

108TH CONGRESS
1ST SESSION

H. R. 1852

To assure equitable treatment of fertility and impotence in health care coverage under group health plans, health insurance coverage, and health plans under the Federal employees' health benefits program.

IN THE HOUSE OF REPRESENTATIVES

APRIL 29, 2003

Mr. ANDREWS 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 Government Reform, 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 assure equitable treatment of fertility and impotence in health care coverage under group health plans, health insurance coverage, and health plans under the Federal employees' health benefits program.

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 "Equity in Fertility
5 Coverage Act of 2003".

1 **SEC. 2. EQUITY IN PROVISION OF PRESCRIPTION DRUG**
2 **COVERAGE.**

3 (a) GROUP HEALTH PLANS.—

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

8 **“SEC. 2707. EQUITY IN FERTILITY COVERAGE.**

9 “(a) IN GENERAL.—A group health plan, and a
10 health insurance issuer offering group health insurance
11 coverage, that provides for coverage of impotency medica-
12 tions such as viagra shall also provide coverage of fertility
13 treatments.

14 “(b) CONSTRUCTION.—Nothing in this section shall
15 be construed as preventing a plan or issuer from—

16 “(1) restricting the drugs for which benefits are
17 provided under the plan or health insurance cov-
18 erage, or

19 “(2) imposing a limitation on the amount of
20 benefits provided with respect to such coverage or
21 the cost-sharing that may be imposed with respect to
22 such coverage,

23 so long as such restrictions and limitations are consistent
24 with subsection (a).

25 “(c) NOTICE.—A group health plan under this part
26 shall comply with the notice requirement under section

1 714(c) of the Employee Retirement Income Security Act
2 of 1974 with respect to the requirements of this section
3 as if such section applied to such plan.”.

4 (B) Section 2723(c) of such Act (42 U.S.C.
5 300gg-23(c)) is amended by striking “section 2704”
6 and inserting “sections 2704 and 2707”.

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

11 **“SEC. 714. EQUITY IN FERTILITY COVERAGE.**

12 “(a) IN GENERAL.—A group health plan, and a
13 health insurance issuer offering group health insurance
14 coverage, that provides for coverage of impotency medica-
15 tions such as viagra shall also provide coverage of fertility
16 treatments.

17 “(b) CONSTRUCTION.—Nothing in this section shall
18 be construed as preventing a plan or issuer from—

19 “(1) restricting the drugs for which benefits are
20 provided under the plan or health insurance cov-
21 erage, or

22 “(2) imposing a limitation on the amount of
23 benefits provided with respect to such coverage or
24 the cost-sharing that may be imposed with respect to
25 such coverage,

1 so long as such restrictions and limitations are consistent
2 with subsection (a).

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

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

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

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

“Sec. 714. Equity in fertility coverage.”.

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

1 **“SEC. 2753. EQUITY IN FERTILITY COVERAGE.**

2 “(a) IN GENERAL.—The provisions of section 2707
3 (other than subsection (c)) shall apply to health insurance
4 coverage offered by a health insurance issuer in the indi-
5 vidual market in the same manner as it applies to health
6 insurance coverage offered by a health insurance issuer
7 in connection with a group health plan in the small or
8 large group market.

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

15 (2) Section 2762(b)(2) of such Act (42 U.S.C.
16 300gg–62(b)(2)) is amended by striking “section 2751”
17 and inserting “sections 2751 and 2753”.

18 (c) FEHBP.—Section 8902 of title 5, United States
19 Code, is amended by adding at the end the following the
20 following new subsection:

21 “(p) A contract may not be made or a plan approved
22 which does not comply with the requirements of section
23 2753 of the Public Health Service Act.”.

24 (d) EFFECTIVE DATES.—(1) The amendments made
25 by subsection (a) shall apply with respect to group health

1 plans for plan years beginning on or after January 1,
2 2004.

3 (2) The amendments made by subsection (b) shall
4 apply with respect to health insurance coverage offered,
5 sold, issued, renewed, in effect, or operated in the indi-
6 vidual market on or after January 1, 2004.

7 (3) The amendment made by subsection (c) shall
8 apply with respect to contracts for periods beginning on
9 and after January 1, 2004.

10 (e) COORDINATED REGULATIONS.—Section 104(1) of
11 Health Insurance Portability and Accountability Act of
12 1996 is amended by striking “this subtitle (and the
13 amendments made by this subtitle and section 401)” and
14 inserting “the provisions of part 7 of subtitle B of title
15 I of the Employee Retirement Income Security Act of
16 1974, and the provisions of parts A and C of title XXVII
17 of the Public Health Service Act”.

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