

106TH CONGRESS
1ST SESSION

H. R. 1132

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 women 40 years of age or older if the coverage or plans include coverage for diagnostic mammography.

IN THE HOUSE OF REPRESENTATIVES

MARCH 16, 1999

Mr. NADLER 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 annual screening mammography for women 40 years of age or older if the coverage or plans include coverage for diagnostic mammography.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE; FINDINGS.**

2 (a) SHORT TITLE.—This Act may be cited as the
3 “Mammogram Availability Act of 1999”.

4 (b) FINDINGS.—Congress finds the following:

5 (1) Breast cancer is the single leading cause of
6 death for women between the ages of 40 and 49 in
7 the United States

8 (2) An expert panel convened by the National
9 Institutes of Health recommended on January 23,
10 1997, that all women between the ages of 40 and 49
11 should choose for themselves, following consultation
12 with their health care provider, whether to undergo
13 screening mammography.

14 (3) The same panel unanimously recommended
15 that for women between the ages of 40 and 49 who
16 choose to have a screening mammogram, costs of the
17 mammograms should be reimbursed by third-party
18 payers or covered by health maintenance organiza-
19 tions.

20 **SEC. 2. COVERAGE OF ANNUAL SCREENING MAMMOG-**
21 **RAPHY UNDER GROUP HEALTH PLANS.**

22 (a) PUBLIC HEALTH SERVICE ACT AMENDMENTS.—

23 (1) Subpart 2 of part A of title XXVII of the
24 Public Health Service Act is amended by adding at
25 the end the following new section:

1 **“SEC. 2707. STANDARDS RELATING TO BENEFITS FOR**
2 **SCREENING MAMMOGRAPHY.**

3 “(a) REQUIREMENTS FOR COVERAGE OF ANNUAL
4 SCREENING MAMMOGRAPHY.—

5 “(1) IN GENERAL.—A group health plan, and a
6 health insurance issuer offering group health insur-
7 ance coverage, that provides coverage for diagnostic
8 mammography for any woman who is 40 years of
9 age or older shall provide coverage for annual
10 screening mammography for such a woman under
11 terms and conditions that are not less favorable than
12 the terms and conditions for coverage of diagnostic
13 mammography.

14 “(2) DIAGNOSTIC AND SCREENING MAMMOG-
15 RAPHY DEFINED.—For purposes of this section—

16 “(A) The term ‘diagnostic mammography’
17 means a radiologic procedure that is medically
18 necessary for the purpose of diagnosing breast
19 cancer and includes a physician’s interpretation
20 of the results of the procedure.

21 “(B) The term ‘screening mammography’
22 means a radiologic procedure provided to a
23 woman for the purpose of early detection of
24 breast cancer and includes a physician’s inter-
25 pretation of the results of the procedure.

1 “(b) 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 coverage for annual screening mam-
6 mography on the basis that the coverage is not
7 medically necessary or on the basis that the screen-
8 ing mammography is not pursuant to a referral, con-
9 sent, or recommendation by any health care pro-
10 vider;

11 “(2) deny to a woman eligibility, or continued
12 eligibility, to enroll or to renew coverage under the
13 terms of the plan, solely for the purpose of avoiding
14 the requirements of this section;

15 “(3) provide monetary payments or rebates to
16 women to encourage such women to accept less than
17 the minimum protections available under this sec-
18 tion;

19 “(4) penalize or otherwise reduce or limit the
20 reimbursement of an attending provider because
21 such provider provided care to an individual partici-
22 pant or beneficiary in accordance with this section;
23 or

24 “(5) provide incentives (monetary or otherwise)
25 to an attending provider to induce such provider to

1 provide care to an individual participant or bene-
2 ficiary in a manner inconsistent with this section.

3 “(c) RULES OF CONSTRUCTION.—

4 “(1) Nothing in this section shall be construed
5 to require a woman who is a participant or bene-
6 ficiary to undergo annual screening mammography.

7 “(2) This section shall not apply with respect to
8 any group health plan, or any group health insur-
9 ance coverage offered by a health insurance issuer,
10 which does not provide benefits for diagnostic mam-
11 mography.

12 “(3) Nothing in this section shall be construed
13 as preventing a group health plan or issuer from im-
14 posing deductibles, coinsurance, or other cost-shar-
15 ing in relation to benefits for screening mammog-
16 raphy under the plan (or under health insurance
17 coverage offered in connection with a group health
18 plan), except that such coinsurance or other cost-
19 sharing for any portion may not be greater than
20 such coinsurance or cost-sharing that is otherwise
21 applicable with respect to benefits for diagnostic
22 mammography.

23 “(4) Women between the ages of 40 and 49
24 should (but are not required to) consult with appro-
25 priate health care practitioners before undergoing

1 screening mammography, but nothing in this section
2 shall be construed as requiring the approval of such
3 a practitioner before undergoing an annual screening
4 mammography.

5 “(d) NOTICE.—A group health plan under this part
6 shall comply with the notice requirement under section
7 714(d) of the Employee Retirement Income Security Act
8 of 1974 with respect to the requirements of this section
9 as if such section applied to such plan.

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

16 “(f) 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 if there is a State law (as defined in
21 section 2723(d)(1)) for a State that regulates such
22 coverage, that requires coverage to be provided for
23 annual screening mammography for women who are
24 40 years of age or older and that provides at least
25 the protections described in subsection (b).

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

4 (2) Section 2723(c) of such Act (42 U.S.C.
5 300gg-23(c)) is amended by striking “section 2704”
6 and inserting “sections 2704 and 2707”.

7 (b) ERISA AMENDMENTS.—

8 (1) Subpart B of part 7 of subtitle B of title
9 I of the Employee Retirement Income Security Act
10 of 1974 is amended by adding at the end the fol-
11 lowing new section:

12 **“SEC. 714. STANDARDS RELATING TO BENEFITS FOR**
13 **SCREENING MAMMOGRAPHY.**

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

16 “(1) IN GENERAL.—A group health plan, and a
17 health insurance issuer offering group health insur-
18 ance coverage, that provides coverage for diagnostic
19 mammography for any woman who is 40 years of
20 age or older shall provide coverage for annual
21 screening mammography for such a woman under
22 terms and conditions that are not less favorable than
23 the terms and conditions for coverage of diagnostic
24 mammography.

1 “(2) DIAGNOSTIC AND SCREENING MAMMOG-
2 RAPHY DEFINED.—For purposes of this section—

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

8 “(B) The term ‘screening mammography’
9 means a radiologic procedure provided to a
10 woman for the purpose of early detection of
11 breast cancer and includes a physician’s inter-
12 pretation of the results of the procedure.

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

17 “(1) deny coverage described in subsection
18 (a)(1) on the basis that the coverage is not medically
19 necessary or on the basis that the screening mam-
20 mography is not pursuant to a referral, consent, or
21 recommendation by any health care provider;

22 “(2) deny to a woman eligibility, or continued
23 eligibility, to enroll or to renew coverage under the
24 terms of the plan, solely for the purpose of avoiding
25 the requirements of this section;

1 “(3) provide monetary payments or rebates to
2 women to encourage such women to accept less than
3 the minimum protections available under this sec-
4 tion;

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

10 “(5) provide incentives (monetary or otherwise)
11 to an attending provider to induce such provider to
12 provide care to an individual participant or bene-
13 ficiary in a manner inconsistent with this section.

14 “(c) RULES OF CONSTRUCTION.—

15 “(1) Nothing in this section shall be construed
16 to require a woman who is a participant or bene-
17 ficiary to undergo annual screening mammography.

18 “(2) This section shall not apply with respect to
19 any group health plan, or any group health insur-
20 ance coverage offered by a health insurance issuer,
21 which does not provide benefits for diagnostic mam-
22 mography.

23 “(3) Nothing in this section shall be construed
24 as preventing a group health plan or issuer from im-
25 posing deductibles, coinsurance, or other cost-shar-

1 ing in relation to benefits for screening mammog-
2 raphy under the plan (or under health insurance
3 coverage offered in connection with a group health
4 plan), except that such coinsurance or other cost-
5 sharing for any portion may not be greater than
6 such coinsurance or cost-sharing that is otherwise
7 applicable with respect to benefits for diagnostic
8 mammography.

9 “(4) Women between the ages of 40 and 49
10 should (but are not required to) consult with appro-
11 priate health care practitioners before undergoing
12 screening mammography, but nothing in this section
13 shall be construed as requiring the approval of such
14 a practitioner before undergoing an annual screening
15 mammography.

16 “(d) NOTICE UNDER GROUP HEALTH PLAN.—The
17 imposition of the requirements of this section shall be
18 treated as a material modification in the terms of the plan
19 described in section 102(a)(1), for purposes of assuring
20 notice of such requirements under the plan; except that
21 the summary description required to be provided under the
22 last sentence of section 104(b)(1) with respect to such
23 modification shall be provided by not later than 60 days
24 after the first day of the first plan year in which such
25 requirements apply.

1 “(e) LEVEL AND TYPE OF REIMBURSEMENTS.—
2 Nothing in this section shall be construed to prevent a
3 group health plan or a health insurance issuer offering
4 group health insurance coverage from negotiating the level
5 and type of reimbursement with a provider for care pro-
6 vided in accordance with this section.

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

9 “(1) IN GENERAL.—The requirements of this
10 section shall not apply with respect to health insur-
11 ance coverage if there is a State law (as defined in
12 section 731(d)(1)) for a State that regulates such
13 coverage, that requires coverage to be provided for
14 annual screening mammography for women who are
15 40 years of age or older, and that provides at least
16 the protections described in subsection (b).

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

20 (2) Section 731(c) of such Act (29 U.S.C.
21 1191(c)) is amended by striking “section 711” and
22 inserting “sections 711 and 714”.

23 (3) Section 732(a) of such Act (29 U.S.C.
24 1191a(a)) is amended by striking “section 711” and
25 inserting “sections 711 and 714”.

1 (4) The table of contents in section 1 of such
2 Act is amended by inserting after the item relating
3 to section 713 the following new item:

“Sec. 714. Standards relating to benefits for screening mammography.”.

4 (c) EFFECTIVE DATES.—(1) Subject to paragraph
5 (2), the amendments made by this section shall apply with
6 respect to group health plans (and health insurance cov-
7 erage offered in connection with group health plans) for
8 plan years beginning on or after January 1, 1999.

9 (2) In the case of a group health plan maintained
10 pursuant to 1 or more collective bargaining agreements
11 between employee representatives and 1 or more employ-
12 ers ratified before the date of enactment of this Act, the
13 amendments made by this section shall not apply to plan
14 years beginning before the later of—

15 (A) the date on which the last collective bar-
16 gaining agreements relating to the plan terminates
17 (determined without regard to any extension thereof
18 agreed to after the date of enactment of this Act),
19 or

20 (B) January 1, 1999.

21 For purposes of subparagraph (A), any plan amendment
22 made pursuant to a collective bargaining agreement relat-
23 ing to the plan which amends the plan solely to conform
24 to any requirement added by this section shall not be

1 treated as a termination of such collective bargaining
2 agreement.

3 **SEC. 3. COVERAGE OF ANNUAL SCREENING MAMMOG-**
4 **RAPHY UNDER INDIVIDUAL HEALTH COV-**
5 **ERAGE.**

6 (a) IN GENERAL.—Part B of title XXVII of the Pub-
7 lic Health Service Act is amended by inserting after sec-
8 tion 2751 the following new section:

9 **“SEC. 2753. STANDARDS RELATING TO BENEFITS FOR**
10 **SCREENING MAMMOGRAPHY.**

11 “(a) IN GENERAL.—The provisions of section 2706
12 (other than subsections (d) and (f)) shall apply to health
13 insurance coverage offered by a health insurance issuer
14 in the individual market in the same manner as it applies
15 to health insurance coverage offered by a health insurance
16 issuer in connection with a group health plan in the small
17 or large group market.

18 “(b) NOTICE.—A health insurance issuer under this
19 part shall comply with the notice requirement under sec-
20 tion 714(d) of the Employee Retirement Income Security
21 Act of 1974 with respect to the requirements referred to
22 in subsection (a) as if such section applied to such issuer
23 and such issuer were a group health plan.

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

1 “(1) IN GENERAL.—The requirements of this
2 section shall not apply with respect to health insur-
3 ance coverage if there is a State law (as defined in
4 section 2723(d)(1)) for a State that regulates such
5 coverage, that requires coverage in the individual
6 health insurance market to be provided for annual
7 screening mammography for women who are 40
8 years of age or older and that provides at least the
9 protections described in section 2706(b) (as applied
10 under subsection (a)).

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

14 (b) CONFORMING AMENDMENT.—Section 2763(b)(2)
15 of such Act (42 U.S.C. 300gg-63(b)(2)) is amended by
16 striking “section 2751” and inserting “sections 2751 and
17 2753”.

18 (c) EFFECTIVE DATE.—The amendments made by
19 this section shall apply with respect to health insurance
20 coverage offered, sold, issued, or renewed in the individual
21 market on or after such January 1, 1999.

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