10 **STAY FOR MASTECTOMIES AND LYMPH NODE**
 11 **DISSECTIONS FOR THE TREATMENT OF**
 12 **BREAST CANCER, COVERAGE FOR RECON-**
 13 **STRUCTIVE SURGERY FOLLOWING**
 14 **MASTECTOMIES, AND COVERAGE FOR SEC-**
 15 **ONDARY CONSULTATIONS.**

16 “(a) INPATIENT CARE.—

17 “(1) IN GENERAL.—A group health plan that
 18 provides medical and surgical benefits shall ensure
 19 that inpatient coverage with respect to the treatment
 20 of breast cancer is provided for a period of time as
 21 is determined by the attending physician, in con-
 22 sultation with the patient, to be medically appro-
 23 priate following—

24 “(A) a mastectomy;

25 “(B) a lumpectomy; or

1 “(C) a lymph node dissection for the treat-
2 ment of breast cancer.

3 “(2) EXCEPTION.—Nothing in this section shall
4 be construed as requiring the provision of inpatient
5 coverage if the attending physician and patient de-
6 termine that a shorter period of hospital stay is
7 medically appropriate.

8 “(b) RECONSTRUCTIVE SURGERY.—A group health
9 plan that provides medical and surgical benefits with re-
10 spect to a mastectomy shall ensure that, in a case in which
11 a mastectomy patient elects breast reconstruction, cov-
12 erage is provided for—

13 “(1) all stages of reconstruction of the breast
14 on which the mastectomy has been performed; and

15 “(2) surgery and reconstruction of the other
16 breast to produce a symmetrical appearance;
17 in the manner determined by the attending physician and
18 the patient to be appropriate, and consistent with any fee
19 schedule contained in the plan.

20 “(c) PROHIBITION ON CERTAIN MODIFICATIONS.—In
21 implementing the requirements of this section, a group
22 health plan may not modify the terms and conditions of
23 coverage based on the determination by a participant or
24 beneficiary to request less than the minimum coverage re-
25 quired under subsection (a) or (b).

1 “(d) NOTICE.—A group health plan shall provide no-
 2 tice to each participant and beneficiary under such plan
 3 regarding the coverage required by this section in accord-
 4 ance with regulations promulgated by the Secretary. Such
 5 notice shall be in writing and prominently positioned in
 6 any literature or correspondence made available or distrib-
 7 uted by the plan and shall be transmitted—

8 “(1) in the next mailing made by the plan to
 9 the participant or beneficiary;

10 “(2) as part of any yearly informational packet
 11 sent to the participant or beneficiary; or

12 “(3) not later than January 1, 1998;
 13 whichever is earlier.

14 “(e) SECONDARY CONSULTATIONS.—

15 “(1) IN GENERAL.—A group health plan that
 16 provides coverage with respect to medical and sur-
 17 gical services provided in relation to the diagnosis
 18 and treatment of cancer shall ensure that full cov-
 19 erage is provided for secondary consultations by spe-
 20 cialists in the appropriate medical fields (including
 21 pathology, radiology, and oncology) to confirm or re-
 22 fute such diagnosis. Such plan or issuer shall ensure
 23 that full coverage is provided for such secondary
 24 consultation whether such consultation is based on a
 25 positive or negative initial diagnosis. In any case in

1 which the attending physician certifies in writing
2 that services necessary for such a secondary con-
3 sultation are not sufficiently available from special-
4 ists operating under the plan with respect to whose
5 services coverage is otherwise provided under such
6 plan or by such issuer, such plan or issuer shall en-
7 sure that coverage is provided with respect to the
8 services necessary for the secondary consultation
9 with any other specialist selected by the attending
10 physician for such purpose at no additional cost to
11 the individual beyond that which the individual
12 would have paid if the specialist was participating in
13 the network of the plan.

14 “(2) EXCEPTION.—Nothing in paragraph (1)
15 shall be construed as requiring the provision of sec-
16 ondary consultations where the patient determines
17 not to seek such a consultation.

18 “(f) PROHIBITION ON PENALTIES.—A group health
19 plan may not—

20 “(1) penalize or otherwise reduce or limit the
21 reimbursement of a provider or specialist because
22 the provider or specialist provided care to a partici-
23 pant or beneficiary in accordance with this section;

24 “(2) provide financial or other incentives to a
25 physician or specialist to induce the physician or

specialist to keep the length of inpatient stays of patients following a mastectomy, lumpectomy, or a lymph node dissection for the treatment of breast cancer below certain limits or to limit referrals for secondary consultations; or

“(3) provide financial or other incentives to a physician or specialist to induce the physician or specialist to refrain from referring a participant or beneficiary for a secondary consultation that would otherwise be covered by the plan involved under subsection (e).”.

(b) CONFORMING AMENDMENTS.—

(1) Sections 9801(c)(1), 9805(b) (as redesignated by subsection (a)), 9805(c) (as so redesignated), 4980D(c)(3)(B)(i)(I), 4980D(d)(3), and 4980D(f)(1) of such Code are each amended by striking “9805” each place it appears and inserting “9806”.

(2) The heading for subtitle K of such Code is amended to read as follows:

“Subtitle K—Group Health Plan Portability, Access, Renewability, and Other Requirements”.

(3) The heading for chapter 100 of such Code is amended to read as follows:

1 “CHAPTER 100—GROUP HEALTH PLAN PORT-
 2 ABILITY, ACCESS, RENEWABILITY, AND
 3 OTHER REQUIREMENTS”.

4 (4) Section 4980D(a) of such Code is amended
 5 by striking “and renewability” and inserting “renew-
 6 ability, and other”.

7 (c) CLERICAL AMENDMENTS.—

8 (1) The table of contents for chapter 100 of
 9 such Code is amended by redesignating the items re-
 10 lating to sections 9804, 9805, and 9806 as items re-
 11 lating to sections 9805, 9806, and 9807, and by in-
 12 serting after the item relating to section 9803 the
 13 following new item:

“Sec. 9804. Required coverage for minimum hospital stay for mastectomies and
 lymph node dissections for the treatment of breast cancer, cov-
 erage for reconstructive surgery following mastectomies, and
 coverage for secondary consultations.”.

14 (2) The item relating to subtitle K in the table
 15 of subtitles for such Code is amended by striking
 16 “and renewability” and inserting “renewability, and
 17 other”.

18 (3) The item relating to chapter 100 in the
 19 table of chapters for subtitle K of such Code is
 20 amended by striking “and renewability” and insert-
 21 ing “renewability, and other”.

22 (d) EFFECTIVE DATES.—

1 (1) IN GENERAL.—The amendments made by
 2 this section shall apply with respect to plan years be-
 3 ginning on or after the date of enactment of this
 4 Act.

5 (2) SPECIAL RULE FOR COLLECTIVE BARGAIN-
 6 ING AGREEMENTS.—In the case of a group health
 7 plan maintained pursuant to 1 or more collective
 8 bargaining agreements between employee representa-
 9 tives and 1 or more employers ratified before the
 10 date of enactment of this Act, the amendments made
 11 by this section shall not apply to plan years begin-
 12 ning before the later of—

13 (A) the date on which the last collective
 14 bargaining agreements relating to the plan ter-
 15 minates (determined without regard to any ex-
 16 tension thereof agreed to after the date of en-
 17 actment of this Act), or

18 (B) January 1, 1998.

19 For purposes of subparagraph (A), any plan amend-
 20 ment made pursuant to a collective bargaining
 21 agreement relating to the plan which amends the
 22 plan solely to conform to any requirement added by
 23 this section shall not be treated as a termination of
 24 such collective bargaining agreement.

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