

106TH CONGRESS
1ST SESSION

S. 697

To ensure that a woman can designate an obstetrician or gynecologist as her primary care provider.

IN THE SENATE OF THE UNITED STATES

MARCH 24, 1999

Mrs. BOXER (for herself and Ms. SNOWE) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To ensure that a woman can designate an obstetrician or gynecologist as her primary care provider.

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.**

4 This Act may be cited as the “Women’s Access to
5 Care Act”.

6 **SEC. 2. AMENDMENTS TO THE EMPLOYEE RETIREMENT IN-**
7 **COME SECURITY ACT OF 1974.**

8 (a) IN GENERAL.—Subpart B of part 7 of subtitle
9 B of title I of the Employee Retirement Income Security
10 Act of 1974 (29 U.S.C. 1185 et seq.), as amended by the

1 Omnibus Consolidated and Emergency Supplemental Ap-
 2 propriations Act, 1999 (Public Law 105–277), is amended
 3 by adding at the end the following:

4 **“SEC. 714. ACCESS TO OBSTETRICAL AND GYNECOLOGICAL**
 5 **CARE.**

6 “(a) IN GENERAL.—If a group health plan, or a
 7 health insurance issuer in connection with the provision
 8 of health insurance coverage, requires or provides for a
 9 participant or beneficiary to designate a participating pri-
 10 mary care provider—

11 “(1) the plan or issuer shall permit such an in-
 12 dividual who is a female to designate a participating
 13 physician who specializes in obstetrics and gynecology as the individual’s primary care provider in
 14 lieu of or in addition to the designation by such indi-
 15 vidual of a provider who does not specialize in ob-
 16 stetrics and gynecology as the primary care provider;
 17 and
 18

19 “(2) if such an individual has not designated a
 20 physician who specializes in obstetrics or gynecology
 21 as a primary care provider, the plan or issuer—

22 “(A) may not require authorization or a
 23 referral by the individual’s primary care pro-
 24 vider or otherwise for coverage of routine gynecological care (such as preventive women’s
 25

1 health examinations) and pregnancy-related
 2 services provided by a participating health care
 3 professional who specializes in obstetrics and
 4 gynecology to the extent such care is otherwise
 5 covered, and

6 “(B) may treat the ordering of other gyne-
 7 cological care by such a participating health
 8 professional as the authorization of the primary
 9 care provider with respect to such care under
 10 the plan or coverage.

11 “(b) CONSTRUCTION.—Nothing in subsection
 12 (a)(2)(B) shall waive any requirements of coverage relat-
 13 ing to medical necessity or appropriateness with respect
 14 to coverage of gynecological care so ordered.”.

15 (b) CLERICAL AMENDMENT.—The table of contents
 16 in section 1 of the Employee Retirement Income Security
 17 Act of 1974 (29 U.S.C. 1001 note), as amended by the
 18 Omnibus Consolidated and Emergency Supplemental Ap-
 19 propriations Act, 1999 (Public Law 105–277), is amended
 20 by inserting after the item relating to section 713 the fol-
 21 lowing new item:

“Sec. 714. Access to obstetrical and gynecological care.”.

22 **SEC. 3. AMENDMENTS TO THE PUBLIC HEALTH SERVICE**
 23 **ACT.**

24 (a) GROUP MARKET.—Subpart 2 of part A of title
 25 XXVII of the Public Health Service Act (42 U.S.C.

1 300gg–4 et seq.), as amended by the Omnibus Consoli-
 2 dated and Emergency Supplemental Appropriations Act,
 3 1999 (Public Law 105–277), is amended by adding at the
 4 end the following new section:

5 **“SEC. 2707. ACCESS TO OBSTETRICAL AND GYNECO-**
 6 **LOGICAL CARE.**

7 “(a) IN GENERAL.—If a group health plan, or a
 8 health insurance issuer in connection with the provision
 9 of health insurance coverage, requires or provides for an
 10 enrollee to designate a participating primary care
 11 provider—

12 “(1) the plan or issuer shall permit such an in-
 13 dividual who is a female to designate a participating
 14 physician who specializes in obstetrics and gynecology as the individual’s primary care provider in
 15 lieu of or in addition to the designation by such indi-
 16 vidual of a provider who does not specialize in ob-
 17 stetrics and gynecology as the primary care provider;
 18 and

20 “(2) if such an individual has not designated a
 21 physician who specializes in obstetrics or gynecology
 22 as a primary care provider, the plan or issuer—

23 “(A) may not require authorization or a
 24 referral by the individual’s primary care pro-
 25 vider or otherwise for coverage of routine gynecology.

cological care (such as preventive women’s health examinations) and pregnancy-related services provided by a participating health care professional who specializes in obstetrics and gynecology to the extent such care is otherwise covered, and

“(B) may treat the ordering of other gynecological care by such a participating health professional as the authorization of the primary care provider with respect to such care under the plan or coverage.

“(b) CONSTRUCTION.—Nothing in subsection (a)(2)(B) shall waive any requirements of coverage relating to medical necessity or appropriateness with respect to coverage of gynecological care so ordered.”.

(b) INDIVIDUAL MARKET.—The first subpart 3 of part B of title XXVII of the Public Health Service Act (42 U.S.C. 300gg–51 et seq.) (relating to other requirements), as amended by the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (Public Law 105–277) is amended—

(1) by redesignating such subpart as subpart 2;

and

(2) by adding at the end the following:

1 **“SEC. 2753. ACCESS TO OBSTETRICAL AND GYNECO-**
 2 **LOGICAL CARE.**

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

9 **SEC. 4. AMENDMENTS TO THE INTERNAL REVENUE CODE**
 10 **OF 1986.**

11 Subchapter B of chapter 100 of the Internal Revenue
 12 Code of 1986 is amended—

13 (1) in the table of sections, by inserting after
 14 the item relating to section 9812 the following new
 15 item:

“Sec. 9813. Access to obstetrical and gynecological care.”; and

16 (2) by inserting after section 9812 the fol-
 17 lowing:

18 **“SEC. 9813. ACCESS TO OBSTETRICAL AND GYNECO-**
 19 **LOGICAL CARE.**

20 “(a) IN GENERAL.—If a group health plan, or a
 21 health insurance issuer in connection with the provision
 22 of health insurance coverage, requires or provides for a
 23 participant or beneficiary to designate a participating pri-
 24 mary care provider—

1 “(1) the plan or issuer shall permit such an in-
2 dividual who is a female to designate a participating
3 physician who specializes in obstetrics and gyne-
4 cology as the individual’s primary care provider in
5 lieu of or in addition to the designation by such indi-
6 vidual of a provider who does not specialize in ob-
7 stetrics and gynecology as the primary care provider;
8 and

9 “(2) if such an individual has not designated a
10 physician who specializes in obstetrics or gynecology
11 as a primary care provider, the plan or issuer—

12 “(A) may not require authorization or a
13 referral by the individual’s primary care pro-
14 vider or otherwise for coverage of routine gyne-
15 cological care (such as preventive women’s
16 health examinations) and pregnancy-related
17 services provided by a participating health care
18 professional who specializes in obstetrics and
19 gynecology to the extent such care is otherwise
20 covered, and

21 “(B) may treat the ordering of other gyne-
22 cological care by such a participating health
23 professional as the authorization of the primary
24 care provider with respect to such care under
25 the plan or coverage.

1 “(b) CONSTRUCTION.—Nothing in subsection
 2 (a)(2)(B) shall waive any requirements of coverage relat-
 3 ing to medical necessity or appropriateness with respect
 4 to coverage of gynecological care so ordered.”.

5 **SEC. 5. EFFECTIVE DATES.**

6 (a) IN GENERAL.—Except as provided in subsection
 7 (c), the amendments made by this Act shall apply with
 8 respect to plan years beginning on or after the date of
 9 enactment of this Act.

10 (b) SPECIAL RULE FOR COLLECTIVE BARGAINING
 11 AGREEMENTS.—In the case of a group health plan main-
 12 tained pursuant to 1 or more collective bargaining agree-
 13 ments between employee representatives and 1 or more
 14 employers ratified before the date of enactment of this
 15 Act, the amendments made by this Act shall not apply
 16 to plan years beginning before the later of—

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

22 (2) January 1, 2000.

23 For purposes of paragraph (1), any plan amendment made
 24 pursuant to a collective bargaining agreement relating to
 25 the plan which amends the plan solely to conform to any

1 requirement added by this Act shall not be treated as a
2 termination of such collective bargaining agreement.

3 (c) INDIVIDUAL MARKET.—The amendment made by
4 section 3(b) shall apply to health insurance coverage of-
5 fered, sold, issued, renewed, in effect, or operated in the
6 individual market on or after the date of enactment of this
7 Act.

8 **SEC. 6. RULE OF CONSTRUCTION.**

9 Nothing in this Act shall be construed to require a
10 participating physician to accept designation as a primary
11 care provider.

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