

107TH CONGRESS
2D SESSION

S. 2393

To amend the Public Health Service Act to provide protections for individuals who need mental health services, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 29, 2002

Mr. DURBIN (for himself, Mr. KENNEDY, Mr. WELLSTONE, and Mr. CORZINE) 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 to provide protections for individuals who need mental health services, and for other purposes.

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 Pa-
5 tients’ Rights Act”.

1 **SEC. 2. AMENDMENTS TO THE PUBLIC HEALTH SERVICE**
 2 **ACT.**

3 Subpart 1 of part B of the Public Health Service Act
 4 (42 U.S.C. 300gg–41 et seq.) is amended by adding at
 5 the end the following:

6 **“SEC. 2745. LIMITATION ON PREEXISTING CONDITION EX-**
 7 **CLUSION PERIOD AND PREMIUMS WITH RE-**
 8 **SPECT TO MENTAL HEALTH.**

9 “(a) LIMITATION ON PREEXISTING CONDITION EX-
 10 CLUSION PERIOD.—

11 “(1) IN GENERAL.—Notwithstanding any other
 12 provision of law, a health insurance issuer that of-
 13 fers health insurance coverage in the individual mar-
 14 ket in a State may, with respect to an individual or
 15 dependent of such individual, impose a preexisting
 16 condition exclusion relating to a preexisting mental
 17 health condition only if—

18 “(A) such exclusion relates to a mental
 19 health condition, regardless of the cause of the
 20 condition, for which medical advice, diagnosis,
 21 care, or treatment was recommended or re-
 22 ceived within the 6-month period ending on the
 23 enrollment date;

24 “(B) such exclusion extends for a period of
 25 not more than 12 months after the enrollment
 26 date; and

“(C) the period of any such preexisting condition exclusion is reduced by the aggregate of the periods of creditable coverage (if any, as defined in paragraph (3)(A)) applicable to the individual or dependent of such individual as of the enrollment date.

“(2) DEFINITIONS.—In this section:

“(A) PREEXISTING MENTAL HEALTH CONDITION.—The term ‘preexisting mental health condition’ means, with respect to coverage, a mental health condition, including all categories of mental health conditions listed in the Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition (DSM IV–TR), or the most recent edition if different than the Fourth Edition, that was present before the date of enrollment of such coverage, whether or not any medical advice, diagnosis, care, or treatment was recommended or received before such date.

“(B) OTHER TERMS.—The terms ‘preexisting condition exclusion’, ‘enrollment date’, and ‘late enrollee’ shall have the meanings given such terms in section 2701 as relating to individual health insurance coverage.

1 “(3) CREDITING PREVIOUS COVERAGE.—For
 2 purposes of subsection (a), the term ‘creditable cov-
 3 erage’ has the meaning given such term in section
 4 2701(c) and includes coverage of the individual
 5 under any of the following:

6 “(A) A college-sponsored health plan, or a
 7 plan under which health benefits are offered by
 8 or through an institution of higher education
 9 (as defined in section 481(a) of the Higher
 10 Education Act of 1965 (20 U.S.C. 1088(a)) in
 11 relation to students at the institution (not in-
 12 cluding benefits offered to such a student as a
 13 participant or beneficiary in a group health
 14 plan).

15 “(B) Title XXI of the Social Security Act.

16 “(C) A State or local employee health plan.

17 “(b) PROHIBITION ON INCREASED PREMIUMS BASED
 18 ON PREEXISTING MENTAL HEALTH CONDITION.—A
 19 health insurance issuer that offers health insurance cov-
 20 erage in the individual market in a State may not, with
 21 respect to an individual or dependent of such individual,
 22 require any individual (as a condition of enrollment or con-
 23 tinued enrollment) with a preexisting mental health condi-
 24 tion to pay a premium or contribution which is greater
 25 than a premium or contribution for an individual without

1 a preexisting mental health condition based solely on the
2 determination that such individual has a preexisting men-
3 tal health condition, as such term is defined in subsection
4 (a)(2)(A).

5 “(c) NONAPPLICABILITY OF ACCEPTABLE ALTER-
6 NATIVE MECHANISMS.—The provisions of section
7 2741(a)(2) shall not apply to a health insurance issuer
8 that offers health insurance coverage in the individual
9 market in a State, but only with respect to an individual,
10 or dependent of such individual, with a preexisting mental
11 health condition desiring to enroll in such individual health
12 insurance coverage.”.

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