

106TH CONGRESS
1ST SESSION

H. R. 1977

To amend the Employee Retirement Income Security Act of 1974, Public Health Service Act, and the Internal Revenue Code of 1986 to provide parity with respect to substance abuse treatment benefits under group health plans and health insurance coverage.

IN THE HOUSE OF REPRESENTATIVES

MAY 27, 1999

Mr. RAMSTAD (for himself, Mr. GILMAN, Mr. ENGLISH, Mr. SESSIONS, Mr. LUTHER, Mr. NEAL of Massachusetts, Mr. PORTMAN, Mrs. BONO, Mr. STARK, Mr. PAYNE, Mr. KLECZKA, Mr. FROST, and Mr. UPTON) introduced the following bill; which was referred to the Committee on Commerce, and in addition to the Committees on Education and the Workforce, and Ways and Means, 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 Employee Retirement Income Security Act of 1974, Public Health Service Act, and the Internal Revenue Code of 1986 to provide parity with respect to substance abuse treatment benefits under group health plans and health insurance coverage.

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.**

2 This Act may be cited as the “Harold Hughes-Bill
3 Emerson Substance Abuse Treatment Parity Act of
4 1999”.

5 **SEC. 2. FINDINGS.**

6 Congress finds the following:

7 (1) Substance abuse, if left untreated, is a med-
8 ical emergency.

9 (2) Parity should apply to benefits for treat-
10 ment sought voluntarily, including treatment for
11 substance abuse.

12 (3) Nothing in this Act should be construed as
13 prohibiting application of the concept of parity to
14 substance abuse treatment provided by faith-based
15 treatment providers.

16 **SEC. 3. PARITY IN SUBSTANCE ABUSE TREATMENT BENE-**
17 **FITS.**

18 (a) GROUP HEALTH PLANS.—

19 (1) PUBLIC HEALTH SERVICE ACT AMEND-
20 MENTS.—

21 (A) IN GENERAL.—Subpart 2 of part A of
22 title XXVII of the Public Health Service Act is
23 amended by adding at the end the following
24 new section:

1 **“SEC. 2707. PARITY IN THE APPLICATION OF TREATMENT**
2 **LIMITATIONS AND FINANCIAL REQUIRE-**
3 **MENTS TO SUBSTANCE ABUSE TREATMENT**
4 **BENEFITS.**

5 “(a) IN GENERAL.—In the case of a group health
6 plan (or health insurance coverage offered in connection
7 with such a plan) that provides both medical and surgical
8 benefits and substance abuse treatment benefits, the plan
9 or coverage shall not impose treatment limitations or fi-
10 nancial requirements on the substance abuse treatment
11 benefits unless similar limitations or requirements are im-
12 posed for medical and surgical benefits.

13 “(b) CONSTRUCTION.—Nothing in this section shall
14 be construed—

15 “(1) as requiring a group health plan (or health
16 insurance coverage offered in connection with such a
17 plan) to provide any substance abuse treatment ben-
18 efits; or

19 “(2) to prevent a group health plan or a health
20 insurance issuer offering group health insurance cov-
21 erage from negotiating the level and type of reim-
22 bursement with a provider for care provided in ac-
23 cordance with this section.

24 “(c) EXEMPTIONS.—

25 “(1) SMALL EMPLOYER EXEMPTION.—

1 “(A) IN GENERAL.—This section shall not
 2 apply to any group health plan (and group
 3 health insurance coverage offered in connection
 4 with a group health plan) for any plan year of
 5 a small employer.

6 “(B) SMALL EMPLOYER.—For purposes of
 7 subparagraph (A), the term ‘small employer’
 8 means, in connection with a group health plan
 9 with respect to a calendar year and a plan year,
 10 an employer who employed an average of at
 11 least 2 but not more than 50 employees on
 12 business days during the preceding calendar
 13 year and who employs at least 2 employees on
 14 the first day of the plan year.

15 “(C) APPLICATION OF CERTAIN RULES IN
 16 DETERMINATION OF EMPLOYER SIZE.—For
 17 purposes of this paragraph—

18 “(i) APPLICATION OF AGGREGATION
 19 RULE FOR EMPLOYERS.—Rules similar to
 20 the rules under subsections (b), (c), (m),
 21 and (o) of section 414 of the Internal Rev-
 22 enue Code of 1986 shall apply for purposes
 23 of treating persons as a single employer.

24 “(ii) EMPLOYERS NOT IN EXISTENCE
 25 IN PRECEDING YEAR.—In the case of an

1 employer which was not in existence
2 throughout the preceding calendar year,
3 the determination of whether such em-
4 ployer is a small employer shall be based
5 on the average number of employees that
6 it is reasonably expected such employer
7 will employ on business days in the current
8 calendar year.

9 “(iii) PREDECESSORS.—Any reference
10 in this paragraph to an employer shall in-
11 clude a reference to any predecessor of
12 such employer.

13 “(2) INCREASED COST EXEMPTION.—This sec-
14 tion shall not apply with respect to a group health
15 plan (or health insurance coverage offered in connec-
16 tion with a group health plan) if the application of
17 this section to such plan (or to such coverage) re-
18 sults in an increase in the cost under the plan (or
19 for such coverage) of at least 1 percent.

20 “(d) SEPARATE APPLICATION TO EACH OPTION OF-
21 FERED.—In the case of a group health plan that offers
22 a participant or beneficiary two or more benefit package
23 options under the plan, the requirements of this section
24 shall be applied separately with respect to each such op-
25 tion.

1 “(e) DEFINITIONS.—For purposes of this section—

2 “(1) TREATMENT LIMITATION.—The term
3 ‘treatment limitation’ means, with respect to benefits
4 under a group health plan or health insurance cov-
5 erage, any day or visit limits imposed on coverage of
6 benefits under the plan or coverage during a period
7 of time.

8 “(2) FINANCIAL REQUIREMENT.—The term ‘fi-
9 nancial requirement’ means, with respect to benefits
10 under a group health plan or health insurance cov-
11 erage, any deductible, coinsurance, or cost-sharing
12 or an annual or lifetime dollar limit imposed with re-
13 spect to the benefits under the plan or coverage.

14 “(3) MEDICAL OR SURGICAL BENEFITS.—The
15 term ‘medical or surgical benefits’ means benefits
16 with respect to medical or surgical services, as de-
17 fined under the terms of the plan or coverage (as the
18 case may be), but does not include substance abuse
19 treatment benefits.

20 “(4) SUBSTANCE ABUSE TREATMENT BENE-
21 FITS.—The term ‘substance abuse treatment bene-
22 fits’ means benefits with respect to substance abuse
23 treatment services but only insofar as such treat-
24 ment services are abstinence-based. Such term in-

1 includes non-narcotic medication-based therapy and
2 appropriate transitional medication-based therapy.

3 “(5) SUBSTANCE ABUSE TREATMENT SERV-
4 ICES.—The term ‘substance abuse services’ means
5 any of the following items and services provided for
6 the treatment of substance abuse:

7 “(A) Inpatient treatment, including detoxi-
8 fication.

9 “(B) Non-hospital residential treatment.

10 “(C) Outpatient treatment, including
11 screening and assessment, medication manage-
12 ment, individual, group, and family counseling,
13 and relapse prevention.

14 “(D) Prevention services, including health
15 education and individual and group counseling
16 to encourage the reduction of risk factors for
17 substance abuse.

18 “(6) SUBSTANCE ABUSE.—The term ‘substance
19 abuse’ includes chemical dependency.

20 “(f) NOTICE.—A group health plan under this part
21 shall comply with the notice requirement under section
22 714(f) of the Employee Retirement Income Security Act
23 of 1974 with respect to the requirements of this section
24 as if such section applied to such plan.

1 “(g) SUNSET.—This section shall not apply to bene-
 2 fits for services furnished in plan years beginning on or
 3 after January 1, 2005.”.

4 (B) CONFORMING AMENDMENT.—Section
 5 2723(c) of such Act (42 U.S.C. 300gg-23(c)) is
 6 amended by striking “section 2704” and insert-
 7 ing “sections 2704 and 2707”.

8 (2) ERISA AMENDMENTS.—

9 (A) IN GENERAL.—Subpart B of part 7 of
 10 subtitle B of title I of the Employee Retirement
 11 Income Security Act of 1974 is amended by
 12 adding at the end the following new section:

13 **“SEC. 714. PARITY IN THE APPLICATION OF TREATMENT**
 14 **LIMITATIONS AND FINANCIAL REQUIRE-**
 15 **MENTS TO SUBSTANCE ABUSE TREATMENT**
 16 **BENEFITS.**

17 “(a) IN GENERAL.—In the case of a group health
 18 plan (or health insurance coverage offered in connection
 19 with such a plan) that provides both medical and surgical
 20 benefits and substance abuse treatment benefits, the plan
 21 or coverage shall not impose treatment limitations or fi-
 22 nancial requirements on the substance abuse treatment
 23 benefits unless similar limitations or requirements are im-
 24 posed for medical and surgical benefits.

1 “(b) CONSTRUCTION.—Nothing in this section shall
2 be construed—

3 “(1) as requiring a group health plan (or health
4 insurance coverage offered in connection with such a
5 plan) to provide any substance abuse treatment ben-
6 efits; or

7 “(2) to prevent a group health plan or a health
8 insurance issuer offering group health insurance cov-
9 erage from negotiating the level and type of reim-
10 bursement with a provider for care provided in ac-
11 cordance with this section.

12 “(c) EXEMPTIONS.—

13 “(1) SMALL EMPLOYER EXEMPTION.—

14 “(A) IN GENERAL.—This section shall not
15 apply to any group health plan (and group
16 health insurance coverage offered in connection
17 with a group health plan) for any plan year of
18 a small employer.

19 “(B) SMALL EMPLOYER.—For purposes of
20 subparagraph (A), the term ‘small employer’
21 means, in connection with a group health plan
22 with respect to a calendar year and a plan year,
23 an employer who employed an average of at
24 least 2 but not more than 50 employees on
25 business days during the preceding calendar

1 year and who employs at least 2 employees on
2 the first day of the plan year.

3 “(C) APPLICATION OF CERTAIN RULES IN
4 DETERMINATION OF EMPLOYER SIZE.—For
5 purposes of this paragraph—

6 “(i) APPLICATION OF AGGREGATION
7 RULE FOR EMPLOYERS.—Rules similar to
8 the rules under subsections (b), (c), (m),
9 and (o) of section 414 of the Internal Rev-
10 enue Code of 1986 shall apply for purposes
11 of treating persons as a single employer.

12 “(ii) EMPLOYERS NOT IN EXISTENCE
13 IN PRECEDING YEAR.—In the case of an
14 employer which was not in existence
15 throughout the preceding calendar year,
16 the determination of whether such em-
17 ployer is a small employer shall be based
18 on the average number of employees that
19 it is reasonably expected such employer
20 will employ on business days in the current
21 calendar year.

22 “(iii) PREDECESSORS.—Any reference
23 in this paragraph to an employer shall in-
24 clude a reference to any predecessor of
25 such employer.

1 “(2) INCREASED COST EXEMPTION.—This sec-
2 tion shall not apply with respect to a group health
3 plan (or health insurance coverage offered in connec-
4 tion with a group health plan) if the application of
5 this section to such plan (or to such coverage) re-
6 sults in an increase in the cost under the plan (or
7 for such coverage) of at least 1 percent.

8 “(d) SEPARATE APPLICATION TO EACH OPTION OF-
9 FERED.—In the case of a group health plan that offers
10 a participant or beneficiary two or more benefit package
11 options under the plan, the requirements of this section
12 shall be applied separately with respect to each such op-
13 tion.

14 “(e) DEFINITIONS.—For purposes of this section—

15 “(1) TREATMENT LIMITATION.—The term
16 ‘treatment limitation’ means, with respect to benefits
17 under a group health plan or health insurance cov-
18 erage, any day or visit limits imposed on coverage of
19 benefits under the plan or coverage during a period
20 of time.

21 “(2) FINANCIAL REQUIREMENT.—The term ‘fi-
22 nancial requirement’ means, with respect to benefits
23 under a group health plan or health insurance cov-
24 erage, any deductible, coinsurance, or cost-sharing

1 or an annual or lifetime dollar limit imposed with re-
2 spect to the benefits under the plan or coverage.

3 “(3) MEDICAL OR SURGICAL BENEFITS.—The
4 term ‘medical or surgical benefits’ means benefits
5 with respect to medical or surgical services, as de-
6 fined under the terms of the plan or coverage (as the
7 case may be), but does not include substance abuse
8 treatment benefits.

9 “(4) SUBSTANCE ABUSE TREATMENT BENE-
10 FITS.—The term ‘substance abuse treatment bene-
11 fits’ means benefits with respect to substance abuse
12 treatment services but only insofar as such treat-
13 ment services are abstinence-based. Such term in-
14 cludes non-narcotic medication-based therapy and
15 appropriate transitional medication-based therapy.

16 “(5) SUBSTANCE ABUSE TREATMENT SERV-
17 ICES.—The term ‘substance abuse services’ means
18 any of the following items and services provided for
19 the treatment of substance abuse:

20 “(A) Inpatient treatment, including detoxi-
21 fication.

22 “(B) Non-hospital residential treatment.

23 “(C) Outpatient treatment, including
24 screening and assessment, medication manage-

1 ment, individual, group, and family counseling,
2 and relapse prevention.

3 “(D) Prevention services, including health
4 education and individual and group counseling
5 to encourage the reduction of risk factors for
6 substance abuse.

7 “(6) SUBSTANCE ABUSE.—The term ‘substance
8 abuse’ includes chemical dependency.

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

19 “(g) SUNSET.—This section shall not apply to bene-
20 fits for services furnished in plan years beginning on or
21 after January 1, 2005.”.

22 (B) Section 731(c) of such Act (29 U.S.C.
23 1191(c)) is amended by striking “section 711” and
24 inserting “sections 711 and 714”.

1 (C) Section 732(a) of such Act (29 U.S.C.
 2 1191a(a)) is amended by striking “section 711” and
 3 inserting “sections 711 and 714”.

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

“Sec. 714. Parity in the application of treatment limitations and financial re-
 quirements to substance abuse treatment benefits.”.

7 (3) INTERNAL REVENUE CODE AMEND-
 8 MENTS.—(A) Subchapter B of chapter 100 of the
 9 Internal Revenue Code of 1986 (relating to other re-
 10 quirements) is amended by adding at the end the
 11 following new section:

12 **“SEC. 9813. PARITY IN THE APPLICATION OF TREATMENT**
 13 **LIMITATIONS AND FINANCIAL REQUIRE-**
 14 **MENTS TO SUBSTANCE ABUSE TREATMENT**
 15 **BENEFITS.**

16 “(a) IN GENERAL.—In the case of a group health
 17 plan that provides both medical and surgical benefits and
 18 substance abuse treatment benefits, the plan shall not im-
 19 pose treatment limitations or financial requirements on
 20 the substance abuse treatment benefits unless similar limi-
 21 tations or requirements are imposed for medical and sur-
 22 gical benefits.

23 “(b) CONSTRUCTION.—Nothing in this section shall
 24 be construed—

1 “(1) as requiring a group health plan to provide
2 any substance abuse treatment benefits; or

3 “(2) to prevent a group health plan from nego-
4 tiating the level and type of reimbursement with a
5 provider for care provided in accordance with this
6 section.

7 “(c) EXEMPTIONS.—

8 “(1) SMALL EMPLOYER EXEMPTION.—

9 “(A) IN GENERAL.—This section shall not
10 apply to any group health plan for any plan
11 year of a small employer.

12 “(B) SMALL EMPLOYER.—For purposes of
13 subparagraph (A), the term ‘small employer’
14 means, in connection with a group health plan
15 with respect to a calendar year and a plan year,
16 an employer who employed an average of at
17 least 2 but not more than 50 employees on
18 business days during the preceding calendar
19 year and who employs at least 2 employees on
20 the first day of the plan year.

21 “(C) APPLICATION OF CERTAIN RULES IN
22 DETERMINATION OF EMPLOYER SIZE.—For
23 purposes of this paragraph—

24 “(i) APPLICATION OF AGGREGATION
25 RULE FOR EMPLOYERS.—Rules similar to

1 the rules under subsections (b), (c), (m),
2 and (o) of section 414 shall apply for pur-
3 poses of treating persons as a single em-
4 ployer.

5 “(ii) EMPLOYERS NOT IN EXISTENCE
6 IN PRECEDING YEAR.—In the case of an
7 employer which was not in existence
8 throughout the preceding calendar year,
9 the determination of whether such em-
10 ployer is a small employer shall be based
11 on the average number of employees that
12 it is reasonably expected such employer
13 will employ on business days in the current
14 calendar year.

15 “(iii) PREDECESSORS.—Any reference
16 in this paragraph to an employer shall in-
17 clude a reference to any predecessor of
18 such employer.

19 “(2) INCREASED COST EXEMPTION.—This sec-
20 tion shall not apply with respect to a group health
21 plan if the application of this section to such plan
22 results in an increase in the cost under the plan of
23 at least 1 percent.

24 “(d) SEPARATE APPLICATION TO EACH OPTION OF-
25 FERED.—In the case of a group health plan that offers

1 a participant or beneficiary two or more benefit package
2 options under the plan, the requirements of this section
3 shall be applied separately with respect to each such op-
4 tion.

5 “(e) DEFINITIONS.—For purposes of this section—

6 “(1) TREATMENT LIMITATION.—The term
7 ‘treatment limitation’ means, with respect to benefits
8 under a group health plan, any day or visit limits
9 imposed on coverage of benefits under the plan dur-
10 ing a period of time.

11 “(2) FINANCIAL REQUIREMENT.—The term ‘fi-
12 nancial requirement’ means, with respect to benefits
13 under a group health plan, any deductible, coinsur-
14 ance, or cost-sharing or an annual or lifetime dollar
15 limit imposed with respect to the benefits under the
16 plan.

17 “(3) MEDICAL OR SURGICAL BENEFITS.—The
18 term ‘medical or surgical benefits’ means benefits
19 with respect to medical or surgical services, as de-
20 fined under the terms of the plan, but does not in-
21 clude substance abuse treatment benefits.

22 “(4) SUBSTANCE ABUSE TREATMENT BENE-
23 FITS.—The term ‘substance abuse treatment bene-
24 fits’ means benefits with respect to substance abuse
25 treatment services but only insofar as such treat-

1 ment services are abstinence-based. Such term in-
 2 cludes non-narcotic medication-based therapy and
 3 appropriate transitional medication-based therapy.

4 “(5) SUBSTANCE ABUSE TREATMENT SERV-
 5 ICES.—The term ‘substance abuse services’ means
 6 any of the following items and services provided for
 7 the treatment of substance abuse:

8 “(A) Inpatient treatment, including detoxi-
 9 fication.

10 “(B) Non-hospital residential treatment.

11 “(C) Outpatient treatment, including
 12 screening and assessment, medication manage-
 13 ment, individual, group, and family counseling,
 14 and relapse prevention.

15 “(D) Prevention services, including health
 16 education and individual and group counseling
 17 to encourage the reduction of risk factors for
 18 substance abuse.

19 “(6) SUBSTANCE ABUSE.—The term ‘substance
 20 abuse’ includes chemical dependency.

21 “(f) SUNSET.—This section shall not apply to bene-
 22 fits for services furnished in plan years beginning on or
 23 after January 1, 2005.”

24 (B) Section 4980D(d)(1) of such Code is
 25 amended by inserting “(other than a failure at-

1 tributable to section 9813)” after “on any fail-
2 ure”.

3 (C) The table of sections of subchapter B
4 of chapter 100 of such Code is amended by
5 adding at the end the following new item:

“Sec. 9813. Parity in the application of treatment limitations
and financial requirements to substance abuse
treatment benefits.”

6 (b) INDIVIDUAL HEALTH INSURANCE.—(1) Part B
7 of title XXVII of the Public Health Service Act is amend-
8 ed by inserting after section 2752 the following new sec-
9 tion:

10 **“SEC. 2753. PARITY IN THE APPLICATION OF TREATMENT**
11 **LIMITATIONS AND FINANCIAL REQUIRE-**
12 **MENTS TO SUBSTANCE ABUSE BENEFITS.**

13 “(a) IN GENERAL.—The provisions of section 2707
14 (other than subsections (e) and (g)) shall apply to health
15 insurance coverage offered by a health insurance issuer
16 in the individual market in the same manner as it applies
17 to health insurance coverage offered by a health insurance
18 issuer in connection with a group health plan in the small
19 or large group market.

20 “(b) NOTICE.—A health insurance issuer under this
21 part shall comply with the notice requirement under sec-
22 tion 714(f) of the Employee Retirement Income Security
23 Act of 1974 with respect to the requirements referred to

1 in subsection (a) as if such section applied to such issuer
 2 and such issuer were a group health plan.

3 “(c) SUNSET.—This section shall not apply to bene-
 4 fits for services furnished on or after January 1, 2005.”.

5 (2) Section 2762(b)(2) of such Act (42 U.S.C.
 6 300gg-62(b)(2)) is amended by striking “section 2751”
 7 and inserting “sections 2751 and 2753”.

8 (c) EFFECTIVE DATES.—(1) Subject to paragraph
 9 (3), the amendments made by subsection (a) apply with
 10 respect to group health plans for plan years beginning on
 11 or after January 1, 2000.

12 (2) The amendments made by subsection (b) apply
 13 with respect to health insurance coverage offered, sold,
 14 issued, renewed, in effect, or operated in the individual
 15 market on or after January 1, 2000.

16 (3) In the case of a group health plan maintained
 17 pursuant to 1 or more collective bargaining agreements
 18 between employee representatives and 1 or more employ-
 19 ers ratified before the date of enactment of this Act, the
 20 amendments made subsection (a) shall not apply to plan
 21 years beginning before the later of—

22 (A) the date on which the last collective bar-
 23 gaining agreements relating to the plan terminates
 24 (determined without regard to any extension thereof

1 agreed to after the date of enactment of this Act),
2 or

3 (B) January 1, 2000.

4 For purposes of subparagraph (A), any plan amendment
5 made pursuant to a collective bargaining agreement relat-
6 ing to the plan which amends the plan solely to conform
7 to any requirement added by subsection (a) shall not be
8 treated as a termination of such collective bargaining
9 agreement.

10 (d) COORDINATED REGULATIONS.—Section 104(1)
11 of Health Insurance Portability and Accountability Act of
12 1996 is amended by striking “this subtitle (and the
13 amendments made by this subtitle and section 401)” and
14 inserting “the provisions of part 7 of subtitle B of title
15 I of the Employee Retirement Income Security Act of
16 1974, and the provisions of parts A and C of title XXVII
17 of the Public Health Service Act, and chapter 1000 of the
18 Internal Revenue Code of 1986”.

○