

107TH CONGRESS
1ST SESSION

H. R. 887

To amend the Internal Revenue Code of 1986 to require group health plans to provide coverage for reconstructive surgery following mastectomy, consistent with the Women's Health and Cancer Rights Act of 1998.

IN THE HOUSE OF REPRESENTATIVES

MARCH 6, 2001

Mrs. KELLY (for herself, Mr. OBERSTAR, Mrs. MALONEY of New York, Mr. BASS, Mr. BENTSEN, Mr. HILLIARD, Mr. FROST, Mr. BALDACCI, Mr. McNULTY, Mr. DOYLE, Mr. COOKSEY, Mr. MOAKLEY, Ms. NORTON, Mr. UDALL of New Mexico, Mr. BRADY of Pennsylvania, Mr. WHITFIELD, Mr. ENGLISH, Ms. MCCARTHY of Missouri, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. ACKERMAN, Ms. DELAURO, Mr. GILMAN, Ms. BERKLEY, Mr. KLECZKA, Mr. LANTOS, Mr. WALSH, Mr. MCINTYRE, Mr. PAYNE, Mr. BONIOR, Mr. EVANS, Mr. CUMMINGS, Mr. CAPUANO, Ms. MCCOLLUM, Mr. WEINER, Mr. BARRETT, Mrs. THURMAN, Mr. KUCINICH, Mrs. MORELLA, Mr. MCGOVERN, Ms. SLAUGHTER, Ms. CARSON of Indiana, Mr. BACA, and Mr. NADLER) introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to require group health plans to provide coverage for reconstructive surgery following mastectomy, consistent with the Women's Health and Cancer Rights Act of 1998.

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 “Women’s Health and
3 Cancer Rights Conforming Amendments of 2001”.

4 **SEC. 2. CONFORMING THE INTERNAL REVENUE CODE OF**
5 **1986 TO REQUIREMENTS IMPOSED BY THE**
6 **WOMEN’S HEALTH AND CANCER RIGHTS ACT**
7 **OF 1998.**

8 (a) IN GENERAL.—Subchapter B of chapter 100 of
9 the Internal Revenue Code of 1986 (relating to other re-
10 quirements) is amended by inserting after section 9812
11 the following new section:

12 **“SEC. 9813. REQUIRED COVERAGE FOR RECONSTRUCTIVE**
13 **SURGERY FOLLOWING MASTECTOMIES.**

14 “(a) IN GENERAL.—A group health plan that pro-
15 vides medical and surgical benefits with respect to a mas-
16 tectomy shall provide, in a case of a participant or bene-
17 ficiary who is receiving benefits in connection with a mas-
18 tectomy and who elects breast reconstruction in connection
19 with such mastectomy, coverage for—

20 “(1) all stages of reconstruction of the breast
21 on which the mastectomy has been performed,

22 “(2) surgery and reconstruction of the other
23 breast to produce a symmetrical appearance, and

24 “(3) prostheses and physical complications of
25 mastectomy, including lymphedemas,

1 in a manner determined in consultation with the attending
2 physician and the patient. Such coverage may be subject
3 to annual deductibles and coinsurance provisions as may
4 be deemed appropriate and as are consistent with those
5 established for other benefits under the plan. Written no-
6 tice of the availability of such coverage shall be delivered
7 to the participant upon enrollment and annually there-
8 after.

9 “(b) PROHIBITIONS.—A group health plan may not—

10 “(1) deny to a patient eligibility, or continued
11 eligibility, to enroll or to renew coverage under the
12 terms of the plan, solely for the purpose of avoiding
13 the requirements of this section, and

14 “(2) penalize or otherwise reduce or limit the
15 reimbursement of an attending provider, or provide
16 incentives (monetary or otherwise) to an attending
17 provider, to induce such provider to provide care to
18 an individual participant or beneficiary in a manner
19 inconsistent with this section.

20 “(c) RULE OF CONSTRUCTION.—Nothing in this sec-
21 tion shall be construed to prevent a group health plan
22 from negotiating the level and type of reimbursement with
23 a provider for care provided in accordance with this sec-
24 tion.”

1 (b) CLERICAL AMENDMENT.—The table of sections
2 for chapter 100 of such Code is amended inserting after
3 the item relating to section 9812 the following new item:

“Sec. 9813. Required coverage for reconstructive surgery fol-
lowing mastectomies.”

4 (c) EFFECTIVE DATE.—

5 (1) IN GENERAL.—The amendments made by
6 this section shall apply with respect to plan years be-
7 ginning on or after the date of enactment of this
8 Act.

9 (2) SPECIAL RULE FOR COLLECTIVE BAR-
10 GAINING AGREEMENTS.—In the case of a group
11 health plan maintained pursuant to 1 or more collec-
12 tive bargaining agreements between employee rep-
13 resentatives and 1 or more employers, any plan
14 amendment made pursuant to a collective bargaining
15 agreement relating to the plan which amends the
16 plan solely to conform to any requirement added by
17 this section shall not be treated as a termination of
18 such collective bargaining agreement.

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