

106TH CONGRESS
1ST SESSION

S. 1044

To require coverage for colorectal cancer screenings.

IN THE SENATE OF THE UNITED STATES

MAY 13, 1999

Mr. KENNEDY introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To require coverage for colorectal cancer screenings.

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; FINDINGS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Eliminate Colorectal Cancer Act of 1999”.

6 (b) FINDINGS.—The Congress finds the following:

7 (1) Colorectal cancer is the second leading
8 cause of cancer deaths in the United States for men
9 and women combined.

10 (2) It is estimated that in 1999, 129,400 new
11 cases of colorectal cancer will be diagnosed in men
12 and women in the United States.

1 (3) Colorectal cancer is expected to kill 56,600
2 individuals in the United States in 1999.

3 (4) Research has shown that a high-fiber, low-
4 fat diet can significantly reduce the risk of devel-
5 oping colorectal cancer.

6 (5) The adoption of a healthy diet at a young
7 age can significantly reduce the risk of developing
8 colorectal cancer.

9 (6) Appropriate screenings and regular tests,
10 can save large numbers of lives by leading to earlier
11 identification of colorectal cancer.

12 (7) The Centers for Disease Control and Pre-
13 vention, the Health Care Financing Administration,
14 and the National Cancer Institute have initiated the
15 Screen for Life Campaign targeted to individuals
16 age 50 and older to spread the message of the im-
17 portance of colorectal cancer screening tests.

18 (8) Education helps to inform the public of
19 symptoms for the early detection of colorectal cancer
20 and methods of prevention.

21 **SEC. 2. COVERAGE FOR COLORECTAL CANCER SCREENING.**

22 (a) GROUP HEALTH PLANS.—

23 (1) PUBLIC HEALTH SERVICE ACT AMEND-
24 MENTS.—

1 (A) IN GENERAL.—Subpart 2 of part A of
 2 title XXVII of the Public Health Service Act
 3 (42 U.S.C. 300gg–4 et seq.) is amended by
 4 adding at the end the following new section:

5 **“SEC. 2707. COVERAGE FOR COLORECTAL CANCER SCREEN-**
 6 **ING.**

7 “(a) COVERAGE FOR COLORECTAL CANCER SCREEN-
 8 ING.—

9 “(1) IN GENERAL.—A group health plan, and a
 10 health insurance issuer offering group health insur-
 11 ance coverage, shall provide coverage for colorectal
 12 cancer screening at regular intervals to—

13 “(A) any participant or beneficiary over
 14 the age of 50; and

15 “(B) any participant or beneficiary under
 16 the age of 50 who is at a high risk for
 17 colorectal cancer, or who may have symptoms
 18 or circumstances that indicate a need for
 19 colorectal cancer screening.

20 “(2) DEFINITION OF HIGH RISK.—For purposes
 21 of subsection (a)(1)(B), the term ‘high risk for
 22 colorectal cancer’ has the meaning given such term
 23 in section 1861(pp)(2) of the Social Security Act (42
 24 U.S.C. 1395x(pp)(2)).

1 “(3) METHOD OF SCREENING.—The group
 2 health plan or health insurance issuer shall cover the
 3 method and frequency of colorectal cancer screening
 4 deemed appropriate by a health care provider treat-
 5 ing such participant or beneficiary, in consultation
 6 with the participant or beneficiary. Such coverage
 7 shall include the procedures in section 1861(pp)(1)
 8 of the Social Security Act (42 U.S.C. 1395x(pp)(1))
 9 and section 4104(a)(2) of the Balanced Budget Act
 10 of 1997.

11 “(b) NOTICE.—A group health plan under this part
 12 shall comply with the notice requirement under section
 13 714(b) of the Employee Retirement Income Security Act
 14 of 1974 with respect to the requirements of this section
 15 as if such section applied to such plan.

16 “(c) NON-PREEMPTION OF MORE PROTECTIVE
 17 STATE LAW WITH RESPECT TO HEALTH INSURANCE
 18 ISSUERS.—This section shall not be construed to super-
 19 sede any provision of State law which establishes, imple-
 20 ments, or continues in effect any standard or requirement
 21 solely relating to health insurance issuers in connection
 22 with group health insurance coverage that provides great-
 23 er protections to participants and beneficiaries than the
 24 protections provided under this section.”.

1 (B) TECHNICAL AMENDMENT.—Section
 2 2723(c) of the Public Health Service Act (42
 3 U.S.C. 300gg–23(c)) is amended by striking
 4 “section 2704” and inserting “sections 2704
 5 and 2707”.

6 (2) ERISA AMENDMENTS.—

7 (A) IN GENERAL.—Subpart B of part 7 of
 8 subtitle B of title I of the Employee Retirement
 9 Income Security Act of 1974 (29 U.S.C. 1185
 10 et seq.) is amended by adding at the end the
 11 following new section:

12 **“SEC. 714. COVERAGE FOR COLORECTAL CANCER SCREEN-**
 13 **ING.**

14 “(a) COVERAGE FOR COLORECTAL CANCER SCREEN-
 15 ING.—

16 “(1) IN GENERAL.—A group health plan, and a
 17 health insurance issuer offering group health insur-
 18 ance coverage, shall provide coverage for colorectal
 19 cancer screening at regular intervals to—

20 “(A) any participant or beneficiary over
 21 the age of 50; and

22 “(B) any participant or beneficiary under
 23 the age of 50 who is at a high risk for
 24 colorectal cancer, or who may have symptoms

1 or circumstances that indicate a need for
2 colorectal cancer screening.

3 “(2) DEFINITION OF HIGH RISK.—For purposes
4 of subsection (a)(1)(B), the term ‘high risk for
5 colorectal cancer’ has the meaning given such term
6 in section 1861(pp)(2) of the Social Security Act (42
7 U.S.C. 1395x(pp)(2)).

8 “(3) METHOD OF SCREENING.—The group
9 health plan or health insurance issuer shall cover the
10 method and frequency of colorectal cancer screening
11 deemed appropriate by a health care provider treat-
12 ing such participant or beneficiary, in consultation
13 with the participant or beneficiary. Such coverage
14 shall include the procedures in section 1861(pp)(1)
15 of the Social Security Act (42 U.S.C. 1395x(pp)(1))
16 and section 4104(a)(2) of the Balanced Budget Act
17 of 1997.

18 “(b) NOTICE UNDER GROUP HEALTH PLAN.—The
19 imposition of the requirements of this section shall be
20 treated as a material modification in the terms of the plan
21 described in section 102(a), for purposes of assuring no-
22 tice of such requirements under the plan; except that the
23 summary description required to be provided under the
24 third to last sentence of section 104(b)(1) with respect to
25 such modification shall be provided by not later than 60

1 days after the first day of the first plan year in which
 2 such requirements apply.”.

3 (B) TECHNICAL AND CONFORMING AMEND-
 4 MENTS.—

5 (i) Section 731(c) of the Employee
 6 Retirement Income Security Act of 1974
 7 (29 U.S.C. 1191(c)) is amended by strik-
 8 ing “section 711” and inserting “sections
 9 711 and 714”.

10 (ii) Section 732(a) of the Employee
 11 Retirement Income Security Act of 1974
 12 (29 U.S.C. 1191a(a)) is amended by strik-
 13 ing “section 711” and inserting “sections
 14 711 and 714”.

15 (iii) The table of contents in section 1
 16 of the Employee Retirement Income Secu-
 17 rity Act of 1974 is amended by inserting
 18 after the item relating to section 713 the
 19 following new item:

“Sec. 714. Coverage for colorectal cancer screening.”.

20 (b) INDIVIDUAL HEALTH INSURANCE.—

21 (1) IN GENERAL.—Part B of title XXVII of the
 22 Public Health Service Act (42 U.S.C. 300gg–41 et
 23 seq.) is amended by inserting after section 2752 the
 24 following new section:

1 **“SEC. 2753. COVERAGE FOR COLORECTAL CANCER SCREEN-**
 2 **ING.**

3 “(a) IN GENERAL.—The provisions of section
 4 2707(a) shall apply to health insurance coverage offered
 5 by a health insurance issuer in the individual market in
 6 the same manner as it applies to health insurance coverage
 7 offered by a health insurance issuer in connection with a
 8 group health plan in the small or large group market.

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

15 (2) TECHNICAL AMENDMENT.—Section
 16 2762(b)(2) of the Public Health Service Act (42
 17 U.S.C. 300gg–62(b)(2)) is amended by striking
 18 “section 2751” and inserting “sections 2751 and
 19 2753”.

20 (c) EFFECTIVE DATES.—

21 (1) GROUP HEALTH PLANS.—

22 (A) IN GENERAL.—Subject to subpara-
 23 graph (B), the amendments made by subsection
 24 (a) shall apply with respect to group health
 25 plans for plan years beginning on or after Jan-
 26 uary 1, 2001.

(B) COLLECTIVE BARGAINING AGREEMENTS.—In the case of a group health plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified before the date of enactment of this Act, the amendments made by subsection (a) shall not apply to plan years beginning before the later of—

(i) the date on which the last collective bargaining agreements relating to the plan terminates (determined without regard to any extension thereof agreed to after the date of enactment of this Act), or

(ii) January 1, 2001.

For purposes of clause (i), any plan amendment made pursuant to a collective bargaining agreement relating to the plan which amends the plan solely to conform to any requirement added by subsection (a) shall not be treated as a termination of such collective bargaining agreement.

(2) INDIVIDUAL HEALTH INSURANCE.—The amendments made by subsection (b) shall apply with respect to health insurance coverage offered, sold,

1 issued, renewed, in effect, or operated in the indi-
2 vidual market on or after January 1, 2001.

3 (d) COORDINATED REGULATIONS.—The Secretary of
4 Labor and the Secretary of Health and Human Services
5 shall ensure, through the execution of an interagency
6 memorandum of understanding among such Secretaries,
7 that—

8 (1) regulations, rulings, and interpretations
9 issued by such Secretaries relating to the same mat-
10 ter over which both Secretaries have responsibility
11 under the provisions of this section (and the amend-
12 ments made thereby) are administered so as to have
13 the same effect at all times; and

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

19 **SEC. 3. SENSE OF THE CONGRESS.**

20 It is the sense of the Congress that—

21 (1) all Americans should be educated about the
22 risks, prevention, screening, and treatment of
23 colorectal cancer;

24 (2) the Centers for Disease Control and Preven-
25 tion and the Department of Health and Human

1 Services should be commended for launching a co-
2 ordinated education campaign on colorectal cancer in
3 March of 1999; and

4 (3) the Centers for Disease Control and Preven-
5 tion and the Department of Health and Human
6 Services should track the impact of the coordinated
7 education campaign on colorectal cancer and make
8 information on its progress available to Members of
9 Congress.

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