

107TH CONGRESS  
1ST SESSION

# H. R. 792

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 and individual health insurance coverage and group health plans provide coverage for treatment of a minor child's congenital or developmental deformity or disorder due to trauma, infection, tumor, or disease.

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## IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 28, 2001

Mrs. KELLY (for herself, Mr. GANSKE, Mr. MOORE, Mrs. MALONEY of New York, Mr. BACHUS, Mr. HILLIARD, Mr. FROST, Mr. BOUCHER, Mr. KING, Mr. BALDACCI, Mr. McNULTY, Mr. PRICE of North Carolina, Mr. DOYLE, Mr. COOKSEY, Mr. LUTHER, Mr. WHITFIELD, Mr. FRANK, Mr. ENGLISH, Mr. STRICKLAND, Mr. PALLONE, Mr. MATSUI, Ms. ROYBAL-ALLARD, Mrs. MORELLA, Mr. FOLEY, Mr. COYNE, Ms. DUNN, Mr. ACKERMAN, Mr. OXLEY, Mr. GILMAN, Ms. BERKLEY, Mr. WOLF, Mr. WALSH, Mr. HINCHEY, Mr. MCINTYRE, Mr. PAYNE, Mr. FATTAH, Mrs. CHRISTENSEN, Mr. BONIOR, Mr. WEINER, Mr. OWENS, Mrs. THURMAN, Mrs. ROUKEMA, Mr. VISCLOSKEY, Mr. KILDEE, Mr. LEACH, Mr. KUCINICH, Mr. CLEMENT, and Mr. MCGOVERN) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committees on Ways and Means, and Education and the Workforce, 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

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## 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 and individual health insurance coverage and group health plans

provide coverage for treatment of a minor child’s congenital or developmental deformity or disorder due to trauma, infection, tumor, or disease.

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 “Treatment of Chil-  
 5       dren’s Deformities Act of 2001”.

6       **SEC. 2. COVERAGE OF MINOR CHILD’S CONGENITAL OR DE-**  
 7       **VELOPMENTAL DEFORMITY OR DISORDER.**

8       (a) GROUP HEALTH PLANS.—

9               (1) PUBLIC HEALTH SERVICE ACT AMEND-  
 10       MENTS.—(A) Subpart 2 of part A of title XXVII of  
 11       the Public Health Service Act is amended by adding  
 12       at the end the following new section:

13       **“SEC. 2707. STANDARDS RELATING TO BENEFITS FOR**  
 14               **MINOR CHILD’S CONGENITAL OR DEVELOP-**  
 15               **MENTAL DEFORMITY OR DISORDER.**

16       “(a) REQUIREMENTS FOR RECONSTRUCTIVE SUR-  
 17       GERY.—

18               “(1) IN GENERAL.—A group health plan, and a  
 19       health insurance issuer offering group health insur-  
 20       ance coverage, that provides coverage for surgical  
 21       benefits shall provide coverage for outpatient and in-  
 22       patient diagnosis and treatment of a minor child’s  
 23       congenital or developmental deformity, disease, or

1 injury. A minor child shall include any individual  
2 through 21 years of age.

3 “(2) REQUIREMENTS.—Any coverage provided  
4 under paragraph (1) shall be subject to pre-author-  
5 ization or pre-certification as required by the plan or  
6 issuer, and such coverage shall include any surgical  
7 treatment which, in the opinion of the treating phy-  
8 sician, is medically necessary to approximate a nor-  
9 mal appearance.

10 “(3) TREATMENT DEFINED.—

11 “(A) IN GENERAL.—In this section, the  
12 term ‘treatment’ includes reconstructive sur-  
13 gical procedures (procedures that are generally  
14 performed to improve function, but may also be  
15 performed to approximate a normal appear-  
16 ance) that are performed on abnormal struc-  
17 tures of the body caused by congenital defects,  
18 developmental abnormalities, trauma, infection,  
19 tumors, or disease, including—

20 “(i) procedures that do not materially  
21 affect the function of the body part being  
22 treated; and

23 “(ii) procedures for secondary condi-  
24 tions and follow-up treatment.

1           “(B) EXCEPTION.—Such term does not in-  
 2           clude cosmetic surgery performed to reshape  
 3           normal structures of the body to improve ap-  
 4           pearance or self-esteem.

5           “(b) NOTICE.—A group health plan under this part  
 6           shall comply with the notice requirement under section  
 7           714(b) of the Employee Retirement Income Security Act  
 8           of 1974 with respect to the requirements of this section  
 9           as if such section applied to such plan.”.

10           (B) Section 2723(c) of such Act (42 U.S.C.  
 11           300gg-23(c)) is amended by striking “section 2704”  
 12           and inserting “sections 2704 and 2707”.

13           (2) ERISA AMENDMENTS.—(A) Subpart B of  
 14           part 7 of subtitle B of title I of the Employee Re-  
 15           tirement Income Security Act of 1974 is amended by  
 16           adding at the end the following new section:

17           **“SEC. 714. STANDARDS RELATING TO BENEFITS FOR MINOR**  
 18                           **CHILD’S CONGENITAL OR DEVELOPMENTAL**  
 19                           **DEFORMITY OR DISORDER.**

20           “(a) REQUIREMENTS FOR RECONSTRUCTIVE SUR-  
 21           GERY.—

22           “(1) IN GENERAL.—A group health plan, and a  
 23           health insurance issuer offering group health insur-  
 24           ance coverage, that provides coverage for surgical  
 25           benefits shall provide coverage for outpatient and in-

1 patient diagnosis and treatment of a minor child's  
2 congenital or developmental deformity, disease, or  
3 injury. A minor child shall include any individual  
4 through 21 years of age.

5 “(2) REQUIREMENTS.—Any coverage provided  
6 under paragraph (1) shall be subject to pre-author-  
7 ization or pre-certification as required by the plan or  
8 issuer, and such coverage shall include any surgical  
9 treatment which, in the opinion of the treating phy-  
10 sician, is medically necessary to approximate a nor-  
11 mal appearance.

12 “(3) TREATMENT DEFINED.—

13 “(A) IN GENERAL.—In this section, the  
14 term ‘treatment’ includes reconstructive sur-  
15 gical procedures (procedures that are generally  
16 performed to improve function, but may also be  
17 performed to approximate a normal appear-  
18 ance) that are performed on abnormal struc-  
19 tures of the body caused by congenital defects,  
20 developmental abnormalities, trauma, infection,  
21 tumors, or disease, including—

22 “(i) procedures that do not materially  
23 affect the function of the body part being  
24 treated; and

1 “(ii) procedures for secondary condi-  
2 tions and follow-up treatment.

3 “(B) EXCEPTION.—Such term does not in-  
4 clude cosmetic surgery performed to reshape  
5 normal structures of the body to improve ap-  
6 pearance or self-esteem.

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

17 (B) Section 731(c) of such Act (29 U.S.C.  
18 1191(c)) is amended by striking “section 711” and  
19 inserting “sections 711 and 714”.

20 (C) Section 732(a) of such Act (29 U.S.C.  
21 1191a(a)) is amended by striking “section 711” and  
22 inserting “sections 711 and 714”.

23 (D) The table of contents in section 1 of such  
24 Act is amended by inserting after the item relating  
25 to section 712 the following new item:

“Sec. 714. Standards relating to benefits for minor child’s congenital or developmental deformity or disorder.”.

1           (3) INTERNAL REVENUE CODE AMEND-  
2           MENTS.—Subchapter B of chapter 100 of the Inter-  
3           nal Revenue Code of 1986 is amended—

4           (A) in the table of sections, by inserting after  
5           the item relating to section 9812 the following new  
6           item:

                  “Sec. 9813. Standards relating to benefits for minor child’s con-  
  genital or developmental deformity or disorder.”;  
  and

7           (B) by inserting after section 9812 the fol-  
8           lowing:

9   **“SEC. 9813. STANDARDS RELATING TO BENEFITS FOR**  
10                   **MINOR CHILD’S CONGENITAL OR DEVELOP-**  
11                   **MENTAL DEFORMITY OR DISORDER.**

12       “(a) REQUIREMENTS FOR RECONSTRUCTIVE SUR-  
13       GERY.—

14           “(1) IN GENERAL.—A group health plan, and a  
15       health insurance issuer offering group health insur-  
16       ance coverage, that provides coverage for surgical  
17       benefits shall provide coverage for outpatient and in-  
18       patient diagnosis and treatment of a minor child’s  
19       congenital or developmental deformity, disease, or  
20       injury. A minor child shall include any individual  
21       through 21 years of age.

1           “(2) REQUIREMENTS.—Any coverage provided  
2           under paragraph (1) shall be subject to pre-author-  
3           ization or pre-certification as required by the plan or  
4           issuer, and such coverage shall include any surgical  
5           treatment which, in the opinion of the treating phy-  
6           sician, is medically necessary to approximate a nor-  
7           mal appearance.

8           “(3) TREATMENT DEFINED.—

9           “(A) IN GENERAL.—In this section, the  
10          term ‘treatment’ includes reconstructive sur-  
11          gical procedures (procedures that are generally  
12          performed to improve function, but may also be  
13          performed to approximate a normal appear-  
14          ance) that are performed on abnormal struc-  
15          tures of the body caused by congenital defects,  
16          developmental abnormalities, trauma, infection,  
17          tumors, or disease, including—

18               “(i) procedures that do not materially  
19               affect the function of the body part being  
20               treated; and

21               “(ii) procedures for secondary condi-  
22               tions and follow-up treatment.

23           “(B) EXCEPTION.—Such term does not in-  
24          clude cosmetic surgery performed to reshape



1 normal structures of the body to improve ap-  
 2 pearance or self-esteem.”.

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

7 **“SEC. 2753. STANDARDS RELATING TO BENEFITS FOR**  
 8 **MINOR CHILD’S CONGENITAL OR DEVELOP-**  
 9 **MENTAL DEFORMITY OR DISORDER.**

10 **“(a) REQUIREMENTS FOR RECONSTRUCTIVE SUR-**  
 11 **GERY.—**

12 **“(1) IN GENERAL.—**A group health plan, and a  
 13 health insurance issuer offering group health insur-  
 14 ance coverage, that provides coverage for surgical  
 15 benefits shall provide coverage for outpatient and in-  
 16 patient diagnosis and treatment of a minor child’s  
 17 congenital or developmental deformity, disease, or  
 18 injury. A minor child shall include any individual  
 19 through 21 years of age.

20 **“(2) REQUIREMENTS.—**Any coverage provided  
 21 under paragraph (1) shall be subject to pre-author-  
 22 ization or pre-certification as required by the plan or  
 23 issuer, and such coverage shall include any surgical  
 24 treatment which, in the opinion of the treating phy-

1       sician, is medically necessary to approximate a nor-  
2       mal appearance.

3               “(3) TREATMENT DEFINED.—

4               “(A) IN GENERAL.—In this section, the  
5       term ‘treatment’ includes reconstructive sur-  
6       gical procedures (procedures that are generally  
7       performed to improve function, but may also be  
8       performed to approximate a normal appear-  
9       ance) that are performed on abnormal struc-  
10      tures of the body caused by congenital defects,  
11      developmental abnormalities, trauma, infection,  
12      tumors, or disease, including—

13              “(i) procedures that do not materially  
14              affect the function of the body part being  
15              treated; and

16              “(ii) procedures for secondary condi-  
17              tions and follow-up treatment.

18              “(B) EXCEPTION.—Such term does not in-  
19      clude cosmetic surgery performed to reshape  
20      normal structures of the body to improve ap-  
21      pearance or self-esteem.

22              “(b) NOTICE.—A health insurance issuer under this  
23      part shall comply with the notice requirement under sec-  
24      tion 714(b) of the Employee Retirement Income Security  
25      Act of 1974 with respect to the requirements referred to

1 in subsection (a) as if such section applied to such issuer  
2 and such issuer were a group health plan.”.

3 (2) Section 2762(b)(2) of such Act (42 U.S.C.  
4 300gg-62(b)(2)) is amended by striking “section 2751”  
5 and inserting “sections 2751 and 2753”.

6 (c) EFFECTIVE DATES.—(1) The amendments made  
7 by subsection (a) shall apply with respect to group health  
8 plans for plan years beginning on or after January 1,  
9 2002.

10 (2) The amendment made by subsection (b) shall  
11 apply with respect to health insurance coverage offered,  
12 sold, issued, renewed, in effect, or operated in the indi-  
13 vidual market on or after such date.

14 (d) COORDINATED REGULATIONS.—Section 104(1)  
15 of Health Insurance Portability and Accountability Act of  
16 1996 is amended by striking “this subtitle (and the  
17 amendments made by this subtitle and section 401)” and  
18 inserting “the provisions of part 7 of subtitle B of title  
19 I of the Employee Retirement Income Security Act of  
20 1974, the provisions of parts A and C of title XXVII of  
21 the Public Health Service Act, and chapter 100 of the In-  
22 ternal Revenue Code of 1986”.

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