

106TH CONGRESS
1ST SESSION

S. 836

To amend the Public Health Service Act, the Employee Retirement Income Security Act of 1974, and the Internal Revenue Code of 1986 to require that group health plans and health insurance issuers provide women with adequate access to providers of obstetric and gynecological services.

IN THE SENATE OF THE UNITED STATES

APRIL 20, 1999

Mr. SPECTER (for himself, Mr. GRAHAM, Mr. COCHRAN, and Mr. ROBB) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

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 that group health plans and health insurance issuers provide women with adequate access to providers of obstetric and gynecological services.

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 “Access to Women’s Health Care Act of 1999”.

1 (b) FINDINGS.—Congress makes the following find-
2 ings:

3 (1) Women’s health historically has received lit-
4 tle attention.

5 (2) A provider of obstetric and gynecological
6 care improves a woman’s access to health care by
7 providing primary and preventive health care
8 throughout the woman’s lifetime.

9 (3) Sixty percent of all office visits to providers
10 of obstetric and gynecological care are for preventive
11 care.

12 (4) Providers of obstetrical and gynecological
13 care are uniquely qualified on the basis of education
14 and experience to provide basic women’s health care
15 services.

16 (5) While more than 37 States have acted to
17 promote residents’ access to providers of obstetrical
18 and gynecological care, patients in other States or in
19 Federally-governed health plans are not protected
20 from access restrictions or limitations.

21 **SEC. 2. PATIENT ACCESS TO OBSTETRICAL AND GYNECO-**
22 **LOGICAL CARE.**

23 (a) IN GENERAL.—If a group health plan, or a health
24 insurance issuer in connection with the provision of health
25 insurance coverage, requires or provides for a participant,

1 beneficiary, or enrollee to designate a participating pri-
 2 mary care provider, and an individual who is female has
 3 not designated a provider who specializes in obstetrics and
 4 gynecology as a primary care provider, the plan or
 5 issuer—

6 (1) may not require authorization or a referral
 7 by the individual's primary care provider or other-
 8 wise for coverage of gynecological care (such as pre-
 9 ventive women's health examinations) and preg-
 10 nancy-related services provided by a participating
 11 health care professional who specializes in obstetrics
 12 and gynecology to the extent that such care is other-
 13 wise covered; and

14 (2) may treat the ordering of other gynecolo-
 15 gical and obstetrical care, including referrals for
 16 related care, by such a participating provider as the
 17 authorization of the primary care provider with re-
 18 spect to such care under the plan or coverage.

19 (b) CONSTRUCTION.—Nothing in subsection (a)(2)
 20 shall be construed to waive any requirements of coverage
 21 relating to medical necessity or appropriateness with re-
 22 spect to coverage of the gynecological and obstetrical care
 23 so ordered.

24 (c) PROVIDERS.—A group health plan, or a health
 25 insurance issuer in connection with the provision of health

1 insurance coverage, that provides benefits, in whole or in
 2 part, through participating health care providers shall
 3 have (in relation to the coverage) a sufficient number, dis-
 4 tribution, and variety of qualified participating health care
 5 providers to ensure that all covered health care services,
 6 including specialty services, will be available and accessible
 7 in a timely manner to all participants, beneficiaries, and
 8 enrollees under the plan or coverage.

9 (d) PROHIBITIONS.—A group health plan, and a
 10 health insurance issuer in connection with the provision
 11 of health insurance coverage, may not—

12 (1) deny to an individual eligibility, or contin-
 13 ued eligibility, to enroll or to renew coverage under
 14 the terms of the plan or coverage, for the purpose
 15 of avoiding the requirements of this section;

16 (2) provide monetary payments or rebates to in-
 17 dividuals to encourage such individuals to access less
 18 than the minimum protections available under this
 19 section;

20 (3) penalize or otherwise reduce or limit the re-
 21 imbursement of a provider because such provider
 22 provided care to an individual participant, bene-
 23 ficiary, or enrollee in accordance with this section; or

24 (4) provide incentives (monetary or otherwise)
 25 to a provider to induce such provider to provide care

1 to an individual participant, beneficiary, or enrollee
 2 in a manner inconsistent with this section.

3 (e) LEVEL AND TYPE OF REIMBURSEMENTS.—Noth-
 4 ing in this section shall be construed to prevent a group
 5 health plan or a health insurance issuer in connection with
 6 the provision of health insurance coverage from negoti-
 7 ating the level and type of reimbursement with a provider
 8 for care provided in accordance with this section.

9 (f) CONTINUED APPLICABILITY OF STATE LAW
 10 WITH RESPECT TO HEALTH INSURANCE ISSUERS.—This
 11 section shall not be construed to supersede any provision
 12 of State law which establishes, implements, or continues
 13 in effect any standard or requirement solely relating to
 14 health insurance issuers in connection with group health
 15 insurance coverage except to the extent that such standard
 16 or requirement prevents the application of a requirement
 17 of this section.

18 **SEC. 3. PATIENT ACCESS TO OBSTETRICAL AND GYNECO-**
 19 **LOGICAL CARE UNDER PUBLIC HEALTH**
 20 **SERVICE ACT.**

21 (a) IN GENERAL.—Subpart 2 of part A of title
 22 XXVII of the Public Health Service Act, as amended by
 23 the Omnibus Consolidated and Emergency Supplemental
 24 Appropriations Act, 1999 (Public Law 105–277), is
 25 amended by adding at the end the following new section:

1 **“SEC. 2707. PATIENT ACCESS TO OBSTETRIC AND GYNECO-**
 2 **LOGICAL CARE.**

3 “(a) IN GENERAL.—Each group health plan shall
 4 comply with the patient protection requirements under
 5 section 2 of the Access to Women’s Health Care Act of
 6 1999, and each health insurance issuer shall comply with
 7 patient protection requirements under such section with
 8 respect to group health insurance coverage it offers, and
 9 such requirements shall be deemed to be incorporated into
 10 this subsection.

11 “(b) NOTICE.—A group health plan shall comply with
 12 the notice requirement under section 711(d) of the Em-
 13 ployee Retirement Income Security Act of 1974 with re-
 14 spect to the requirements referred to in subsection (a) and
 15 a health insurance issuer shall comply with such notice
 16 requirement as if such subsection applied to such issuer
 17 and such issuer were a group health plan.”

18 (b) INDIVIDUAL MARKET.—Subpart 3 of part B of
 19 title XXVII of the Public Health Service Act, as amended
 20 by the Omnibus Consolidated and Emergency Supple-
 21 mental Appropriations Act, 1999 (Public Law 105–277),
 22 is amended by adding at the end the following new section:

23 **“SEC. 2753. PATIENT ACCESS TO OBSTETRIC AND GYNECO-**
 24 **LOGICAL CARE.**

25 “(a) IN GENERAL.—Each health insurance issuer
 26 shall comply with patient protection requirements under

1 section 2 of the Access to Women’s Health Care Act of
 2 1999, with respect to individual health insurance coverage
 3 it offers, and such requirements shall be deemed to be in-
 4 corporated into this subsection.

5 “(b) NOTICE.—A health insurance issuer under this
 6 part shall comply with the notice requirement under sec-
 7 tion 711(d) of the Employee Retirement Income Security
 8 Act of 1974 with respect to the requirements referred to
 9 in subsection (a) as if such subsection applied to such
 10 issuer and such issuer were a group health plan.”.

11 **SEC. 4. PATIENT ACCESS TO OBSTETRICAL AND GYNECO-**
 12 **LOGICAL CARE UNDER THE EMPLOYEE RE-**
 13 **TIREMENT INCOME SECURITY ACT OF 1974.**

14 (a) IN GENERAL.—Subpart B of part 7 of subtitle
 15 B of title I of the Employee Retirement Income Security
 16 Act of 1974, as amended by the Omnibus Consolidated
 17 and Emergency Supplemental Appropriations Act, 1999
 18 (Public Law 105–277), is amended by adding at the end
 19 the following:

20 **“SEC. 714. PATIENT ACCESS TO OBSTETRIC AND GYNECO-**
 21 **LOGICAL CARE.**

22 “(a) IN GENERAL.—Subject to subsection (b), a
 23 group health plan (and a health insurance issuer offering
 24 group health insurance coverage in connection with such
 25 a plan) shall comply with the requirements of section 2

1 of the Access to Women’s Health Care Act of 1999 (as
 2 in effect as of the date of enactment of such Act), and
 3 such requirements shall be deemed to be incorporated into
 4 this subsection.

5 “(b) NOTICE.—The imposition of the requirements of
 6 this section shall be treated as material modification in
 7 the terms of the plan described in section 102(a)(1), for
 8 purposes of assuring notice of such requirements under
 9 the plan, except that the summary description required to
 10 be provided under the last sentence of section 104(b)(1)
 11 with respect to such modification shall be provided by not
 12 later than 60 days after the first day of the first plan
 13 year in which such requirements shall apply.”.

14 (b) CONFORMING AMENDMENT.—The table of con-
 15 tents in section 1 of the Employee Retirement Income Se-
 16 curity Act of 1974, as amended by the Omnibus Consoli-
 17 dated and Emergency Supplemental Appropriations Act,
 18 1999 (Public Law 105–277), is amended by inserting
 19 after the item relating to section 713 the following new
 20 item:

“Sec. 714. Patient access to obstetric and gynecological care.”.

1 **SEC. 5. APPLICATION OF PATIENT ACCESS TO OBSTETRIC**
 2 **AND GYNECOLOGICAL CARE TO THE INTER-**
 3 **NAL REVENUE CODE OF 1986.**

4 (a) IN GENERAL.—Subchapter B of chapter 100 of
 5 the Internal Revenue Code of 1986 (relating to other re-
 6 quirements) is amended—

7 (1) in the table of sections, by inserting after
 8 the item relating to section 9812 the following new
 9 item:

“Sec. 9813. Patient access to obstetric and gynecological care”; and

10 (2) by inserting after section 9812 the following
 11 new section:

12 **“SEC. 9813. PATIENT ACCESS TO OBSTETRIC AND GYNECO-**
 13 **LOGICAL CARE.**

14 “A group health plan shall comply with the require-
 15 ments of section 2 of the Access to Women’s Health Care
 16 Act of 1999 (as in effect as of the date of enactment of
 17 such Act), and such requirements shall be deemed to be
 18 incorporated into this section.”

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