

106TH CONGRESS
2D SESSION

H. R. 3765

To amend the Public Health Service Act, the Employee Retirement Income Security Act of 1974, and the Internal Revenue Code of 1986 to prevent group and individual health insurance coverage and group health plans from seeking to recover more than their costs in cases of third party recoveries.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 29, 2000

Mr. WISE introduced the following bill; which was referred to the Committee's 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 Public Health Service Act, the Employee Retirement Income Security Act of 1974, and the Internal Revenue Code of 1986 to prevent group and individual health insurance coverage and group health plans from seeking to recover more than their costs in cases of third party recoveries.

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 “Health Insurance Li-
3 ability Recovery Protection Act of 2000”.

4 **SEC. 2. PATIENT PROTECTION IN CASE OF THIRD PARTY**
5 **RECOVERIES.**

6 (a) GROUP HEALTH PLANS.—

7 (1) PUBLIC HEALTH SERVICE ACT AMEND-
8 MENTS.—Subpart 2 of part A of title XXVII of the
9 Public Health Service Act is amended by adding at
10 the end the following new section:

11 **“SEC. 2707. STANDARD RELATING TO PATIENT PROTEC-**
12 **TION IN CASE OF THIRD PARTY RECOVERIES.**

13 “(a) REQUIREMENT.—A group health plan, and a
14 health insurance issuer offering group health insurance
15 coverage, may not recover (or seek to recover) from a par-
16 ticipant or beneficiary more than the amounts expended
17 by the plan or issuer on behalf of the participant or bene-
18 ficiary in the case of amounts recovered by such a partici-
19 pant or beneficiary as a result of a settlement or judgment
20 in a liability or other action.

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

1 (2) ERISA AMENDMENTS.—(A) Subpart B of
2 part 7 of subtitle B of title I of the Employee Re-
3 tirement Income Security Act of 1974 is amended by
4 adding at the end the following new section:

5 **“SEC. 714. STANDARD RELATING TO PATIENT PROTECTION**
6 **IN CASE OF THIRD PARTY RECOVERIES.**

7 “(a) REQUIREMENT.—A group health plan, and a
8 health insurance issuer offering group health insurance
9 coverage, may not recover (or seek to recover) from a par-
10 ticipant or beneficiary more than the amounts expended
11 by the plan or issuer on behalf of the participant or bene-
12 ficiary in the case of amounts recovered by such a partici-
13 pant or beneficiary as a result of a settlement or judgment
14 in a liability or other action.

15 “(b) NOTICE UNDER GROUP HEALTH PLAN.—The
16 imposition of the requirement of this section shall be treat-
17 ed as a material modification in the terms of the plan de-
18 scribed in section 102(a)(1), for purposes of assuring no-
19 tice of such requirements under the plan; except that the
20 summary description required to be provided under the
21 last sentence of section 104(b)(1) with respect to such
22 modification shall be provided by not later than 60 days
23 after the first day of the first plan year in which such
24 requirement apply.”.

1 (B) 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 (C) 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. Standard relating to patient protection in case of third party recoveries.”.

7 (3) INTERNAL REVENUE CODE AMEND-
 8 MENTS.—

9 (A) IN GENERAL.—Subchapter B of chap-
 10 ter 100 of the Internal Revenue Code of 1986
 11 is amended—

12 (i) in the table of sections, by insert-
 13 ing after the item relating to section 9812
 14 the following new item:

“Sec. 9813. Standard relating to patient protection in case of
 third party recoveries.”; and

15 (ii) by inserting after section 9812 the
 16 following:

17 **“SEC. 9813. STANDARD RELATING TO PATIENT PROTEC-**
 18 **TION IN CASE OF THIRD PARTY RECOVERIES.**

19 “A group health plan may not recover (or seek to re-
 20 cover) from a participant or beneficiary more than the
 21 amounts expended by the plan on behalf of the participant
 22 or beneficiary in the case of amounts recovered by such

1 a participant or beneficiary as a result of a settlement or
2 judgment in a liability or other action.”.

3 (B) CONFORMING AMENDMENT.—Section
4 4980D(d)(1) of such Code is amended by strik-
5 ing “section 9811” and inserting “sections
6 9811 and 9813”.

7 (b) INDIVIDUAL HEALTH INSURANCE.—Part B of
8 title XXVII of the Public Health Service Act is amended
9 by inserting after section 2752 the following new section:
10 **“SEC. 2753. STANDARD RELATING PATIENT PROTECTION IN**
11 **CASE OF THIRD PARTY RECOVERIES.**

12 “(a) IN GENERAL.—The provisions of section
13 2707(a) shall apply to health insurance coverage offered
14 by a health insurance issuer in the individual market in
15 the same manner as they apply to health insurance cov-
16 erage offered by a health insurance issuer in connection
17 with a group health plan in the small or large group mar-
18 ket.

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

25 (c) EFFECTIVE DATES.—

1 (1) GROUP HEALTH PLANS AND GROUP
2 HEALTH INSURANCE COVERAGE.—Subject to para-
3 graph (3), the amendments made by subsection (a)
4 apply with respect to group health plans for plan
5 years beginning on or after January 1, 2001.

6 (2) INDIVIDUAL HEALTH INSURANCE COV-
7 ERAGE.—The amendment made by subsection (b)
8 applies with respect to health insurance coverage of-
9 fered, sold, issued, renewed, in effect, or operated in
10 the individual market on or after such date.

11 (3) COLLECTIVE BARGAINING EXCEPTION.—In
12 the case of a group health plan maintained pursuant
13 to 1 or more collective bargaining agreements be-
14 tween employee representatives and 1 or more em-
15 ployers ratified before the date of enactment of this
16 Act, the amendments made subsection (a) shall not
17 apply to plan years beginning before the later of—

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

23 (B) January 1, 2002.

24 For purposes of subparagraph (A), any plan amend-
25 ment made pursuant to a collective bargaining

1 agreement relating to the plan which amends the
2 plan solely to conform to any requirement added by
3 subsection (a) shall not be treated as a termination
4 of such collective bargaining agreement.

5 (d) COORDINATION OF ADMINISTRATION.—The Sec-
6 retary of Labor, the Secretary of the Treasury, and the
7 Secretary of Health and Human Services shall ensure,
8 through the execution of an interagency memorandum of
9 understanding among such Secretaries, that—

10 (1) regulations, rulings, and interpretations
11 issued by such Secretaries relating to the same mat-
12 ter over which two or more such Secretaries have re-
13 sponsibility under the provisions of this Act (and the
14 amendments made thereby) are administered so as
15 to have the same effect at all times; and

16 (2) coordination of policies relating to enforcing
17 the same requirements through such Secretaries in
18 order to have a coordinated enforcement strategy
19 that avoids duplication of enforcement efforts and
20 assigns priorities in enforcement.

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