

106TH CONGRESS
1ST SESSION

S. 796

To provide for full parity with respect to health insurance coverage for certain severe biologically based mental illnesses and to prohibit limits on the number of mental-illness-related hospital days and outpatient visits that are covered for all mental illnesses.

IN THE SENATE OF THE UNITED STATES

APRIL 14, 1999

Mr. DOMENICI (for himself, Mr. WELLSTONE, Mr. CHAFEE, Mr. SPECTER, Mr. REID, Mr. SARBANES, and Mr. KENNEDY) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To provide for full parity with respect to health insurance coverage for certain severe biologically based mental illnesses and to prohibit limits on the number of mental-illness-related hospital days and outpatient visits that are covered for all mental illnesses.

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 “Mental Health Equi-
5 table Treatment Act of 1999”.

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

3 (a) IN GENERAL.—Section 712 of the Employee Re-
4 tirement Income Security Act of 1974 (29 U.S.C. 1185a)
5 is amended—

6 (1) in subsection (a), by adding at the end the
7 following:

8 “(3) HOSPITAL DAY AND OUTPATIENT VISIT
9 LIMITS.—In the case of a group health plan (or
10 health insurance coverage offered in connection with
11 such a plan) that provides both medical and surgical
12 benefits and mental health benefits—

13 “(A) NO INPATIENT LIMITS.—If the plan
14 or coverage does not include a limit on the
15 number of days of coverage provided for inpa-
16 tient hospital stays in connection with covered
17 medical and surgical benefits, the plan or cov-
18 erage may not impose any limit on inpatient
19 hospital stays for mental health benefits.

20 “(B) CERTAIN INPATIENT LIMITS.—If the
21 plan or coverage includes a limit on the number
22 of days of coverage provided for inpatient hos-
23 pital stays in connection with certain covered
24 medical and surgical benefits, the plan or cov-
25 erage may impose comparable limits on inpa-
26 tient hospital stays for mental health benefits.

1 “(C) NO OUTPATIENT LIMITS.—If the plan
2 or coverage does not include a limit on the
3 number of outpatient visits in connection with
4 covered medical and surgical benefits, the plan
5 or coverage may not impose any limit on the
6 number of outpatient visits for mental health
7 benefits.

8 “(D) CERTAIN OUTPATIENT LIMITS.—If
9 the plan or coverage includes a limit on the
10 number of outpatient visits in connection with
11 certain covered medical and surgical benefits,
12 the plan or coverage may impose comparable
13 limits on the number of outpatient visits for
14 mental health benefits.

15 “(4) SEVERE MENTAL ILLNESS.—In the case of
16 a group health plan (or health insurance coverage
17 offered in connection with such a plan) that provides
18 medical and surgical benefits and mental health ben-
19 efits, such plan or coverage shall not impose any
20 limitations on the coverage of benefits for severe bio-
21 logically-based mental illnesses unless comparable
22 limitations are imposed on medical and surgical ben-
23 efits.”;

24 (2) by striking subsection (b) and inserting the
25 following:

1 “(b) CONSTRUCTION.—

2 “(1) IN GENERAL.—Nothing in this section
3 shall be construed—

4 “(A) as requiring a group health plan (or
5 health insurance coverage offered in connection
6 with such a plan) to provide any mental health
7 benefits; or

8 “(B) in the case of a group health plan (or
9 health insurance coverage offered in connection
10 with such a plan) that provides mental health
11 benefits, as affecting the terms and conditions
12 (including cost sharing and requirements relat-
13 ing to medical necessity) relating to the
14 amount, duration, or scope of mental health
15 benefits under the plan or coverage, except as
16 specifically provided in subsection (a) (in regard
17 to parity in the imposition of aggregate lifetime
18 limits and annual limits and limits on inpatient
19 stays or outpatient visits for mental health ben-
20 efits).

21 “(2) CARE, TREATMENT, AND DELIVERY OF
22 SERVICES.—Nothing in this subpart shall be con-
23 strued to prohibit the provision of care or treatment,
24 or delivery of services, relating to mental health
25 services, by qualified health professionals within

1 their scope of practice as licensed or certified by the
2 appropriate State or jurisdiction.”;

3 (3) in subsection (c)—

4 (A) by striking paragraph (2); and

5 (B) in paragraph (1)—

6 (i) by striking subparagraphs (A) and

7 (B) and inserting the following:

8 “(A) IN GENERAL.—This section shall not
9 apply to any group health plan (and group
10 health insurance coverage offered in connection
11 with a group health plan) for any plan year of
12 any employer who employed an average of at
13 least 2 but not more than 25 employees on
14 business days during the preceding calendar
15 year.”;

16 (ii) by redesignating subparagraphs

17 (A) and (C) as paragraphs (1) and (2), re-

18 spectively, and realigning the margins ac-

19 cordingly; and

20 (iii) in paragraph (2) (as so redesign-

21 ated), by redesignating clauses (i)

22 through (iii) as subparagraphs (A) through

23 (C), respectively;

24 (4) in subsection (e), by adding at the end the

25 following:

1 “(5) SEVERE BIOLOGICALLY-BASED MENTAL
 2 ILLNESS.—The term ‘severe biologically-based men-
 3 tal illness’ means an illness that medical science in
 4 conjunction with the Diagnostic and Statistical Man-
 5 ual of Mental Disorders (DSM IV) affirms as bio-
 6 logically based and severe, including schizophrenia,
 7 bipolar disorder, major depression, obsessive compul-
 8 sive and panic disorders, posttraumatic stress dis-
 9 order, autism, and other severe and disabling mental
 10 disorders such as anorexia nervosa and attention-
 11 deficit/hyper activity disorder.”; and

12 (5) by striking subsection (f).

13 (b) EFFECTIVE DATE.—The amendments made by
 14 this section shall apply with respect to plan years begin-
 15 ning on or after January 1, 2000.

16 **SEC. 3. AMENDMENTS TO THE PUBLIC HEALTH SERVICE**
 17 **ACT RELATING TO THE GROUP MARKET.**

18 (a) IN GENERAL.—Section 2705 of the Public Health
 19 Service Act (42 U.S.C. 300gg–5) is amended—

20 (1) in subsection (a), by adding at the end the
 21 following:

22 “(3) HOSPITAL DAY AND OUTPATIENT VISIT
 23 LIMITS.—In the case of a group health plan (or
 24 health insurance coverage offered in connection with

1 such a plan) that provides both medical and surgical
2 benefits and mental health benefits—

3 “(A) NO INPATIENT LIMITS.—If the plan
4 or coverage does not include a limit on the
5 number of days of coverage provided for inpa-
6 tient hospital stays in connection with covered
7 medical and surgical benefits, the plan or cov-
8 erage may not impose any limit on inpatient
9 hospital stays for mental health benefits.

10 “(B) CERTAIN INPATIENT LIMITS.—If the
11 plan or coverage includes a limit on the number
12 of days of coverage provided for inpatient hos-
13 pital stays in connection with certain covered
14 medical and surgical benefits, the plan or cov-
15 erage may impose comparable limits on inpa-
16 tient hospital stays for mental health benefits.

17 “(C) NO OUTPATIENT LIMITS.—If the plan
18 or coverage does not include a limit on the
19 number of outpatient visits in connection with
20 covered medical and surgical benefits, the plan
21 or coverage may not impose any limit on the
22 number of outpatient visits for mental health
23 benefits.

24 “(D) CERTAIN OUTPATIENT LIMITS.—If
25 the plan or coverage includes a limit on the

1 number of outpatient visits in connection with
 2 certain covered medical and surgical benefits,
 3 the plan or coverage may impose comparable
 4 limits on the number of outpatient visits for
 5 mental health benefits.

6 “(4) SEVERE MENTAL ILLNESS.—In the case of
 7 a group health plan (or health insurance coverage
 8 offered in connection with such a plan) that provides
 9 medical and surgical benefits and mental health ben-
 10 efits, such plan or coverage shall not impose any
 11 limitations on the coverage of benefits for severe bio-
 12 logically-based mental illnesses unless comparable
 13 limitations are imposed on medical and surgical ben-
 14 efits.”;

15 (2) by striking subsection (b) and inserting the
 16 following:

17 “(b) CONSTRUCTION.—

18 “(1) IN GENERAL.—Nothing in this section
 19 shall be construed—

20 “(A) as requiring a group health plan (or
 21 health insurance coverage offered in connection
 22 with such a plan) to provide any mental health
 23 benefits; or

24 “(B) in the case of a group health plan (or
 25 health insurance coverage offered in connection

1 with such a plan) that provides mental health
 2 benefits, as affecting the terms and conditions
 3 (including cost sharing and requirements relat-
 4 ing to medical necessity) relating to the
 5 amount, duration, or scope of mental health
 6 benefits under the plan or coverage, except as
 7 specifically provided in subsection (a) (in regard
 8 to parity in the imposition of aggregate lifetime
 9 limits and annual limits and limits on inpatient
 10 stays or outpatient visits for mental health ben-
 11 efits).

12 “(2) CARE, TREATMENT, AND DELIVERY OF
 13 SERVICES.—Nothing in this part shall be construed
 14 to prohibit the provision of care or treatment, or de-
 15 livery of services, relating to mental health services,
 16 by qualified health professionals within their scope
 17 of practice as licensed or certified by the appropriate
 18 State or jurisdiction.”;

19 (3) by striking subsection (c) and inserting the
 20 following:

21 “(c) EXEMPTION.—This section shall not apply to
 22 any group health plan (and group health insurance cov-
 23 erage offered in connection with a group health plan) for
 24 any plan year of any employer who employed an average

1 of at least 2 but not more than 25 employees on business
 2 days during the preceding calendar year.”;

3 (4) in subsection (e), by adding at the end the
 4 following:

5 “(5) SEVERE BIOLOGICALLY-BASED MENTAL
 6 ILLNESS.—The term ‘severe biologically-based men-
 7 tal illness’ means an illness that medical science in
 8 conjunction with the Diagnostic and Statistical Man-
 9 ual of Mental Disorders (DSM IV) affirms as bio-
 10 logically based and severe, including schizophrenia,
 11 bipolar disorder, major depression, obsessive compul-
 12 sive and panic disorders, posttraumatic stress dis-
 13 order, autism, and other severe and disabling mental
 14 disorders such as anorexia nervosa and attention-
 15 deficit/hyper activity disorder.”; and

16 (5) by striking subsection (f).

17 (b) EFFECTIVE DATE.—The amendments made by
 18 this section shall apply with respect to plan years begin-
 19 ning on or after January 1, 2000.

20 **SEC. 4. PREEMPTION.**

21 Nothing in the amendments made by this Act shall
 22 be construed to preempt any provision of State law that
 23 provides protections to enrollees that are greater than the
 24 protections provided under such amendments.

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