

107TH CONGRESS
1ST SESSION

H. R. 1194

To amend the Employee Retirement Income Security Act of 1974, Public Health Service Act, and the Internal Revenue Code of 1986 to provide parity with respect to substance abuse treatment benefits under group health plans and health insurance coverage.

IN THE HOUSE OF REPRESENTATIVES

MARCH 22, 2001

Mr. RAMSTAD (for himself, Mr. CUMMINGS, Mr. FRANK, Mr. HILLIARD, Mr. HINCHEY, Mr. LANTOS, Mr. LUTHER, Mr. McNULTY, Mrs. MINK of Hawaii, Mrs. MORELLA, Mrs. ROUKEMA, Mr. UPTON, and Mr. WOLF) introduced the following bill; which was referred to the Committee on Energy and 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 Employee Retirement Income Security Act of 1974, Public Health Service Act, and the Internal Revenue Code of 1986 to provide parity with respect to substance abuse treatment benefits under group health plans and health insurance coverage.

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 “Harold Hughes-Bill
3 Emerson Substance Abuse Treatment Parity Act of
4 2001”.

5 **SEC. 2. FINDINGS.**

6 Congress finds the following:

7 (1) Substance abuse, if left untreated, is a med-
8 ical emergency.

9 (2) Parity should apply to benefits for treat-
10 ment sought voluntarily, including treatment for
11 substance abuse.

12 (3) Nothing in this Act should be construed as
13 prohibiting application of the concept of parity to
14 substance abuse treatment provided by faith-based
15 treatment providers.

16 **SEC. 3. PARITY IN SUBSTANCE ABUSE TREATMENT BENE-**
17 **FITS.**

18 (a) GROUP HEALTH PLANS.—

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

21 (A) IN GENERAL.—Subpart 2 of part A of
22 title XXVII of the Public Health Service Act is
23 amended by adding at the end the following
24 new section:

1 **“SEC. 2707. PARITY IN THE APPLICATION OF TREATMENT**
2 **LIMITATIONS AND FINANCIAL REQUIRE-**
3 **MENTS TO SUBSTANCE ABUSE TREATMENT**
4 **BENEFITS.**

5 “(a) IN GENERAL.—In the case of a group health
6 plan (or health insurance coverage offered in connection
7 with such a plan) that provides both medical and surgical
8 benefits and substance abuse treatment benefits, the plan
9 or coverage shall not impose treatment limitations or fi-
10 nancial requirements on the substance abuse treatment
11 benefits unless similar limitations or requirements are im-
12 posed for medical and surgical benefits.

13 “(b) CONSTRUCTION.—Nothing in this section shall
14 be construed—

15 “(1) as requiring a group health plan (or health
16 insurance coverage offered in connection with such a
17 plan) to provide any substance abuse treatment ben-
18 efits; or

19 “(2) to prevent a group health plan or a health
20 insurance issuer offering group health insurance cov-
21 erage from negotiating the level and type of reim-
22 bursement with a provider for care provided in ac-
23 cordance with this section.

24 “(c) EXEMPTIONS.—

25 “(1) SMALL EMPLOYER EXEMPTION.—

1 “(A) IN GENERAL.—This section shall not
2 apply to any group health plan (and group
3 health insurance coverage offered in connection
4 with a group health plan) for any plan year of
5 a small employer.

6 “(B) SMALL EMPLOYER.—For purposes of
7 subparagraph (A), the term ‘small employer’
8 means, in connection with a group health plan
9 with respect to a calendar year and a plan year,
10 an employer who employed an average of at
11 least 2 but not more than 50 employees on
12 business days during the preceding calendar
13 year and who employs at least 2 employees on
14 the first day of the plan year.

15 “(C) APPLICATION OF CERTAIN RULES IN
16 DETERMINATION OF EMPLOYER SIZE.—For
17 purposes of this paragraph—

18 “(i) APPLICATION OF AGGREGATION
19 RULE FOR EMPLOYERS.—Rules similar to
20 the rules under subsections (b), (c), (m),
21 and (o) of section 414 of the Internal Rev-
22 enue Code of 1986 shall apply for purposes
23 of treating persons as a single employer.

24 “(ii) EMPLOYERS NOT IN EXISTENCE
25 IN PRECEDING YEAR.—In the case of an

1 employer which was not in existence
2 throughout the preceding calendar year,
3 the determination of whether such em-
4 ployer is a small employer shall be based
5 on the average number of employees that
6 it is reasonably expected such employer
7 will employ on business days in the current
8 calendar year.

9 “(iii) PREDECESSORS.—Any reference
10 in this paragraph to an employer shall in-
11 clude a reference to any predecessor of
12 such employer.

13 “(2) INCREASED COST EXEMPTION.—This sec-
14 tion shall not apply with respect to a group health
15 plan (or health insurance coverage offered in connec-
16 tion with a group health plan) if the application of
17 this section to such plan (or to such coverage) re-
18 sults in an increase in the cost under the plan (or
19 for such coverage) of at least 1 percent.

20 “(d) SEPARATE APPLICATION TO EACH OPTION OF-
21 FERED.—In the case of a group health plan that offers
22 a participant or beneficiary two or more benefit package
23 options under the plan, the requirements of this section
24 shall be applied separately with respect to each such op-
25 tion.

1 “(e) DEFINITIONS.—For purposes of this section—

2 “(1) TREATMENT LIMITATION.—The term
3 ‘treatment limitation’ means, with respect to benefits
4 under a group health plan or health insurance cov-
5 erage, any day or visit limits imposed on coverage of
6 benefits under the plan or coverage during a period
7 of time.

8 “(2) FINANCIAL REQUIREMENT.—The term ‘fi-
9 nancial requirement’ means, with respect to benefits
10 under a group health plan or health insurance cov-
11 erage, any deductible, coinsurance, or cost-sharing
12 or an annual or lifetime dollar limit imposed with re-
13 spect to the benefits under the plan or coverage.

14 “(3) MEDICAL OR SURGICAL BENEFITS.—The
15 term ‘medical or surgical benefits’ means benefits
16 with respect to medical or surgical services, as de-
17 fined under the terms of the plan or coverage (as the
18 case may be), but does not include substance abuse
19 treatment benefits.

20 “(4) SUBSTANCE ABUSE TREATMENT BENE-
21 FITS.—The term ‘substance abuse treatment bene-
22 fits’ means benefits with respect to substance abuse
23 treatment services.

24 “(5) SUBSTANCE ABUSE TREATMENT SERV-
25 ICES.—The term ‘substance abuse services’ means

1 any of the following items and services provided for
2 the treatment of substance abuse:

3 “(A) Inpatient treatment, including detoxi-
4 fication.

5 “(B) Non-hospital residential treatment.

6 “(C) Outpatient treatment, including
7 screening and assessment, medication manage-
8 ment, individual, group, and family counseling,
9 and relapse prevention.

10 “(D) Prevention services, including health
11 education and individual and group counseling
12 to encourage the reduction of risk factors for
13 substance abuse.

14 “(6) SUBSTANCE ABUSE.—The term ‘substance
15 abuse’ includes chemical dependency.

16 “(f) NOTICE.—A group health plan under this part
17 shall comply with the notice requirement under section
18 714(f) of the Employee Retirement Income Security Act
19 of 1974 with respect to the requirements of this section
20 as if such section applied to such plan.

21 “(g) SUNSET.—This section shall not apply to bene-
22 fits for services furnished in plan years beginning on or
23 after January 1, 2007.”.

24 (B) CONFORMING AMENDMENT.—Section
25 2723(c) of such Act (42 U.S.C. 300gg–23(c)) is

1 amended by striking “section 2704” and insert-
 2 ing “sections 2704 and 2707”.

3 (2) ERISA AMENDMENTS.—

4 (A) IN GENERAL.—Subpart B of part 7 of
 5 subtitle B of title I of the Employee Retirement
 6 Income Security Act of 1974 is amended by
 7 adding at the end the following new section:

8 **“SEC. 714. PARITY IN THE APPLICATION OF TREATMENT**
 9 **LIMITATIONS AND FINANCIAL REQUIRE-**
 10 **MENTS TO SUBSTANCE ABUSE TREATMENT**
 11 **BENEFITS.**

12 “(a) IN GENERAL.—In the case of a group health
 13 plan (or health insurance coverage offered in connection
 14 with such a plan) that provides both medical and surgical
 15 benefits and substance abuse treatment benefits, the plan
 16 or coverage shall not impose treatment limitations or fi-
 17 nancial requirements on the substance abuse treatment
 18 benefits unless similar limitations or requirements are im-
 19 posed for medical and surgical benefits.

20 “(b) CONSTRUCTION.—Nothing in this section shall
 21 be construed—

22 “(1) as requiring a group health plan (or health
 23 insurance coverage offered in connection with such a
 24 plan) to provide any substance abuse treatment ben-
 25 efits; or

1 “(2) to prevent a group health plan or a health
2 insurance issuer offering group health insurance cov-
3 erage from negotiating the level and type of reim-
4 bursement with a provider for care provided in ac-
5 cordance with this section.

6 “(c) EXEMPTIONS.—

7 “(1) SMALL EMPLOYER EXEMPTION.—

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 a small employer.

13 “(B) SMALL EMPLOYER.—For purposes of
14 subparagraph (A), the term ‘small employer’
15 means, in connection with a group health plan
16 with respect to a calendar year and a plan year,
17 an employer who employed an average of at
18 least 2 but not more than 50 employees on
19 business days during the preceding calendar
20 year and who employs at least 2 employees on
21 the first day of the plan year.

22 “(C) APPLICATION OF CERTAIN RULES IN
23 DETERMINATION OF EMPLOYER SIZE.—For
24 purposes of this paragraph—

1 “(i) APPLICATION OF AGGREGATION
2 RULE FOR EMPLOYERS.—Rules similar to
3 the rules under subsections (b), (c), (m),
4 and (o) of section 414 of the Internal Rev-
5 enue Code of 1986 shall apply for purposes
6 of treating persons as a single employer.

7 “(ii) EMPLOYERS NOT IN EXISTENCE
8 IN PRECEDING YEAR.—In the case of an
9 employer which was not in existence
10 throughout the preceding calendar year,
11 the determination of whether such em-
12 ployer is a small employer shall be based
13 on the average number of employees that
14 it is reasonably expected such employer
15 will employ on business days in the current
16 calendar year.

17 “(iii) PREDECESSORS.—Any reference
18 in this paragraph to an employer shall in-
19 clude a reference to any predecessor of
20 such employer.

21 “(2) INCREASED COST EXEMPTION.—This sec-
22 tion shall not apply with respect to a group health
23 plan (or health insurance coverage offered in connec-
24 tion with a group health plan) if the application of
25 this section to such plan (or to such coverage) re-

1 sults in an increase in the cost under the plan (or
2 for such coverage) of at least 1 percent.

3 “(d) SEPARATE APPLICATION TO EACH OPTION OF-
4 FERED.—In the case of a group health plan that offers
5 a participant or beneficiary two or more benefit package
6 options under the plan, the requirements of this section
7 shall be applied separately with respect to each such op-
8 tion.

9 “(e) DEFINITIONS.—For purposes of this section—

10 “(1) TREATMENT LIMITATION.—The term
11 ‘treatment limitation’ means, with respect to benefits
12 under a group health plan or health insurance cov-
13 erage, any day or visit limits imposed on coverage of
14 benefits under the plan or coverage during a period
15 of time.

16 “(2) FINANCIAL REQUIREMENT.—The term ‘fi-
17 nancial requirement’ means, with respect to benefits
18 under a group health plan or health insurance cov-
19 erage, any deductible, coinsurance, or cost-sharing
20 or an annual or lifetime dollar limit imposed with re-
21 spect to the benefits under the plan or coverage.

22 “(3) MEDICAL OR SURGICAL BENEFITS.—The
23 term ‘medical or surgical benefits’ means benefits
24 with respect to medical or surgical services, as de-
25 fined under the terms of the plan or coverage (as the

1 case may be), but does not include substance abuse
2 treatment benefits.

3 “(4) SUBSTANCE ABUSE TREATMENT BENE-
4 FITS.—The term ‘substance abuse treatment bene-
5 fits’ means benefits with respect to substance abuse
6 treatment services.

7 “(5) SUBSTANCE ABUSE TREATMENT SERV-
8 ICES.—The term ‘substance abuse services’ means
9 any of the following items and services provided for
10 the treatment of substance abuse:

11 “(A) Inpatient treatment, including detoxi-
12 fication.

13 “(B) Non-hospital residential treatment.

14 “(C) Outpatient treatment, including
15 screening and assessment, medication manage-
16 ment, individual, group, and family counseling,
17 and relapse prevention.

18 “(D) Prevention services, including health
19 education and individual and group counseling
20 to encourage the reduction of risk factors for
21 substance abuse.

22 “(6) SUBSTANCE ABUSE.—The term ‘substance
23 abuse’ includes chemical dependency.

24 “(f) NOTICE UNDER GROUP HEALTH PLAN.—The
25 imposition of the requirements of this section shall be

1 treated as a material modification in the terms of the plan
 2 described in section 102(a)(1), for purposes of assuring
 3 notice of such requirements under the plan; except that
 4 the summary description required to be provided under the
 5 last sentence of section 104(b)(1) with respect to such
 6 modification shall be provided by not later than 60 days
 7 after the first day of the first plan year in which such
 8 requirements apply.

9 “(g) SUNSET.—This section shall not apply to bene-
 10 fits for services furnished in plan years beginning on or
 11 after January 1, 2007.”.

12 (B) Section 731(c) of such Act (29 U.S.C.
 13 1191(c)) is amended by striking “section 711” and
 14 inserting “sections 711 and 714”.

15 (C) Section 732(a) of such Act (29 U.S.C.
 16 1191a(a)) is amended by striking “section 711” and
 17 inserting “sections 711 and 714”.

18 (D) The table of contents in section 1 of such
 19 Act is amended by inserting after the item relating
 20 to section 713 the following new item:

“Sec. 714. Parity in the application of treatment limitations and financial re-
 quirements to substance abuse treatment benefits.”.

21 (3) INTERNAL REVENUE CODE AMEND-
 22 MENTS.—(A) Subchapter B of chapter 100 of the
 23 Internal Revenue Code of 1986 (relating to other re-

1 quirements) is amended by adding at the end the
2 following new section:

3 **“SEC. 9813. PARITY IN THE APPLICATION OF TREATMENT**
4 **LIMITATIONS AND FINANCIAL REQUIRE-**
5 **MENTS TO SUBSTANCE ABUSE TREATMENT**
6 **BENEFITS.**

7 “(a) IN GENERAL.—In the case of a group health
8 plan that provides both medical and surgical benefits and
9 substance abuse treatment benefits, the plan shall not im-
10 pose treatment limitations or financial requirements on
11 the substance abuse treatment benefits unless similar limi-
12 tations or requirements are imposed for medical and sur-
13 gical benefits.

14 “(b) CONSTRUCTION.—Nothing in this section shall
15 be construed—

16 “(1) as requiring a group health plan to provide
17 any substance abuse treatment benefits; or

18 “(2) to prevent a group health plan from nego-
19 tiating the level and type of reimbursement with a
20 provider for care provided in accordance with this
21 section.

22 “(c) EXEMPTIONS.—

23 “(1) SMALL EMPLOYER EXEMPTION.—

1 “(A) IN GENERAL.—This section shall not
2 apply to any group health plan for any plan
3 year of a small employer.

4 “(B) SMALL EMPLOYER.—For purposes of
5 subparagraph (A), the term ‘small employer’
6 means, in connection with a group health plan
7 with respect to a calendar year and a plan year,
8 an employer who employed an average of at
9 least 2 but not more than 50 employees on
10 business days during the preceding calendar
11 year and who employs at least 2 employees on
12 the first day of the plan year.

13 “(C) APPLICATION OF CERTAIN RULES IN
14 DETERMINATION OF EMPLOYER SIZE.—For
15 purposes of this paragraph—

16 “(i) APPLICATION OF AGGREGATION
17 RULE FOR EMPLOYERS.—Rules similar to
18 the rules under subsections (b), (c), (m),
19 and (o) of section 414 shall apply for pur-
20 poses of treating persons as a single em-
21 ployer.

22 “(ii) EMPLOYERS NOT IN EXISTENCE
23 IN PRECEDING YEAR.—In the case of an
24 employer which was not in existence
25 throughout the preceding calendar year,

1 the determination of whether such em-
2 ployer is a small employer shall be based
3 on the average number of employees that
4 it is reasonably expected such employer
5 will employ on business days in the current
6 calendar year.

7 “(iii) PREDECESSORS.—Any reference
8 in this paragraph to an employer shall in-
9 clude a reference to any predecessor of
10 such employer.

11 “(2) INCREASED COST EXEMPTION.—This sec-
12 tion shall not apply with respect to a group health
13 plan if the application of this section to such plan
14 results in an increase in the cost under the plan of
15 at least 1 percent.

16 “(d) SEPARATE APPLICATION TO EACH OPTION OF-
17 FERED.—In the case of a group health plan that offers
18 a participant or beneficiary two or more benefit package
19 options under the plan, the requirements of this section
20 shall be applied separately with respect to each such op-
21 tion.

22 “(e) DEFINITIONS.—For purposes of this section—

23 “(1) TREATMENT LIMITATION.—The term
24 ‘treatment limitation’ means, with respect to benefits
25 under a group health plan, any day or visit limits

1 imposed on coverage of benefits under the plan dur-
2 ing a period of time.

3 “(2) FINANCIAL REQUIREMENT.—The term ‘fi-
4 nancial requirement’ means, with respect to benefits
5 under a group health plan, any deductible, coinsur-
6 ance, or cost-sharing or an annual or lifetime dollar
7 limit imposed with respect to the benefits under the
8 plan.

9 “(3) MEDICAL OR SURGICAL BENEFITS.—The
10 term ‘medical or surgical benefits’ means benefits
11 with respect to medical or surgical services, as de-
12 fined under the terms of the plan, but does not in-
13 clude substance abuse treatment benefits.

14 “(4) SUBSTANCE ABUSE TREATMENT BENE-
15 FITS.—The term ‘substance abuse treatment bene-
16 fits’ means benefits with respect to substance abuse
17 treatment services.

18 “(5) SUBSTANCE ABUSE TREATMENT SERV-
19 ICES.—The term ‘substance abuse services’ means
20 any of the following items and services provided for
21 the treatment of substance abuse:

22 “(A) Inpatient treatment, including detoxi-
23 fication.

24 “(B) Non-hospital residential treatment.

1 “(C) Outpatient treatment, including
 2 screening and assessment, medication manage-
 3 ment, individual, group, and family counseling,
 4 and relapse prevention.

5 “(D) Prevention services, including health
 6 education and individual and group counseling
 7 to encourage the reduction of risk factors for
 8 substance abuse.

9 “(6) SUBSTANCE ABUSE.—The term ‘substance
 10 abuse’ includes chemical dependency.

11 “(f) SUNSET.—This section shall not apply to bene-
 12 fits for services furnished in plan years beginning on or
 13 after January 1, 2007.”

14 (B) Section 4980D(d)(1) of such Code is
 15 amended by inserting “(other than a failure at-
 16 tributable to section 9813)” after “on any fail-
 17 ure”.

18 (C) The table of sections of subchapter B
 19 of chapter 100 of such Code is amended by
 20 adding at the end the following new item:

 “Sec. 9813. Parity in the application of treatment limitations
 and financial requirements to substance abuse
 treatment benefits.”

21 (b) INDIVIDUAL HEALTH INSURANCE.—(1) Part B
 22 of title XXVII of the Public Health Service Act is amend-
 23 ed by inserting after section 2752 the following new sec-
 24 tion:

1 **“SEC. 2753. PARITY IN THE APPLICATION OF TREATMENT**
2 **LIMITATIONS AND FINANCIAL REQUIRE-**
3 **MENTS TO SUBSTANCE ABUSE BENEFITS.**

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

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

17 “(c) SUNSET.—This section shall not apply to bene-
18 fits for services furnished on or after January 1, 2007.”.

19 (2) Section 2762(b)(2) of such Act (42 U.S.C.
20 300gg–62(b)(2)) is amended by striking “section 2751”
21 and inserting “sections 2751 and 2753”.

22 (c) EFFECTIVE DATES.—(1) Subject to paragraph
23 (3), the amendments made by subsection (a) apply with
24 respect to group health plans for plan years beginning on
25 or after January 1, 2002.

1 (2) The amendments made by subsection (b) apply
2 with respect to health insurance coverage offered, sold,
3 issued, renewed, in effect, or operated in the individual
4 market on or after January 1, 2002.

5 (3) In the case of a group health plan maintained
6 pursuant to 1 or more collective bargaining agreements
7 between employee representatives and 1 or more employ-
8 ers ratified before the date of enactment of this Act, the
9 amendments made subsection (a) shall not apply to plan
10 years beginning before the later of—

11 (A) the date on which the last collective bar-
12 gaining agreements relating to the plan terminates
13 (determined without regard to any extension thereof
14 agreed to after the date of enactment of this Act),
15 or

16 (B) January 1, 2002.

17 For purposes of subparagraph (A), any plan amendment
18 made pursuant to a collective bargaining agreement relat-
19 ing to the plan which amends the plan solely to conform
20 to any requirement added by subsection (a) shall not be
21 treated as a termination of such collective bargaining
22 agreement.

23 (d) COORDINATED REGULATIONS.—Section 104(1)
24 of Health Insurance Portability and Accountability Act of
25 1996 is amended by striking “this subtitle (and the

1 amendments made by this subtitle and section 401)” and
2 inserting “the provisions of part 7 of subtitle B of title
3 I of the Employee Retirement Income Security Act of
4 1974, and the provisions of parts A and C of title XXVII
5 of the Public Health Service Act, and chapter 1000 of the
6 Internal Revenue Code of 1986”.

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