

106TH CONGRESS
1ST SESSION

H. R. 845

To amend the Public Health Service Act, the Employee Retirement Income Security Act of 1974, and the Internal Revenue Code of 1986 to require a health insurance issuer to notify participants and beneficiaries of impending termination of coverage resulting from the failure of a group health plan to pay premiums necessary to maintain coverage, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 24, 1999

Mrs. THURMAN (for herself, Mr. STARK, Mr. YOUNG of Florida, Mr. KUCINICH, Mr. WAXMAN, and Mr. DAVIS of Florida) 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 Public Health Service Act, the Employee Retirement Income Security Act of 1974, and the Internal Revenue Code of 1986 to require a health insurance issuer to notify participants and beneficiaries of impending termination of coverage resulting from the failure of a group health plan to pay premiums necessary to maintain coverage, and for other purposes.

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 “Beneficiary Health
3 Coverage Notification Rights Act of 1999”.

4 **SEC. 2. NOTIFICATION OF DISCONTINUATION OF HEALTH**
5 **INSURANCE COVERAGE TO PARTICIPANTS**
6 **AND BENEFICIARIES.**

7 (a) GROUP HEALTH PLANS.—

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

12 **“SEC. 2707. PROHIBITION OF RETROACTIVE TERMINATION;**
13 **ADVANCE NOTIFICATION OF DISCONTINU-**
14 **ATION OF HEALTH INSURANCE COVERAGE**
15 **TO PARTICIPANTS AND BENEFICIARIES.**

16 “A health insurance issuer offering group health in-
17 surance coverage in connection with a group health plan
18 may not terminate the coverage with respect to the plan
19 (or allow the coverage to lapse) because the plan failed
20 to pay to the issuer premiums necessary to maintain the
21 coverage unless the issuer, at least 30 days before the ef-
22 fective date of termination or lapse of the coverage, pro-
23 vides written notice to each participant or beneficiary
24 whose coverage would so terminate or lapse, indicating the
25 fact and effective date of such termination or lapse of cov-
26 erage.”.

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

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

8 **“SEC. 714. PROHIBITION OF RETROACTIVE TERMINATION;**
 9 **ADVANCE NOTIFICATION OF DISCONTINU-**
 10 **ATION OF HEALTH INSURANCE COVERAGE**
 11 **TO PARTICIPANTS AND BENEFICIARIES.**

12 “A health insurance issuer offering group health in-
 13 surance coverage in connection with a group health plan
 14 may not terminate the coverage with respect to the plan
 15 (or allow the coverage to lapse) because the plan failed
 16 to pay to the issuer premiums necessary to maintain the
 17 coverage unless the issuer, at least 30 days before the ef-
 18 fective date of termination or lapse of the coverage, pro-
 19 vides written notice to each participant or beneficiary
 20 whose coverage would so terminate or lapse, indicating the
 21 fact and effective date of such termination or lapse of cov-
 22 erage.”.

23 (B) 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 (C) 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. Prohibition of retroactive termination; advance notification of discontinuation of health insurance coverage to participants and beneficiaries.”.

4 (b) EFFECTIVE DATE.—The amendments made by
 5 subsection (a) apply with respect to terminations and
 6 lapses of coverage occurring on or after the first day of
 7 the first month that begins more than 60 days after the
 8 date of the enactment of this Act, regardless of the effective date of such terminations and lapses, but do not apply
 10 to terminations and lapses for which notice has been provided before such first day.

12 **SEC. 3. DEEMING PERIOD OF HEALTH INSURANCE CO-**
 13 **VERAGE FOR PARTICIPANTS AND BENE-**
 14 **FICIARIES BETWEEN DISCONTINUATION AND**
 15 **NOTICE OF DISCONTINUATION OF COV-**
 16 **ERAGE.**

17 (a) GROUP HEALTH PLANS.—

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

20 (A) Section 2701(c) of the Public Health
 21 Service Act (42 U.S.C. 300gg(c)) is amended
 22 by adding at the end the following new para-
 23 graph:

1 “(5) DEEMING PERIOD OF COVERAGE FOR PAR-
2 TICIPANTS AND BENEFICIARIES BETWEEN DIS-
3 CONTINUATION AND NOTICE OF DISCONTINUATION
4 OF COVERAGE.—

5 “(A) IN GENERAL.—If—

6 “(i)(I) a health insurance issuer offer-
7 ing group health insurance coverage in
8 connection with a group health plan termi-
9 nates the coverage with respect to the plan
10 (or allows the coverage to lapse), or (II)
11 coverage under a group health plan is ter-
12 minated; and

13 “(ii) a participant or beneficiary
14 whose coverage is so terminated or lapsed
15 only receives notice of such termination or
16 lapse after the date that the termination or
17 lapse takes effect,

18 for the purposes described in subparagraph (B),
19 such individual shall be treated as being covered
20 under the terminated or lapsed group health in-
21 surance coverage or group health plan during
22 the deeming period, as defined in subparagraph
23 (C).

24 “(B) APPLICATION.—Subparagraph (A)
25 shall apply—

1 “(i) for purposes of this part (includ-
2 ing for purposes of reducing pre-existing
3 condition exclusion periods and avoiding a
4 significant break in coverage); and

5 “(ii) for purposes of applying any
6 State law that provides for a conversion or
7 any other health insurance option based on
8 (or taking into account) loss of group
9 health insurance coverage or loss of cov-
10 erage under a group health plan.

11 “(C) DEEMING PERIOD DEFINED.—For
12 purposes of this paragraph, the term ‘deeming
13 period’ is the period beginning on the effective
14 date of the termination or lapse of coverage de-
15 scribed in subparagraph (A)(i) and ending on
16 the date on which the participant or beneficiary
17 receives notice described in subparagraph
18 (A)(ii).

19 “(D) NO ENTITLEMENT TO BENEFITS
20 DURING DEEMING PERIOD.—Nothing in this
21 paragraph shall be construed as entitling any
22 individual to any benefits under the plan or cov-
23 erage during the deeming period.”.

24 (B) Section 2701(f)(1)(D) of such Act (42
25 U.S.C. 300gg(f)(1)(D)) is amended by inserting

1 before the period “or if later, the date the em-
2 ployee is notified of such termination”.

3 (2) ERISA AMENDMENTS.—

4 (A) Section 701(c) of the Employee Retire-
5 ment Income Security Act of 1974 (29 U.S.C.
6 1181(c)) is amended by adding at the end the
7 following new paragraph:

8 “(5) DEEMING PERIOD OF COVERAGE FOR PAR-
9 TICIPANTS AND BENEFICIARIES BETWEEN DIS-
10 CONTINUATION AND NOTICE OF DISCONTINUATION
11 OF COVERAGE.—

12 “(A) IN GENERAL.—If—

13 “(i)(I) a health insurance issuer offer-
14 ing group health insurance coverage in
15 connection with a group health plan termi-
16 nates the coverage with respect to the plan
17 (or allows the coverage to lapse), or (II)
18 coverage under a group health plan is ter-
19 minated; and

20 “(ii) a participant or beneficiary
21 whose coverage is so terminated or lapsed
22 only receives notice of such termination or
23 lapse after the date that the termination or
24 lapse takes effect,

1 for the purposes described in subparagraph (B),
2 such individual shall be treated as being covered
3 under the terminated or lapsed group health in-
4 surance coverage or group health plan during
5 the deeming period, as defined in subparagraph
6 (C).

7 “(B) APPLICATION.—Subparagraph (A)
8 shall apply for purposes of this part (including
9 for purposes of reducing pre-existing condition
10 exclusion periods and avoiding a significant
11 break in coverage).

12 “(C) DEEMING PERIOD DEFINED.—For
13 purposes of this paragraph, the term ‘deeming
14 period’ is the period beginning on the effective
15 date of the termination or lapse of coverage de-
16 scribed in subparagraph (A)(i) and ending on
17 the date on which the participant or beneficiary
18 receives notice described in subparagraph
19 (A)(ii).

20 “(D) NO ENTITLEMENT TO BENEFITS
21 DURING DEEMING PERIOD.—Nothing in this
22 paragraph shall be construed as entitling any
23 individual to any benefits under the plan or cov-
24 erage during the deeming period.”.

1 (B) Section 701(f)(1)(D) of such Act (29
2 U.S.C. 1181(f)(1)(D)) is amended by inserting
3 before the period “or if later, the date the em-
4 ployee is notified of such termination”.

5 (3) INTERNAL REVENUE CODE AMEND-
6 MENTS.—Section 9801(c) of the Internal Revenue
7 Code of 1986 is amended by adding at the end the
8 following new paragraph:

9 “(5) DEEMING PERIOD OF COVERAGE FOR PAR-
10 TICIPANTS AND BENEFICIARIES BETWEEN DIS-
11 CONTINUATION AND NOTICE OF DISCONTINUATION
12 OF COVERAGE.—

13 “(A) IN GENERAL.—If—

14 “(i)(I) a health insurance issuer offer-
15 ing group health insurance coverage in
16 connection with a group health plan termi-
17 nates the coverage with respect to the plan
18 (or allows the coverage to lapse), or (II)
19 coverage under a group health plan is ter-
20 minated; and

21 “(ii) a participant or beneficiary
22 whose coverage is so terminated or lapsed
23 only receives notice of such termination or
24 lapse after the date that the termination or
25 lapse takes effect,

1 for the purposes described in subparagraph (B),
2 such individual shall be treated as being covered
3 under the terminated or lapsed group health in-
4 surance coverage or group health plan during
5 the deeming period, as defined in subparagraph
6 (C).

7 “(B) APPLICATION.—Subparagraph (A)
8 shall apply for purposes of this part (including
9 for purposes of reducing pre-existing condition
10 exclusion periods and avoiding a significant
11 break in coverage).

12 “(C) DEEMING PERIOD DEFINED.—For
13 purposes of this paragraph, the term ‘deeming
14 period’ is the period beginning on the effective
15 date of the termination or lapse of coverage de-
16 scribed in subparagraph (A)(i) and ending on
17 the date on which the participant or beneficiary
18 receives notice described in subparagraph
19 (A)(ii).

20 “(D) NO ENTITLEMENT TO BENEFITS
21 DURING DEEMING PERIOD.—Nothing in this
22 paragraph shall be construed as entitling any
23 individual to any benefits under the plan or cov-
24 erage during the deeming period.”.

1 (B) Section 9801(f)(1)(D) of such Code is
2 amended by inserting before the period “or if
3 later, the date the employee is notified of such
4 termination”.

5 (b) EFFECTIVE DATE.—The amendments made by
6 subsection (a) apply with respect to terminations and
7 lapses of coverage occurring on or after the first day of
8 the first month that begins after the date of the enactment
9 of this Act, regardless of the effective date of such termi-
10 nations and lapses, but do not apply to terminations and
11 lapses for which notice has been provided before such first
12 day.

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