

108TH CONGRESS
1ST SESSION

H. R. 2321

To promote and facilitate expansion of coverage under group health plans,
and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 4, 2003

Mr. ANDREWS (for himself and Mr. PAYNE) introduced the following bill;
which was referred to the Committee on Education and the Workforce,
and in addition to the Committee on Ways and Means, for a period to
be subsequently determined by the Speaker, in each case for consider-
ation of such provisions as fall within the jurisdiction of the committee
concerned

A BILL

To promote and facilitate expansion of coverage under group
health plans, 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 “Group Health Plan
5 Coverage Expansion Act of 2003”.

1 **SEC. 2. PROGRAM TO PROMOTE AND FACILITATE EXPAN-**
2 **SION OF COVERAGE UNDER GROUP HEALTH**
3 **PLANS.**

4 (a) IN GENERAL.—Part 5 of subtitle B of title I of
5 the Employee Retirement Income Security Act of 1974 is
6 amended by adding after section 518 (29 U.S.C. 1148)
7 the following new section:

8 **“SEC. 519. PROMOTION AND FACILITATION OF COVERAGE**
9 **UNDER GROUP HEALTH PLANS.**

10 “(a) IN GENERAL.—The Secretary shall establish by
11 regulation a program—

12 “(1) to promote and facilitate the availability to
13 individuals of financial assistance provided by the
14 Federal Government and by States and political sub-
15 divisions thereof for the purpose of assisting such in-
16 dividuals with the payment of employee contribu-
17 tions to group health plans, and

18 “(2) to promote and facilitate the establishment
19 of alternative group purchasing or pooling arrange-
20 ments, such as purchasing cooperatives for small
21 businesses, reinsurance pools, or high risk pools.

22 “(b) INTERGOVERNMENTAL CONSULTATION.—Under
23 such program, the Secretary shall—

24 “(1) provide for such ongoing consultation with
25 agencies and instrumentalities of the Federal Gov-
26 ernment and of the States and political subdivisions

1 thereof as is necessary and appropriate to further
2 the purposes such program, and

3 “(2) submit to each House of the Congress
4 such recommendations for such legislative changes
5 as the Secretary may, from time to time, consider to
6 be appropriate to further the purposes of such pro-
7 gram.

8 “(c) SAFEGUARDS TO ENSURE MAINTENANCE OF
9 CURRENT LEVELS OF GOVERNMENTAL SUPPORT FOR
10 HEALTH CARE.—The Secretary shall ensure that partici-
11 pation in the program by any State or political subdivision
12 thereof with respect to financial assistance described in
13 subsection (a)(1) may not occur unless the Secretary finds
14 that any reallocation of funds by such State or political
15 subdivision in connection with participation in the pro-
16 gram does not result in a decrease in the number of indi-
17 viduals in the applicable jurisdiction who have substantial
18 coverage for health benefits under either public or private
19 programs.”.

20 (b) DEADLINE FOR ESTABLISHING PROGRAM.—The
21 Secretary of Labor shall issue initial final regulations nec-
22 essary to carry out the program established under section
23 518 of the Employee Retirement Income Security Act of
24 1974 (added by section 2) not later than December 31,
25 2004.

1 (c) CLERICAL AMENDMENTS.—The table of contents
 2 in section 1 of such Act is amended by inserting after the
 3 item relating to section 517 the following new items:

“Sec. 518. Authority to postpone certain deadlines by reason of Presidentially
 declared disaster or terroristic or military actions.

“Sec. 519. Promotion and facilitation of coverage under group health plans.”.

4 **SEC. 3. NOTIFICATION TO PARTICIPANTS IN EMPLOYEE**
 5 **BENEFIT PLANS OF AVAILABILITY OF CHILD**
 6 **HEALTH ASSISTANCE UNDER SCHIP AND**
 7 **CASH BENEFITS AVAILABLE UNDER SSI.**

8 (a) IN GENERAL.—Section 104 of the Employee Re-
 9 tirement Income Security Act of 1974 (29 U.S.C. 1024)
 10 is amended—

11 (1) by redesignating subsection (d) as sub-
 12 section (e); and

13 (2) by inserting after subsection (c) the fol-
 14 lowing new subsection:

15 “(d)(1) The administrator of an employee benefit
 16 plan shall include in each summary plan description, up-
 17 dated summary plan description, and summary description
 18 of a modification or change to the plan which is furnished
 19 to participants, and shall provide separately to individuals
 20 claiming benefits under the plan, a summary description
 21 of—

22 “(A) the child health assistance available under
 23 State child health plans under title XXI of the So-
 24 cial Security Act, and

1 “(B) the cash benefits available to eligible el-
2 derly or disabled individuals with limited income and
3 resources under the supplemental security income
4 program under title XVI of the Social Security Act.

5 “(2) The summary description required under para-
6 graph (1) shall—

7 “(A) be in a form which shall be prescribed in
8 regulations of the Secretary, in consultation with the
9 Secretary of Health and Human Services,

10 “(B) be written in a manner calculated to be
11 understood by the average plan participant, and

12 “(C) include—

13 “(i) the appropriate telephone number,
14 Internet website, and mailing address for the
15 State program providing the assistance de-
16 scribed in paragraph (1)(A) in the State in
17 which the participant or beneficiary resides, and

18 “(ii) the appropriate telephone number,
19 Internet website, and mailing address for the
20 supplemental security income program de-
21 scribed in paragraph (1)(B),

22 together with the benefits information applicable to
23 such programs.”.

24 (b) ENFORCEMENT.—Section 502(c)(1)(A) of such
25 Act (29 U.S.C. 1132(c)(1)) is amended by striking “para-

1 graph (1) or (4) of section 606 or section 101(e)(1)” and
2 inserting “section 101(e)(1), section 104(d), or paragraph
3 (1) or (4) of section 606”.

4 (c) EFFECTIVE DATE.—The amendments made by
5 this section shall apply with respect to summary plan de-
6 scriptions, updated summary plan descriptions, and sum-
7 mary descriptions of plan modifications or changes fur-
8 nished to participants or beneficiaries, and in connection
9 with benefit claims filed, after December 31, 2003.

10 **SEC. 4. PROHIBITION OF LIFETIME LIMITS IN GROUP**
11 **HEALTH PLANS.**

12 (a) IN GENERAL.—Subpart B of part 7 of subtitle
13 B of title I of the Employee Retirement Income Security
14 Act of 1974 is amended by adding at the end the following
15 new section:

16 **“SEC. 714. PROHIBITION ON APPLICATION OF LIFETIME**
17 **LIMITATIONS.**

18 “(a) REQUIREMENT.—A group health plan, and a
19 health insurance issuer offering group health insurance
20 coverage, may not impose any aggregate lifetime limit on
21 benefits, including any category of benefits, under the plan
22 or coverage.

23 “(b) NOTICE UNDER GROUP HEALTH PLAN.—The
24 imposition of the requirement of this section shall be treat-
25 ed as a material modification in the terms of the plan de-

1 scribed in section 102(a)(1), for purposes of assuring no-
2 tice of such requirements under the plan; except that the
3 summary description required to be provided under the
4 last sentence of section 104(b)(1) with respect to such
5 modification shall be provided by not later than 60 days
6 after the first day of the first plan year in which such
7 requirement apply.”.

8 (b) CONFORMING AMENDMENTS.—

9 (1) Section 731(c) of such Act (29 U.S.C.
10 1191(c)) is amended by striking “section 711” and
11 inserting “sections 711 and 714”.

12 (2) Section 732(a) of such Act (29 U.S.C.
13 1191a(a)) is amended by striking “section 711” and
14 inserting “sections 711 and 714”.

15 (3) The table of contents in section 1 of such
16 Act is amended by inserting after the item relating
17 to section 713 the following new item:

“Sec. 714. Prohibition on application of lifetime limitations.”.

18 (c) EFFECTIVE DATES.—

19 (1) IN GENERAL.—Subject to paragraph (2),
20 the amendments made by this section apply with re-
21 spect to group health plans for plan years beginning
22 on or after January 1, 2005.

23 (2) COLLECTIVE BARGAINING EXCEPTION.—In
24 the case of a group health plan maintained pursuant
25 to 1 or more collective bargaining agreements be-

1 tween employee representatives and 1 or more em-
2 ployers ratified before the date of enactment of this
3 Act, the amendments made by this section shall not
4 apply to plan years beginning before the later of—

5 (A) the date on which the last collective
6 bargaining agreements relating to the plan ter-
7 minates (determined without regard to any ex-
8 tension thereof agreed to after the date of en-
9 actment of this Act), or

10 (B) January 1, 2005.

11 For purposes of subparagraph (A), any plan amend-
12 ment made pursuant to a collective bargaining
13 agreement relating to the plan which amends the
14 plan solely to conform to any requirement added by
15 this section shall not be treated as a termination of
16 such collective bargaining agreement.

17 **SEC. 5. PROHIBITION OF DISCRIMINATION BASED ON PRE-**
18 **EXISTING CONDITIONS.**

19 (a) IN GENERAL.—Subpart B of part 7 of subtitle
20 B of title I of the Employee Retirement Income Security
21 Act of 1974 (as amended by section 4) is amended further
22 by adding at the end the following new section:

1 **“SEC. 715. PROHIBITION ON DISCRIMINATION BASED ON**
2 **PRE-EXISTING CONDITIONS.**

3 “(a) IN GENERAL.—A group health plan, and a
4 health insurance issuer offering group health insurance
5 coverage, may not impose any change in the premium
6 rates charged for coverage of participants and bene-
7 ficiaries under the plan so as to result in a premium
8 charged to any such participant or beneficiary which is
9 above that which is charged to otherwise similarly situated
10 individuals solely on the basis of a pre-existing condition
11 of such participant or beneficiary.

12 “(b) NOTICE UNDER GROUP HEALTH PLAN.—The
13 imposition of the requirement of this section shall be treat-
14 ed as a material modification in the terms of the plan de-
15 scribed in section 102(a)(1), for purposes of assuring no-
16 tice of such requirements under the plan; except that the
17 summary description required to be provided under the
18 last sentence of section 104(b)(1) with respect to such
19 modification shall be provided by not later than 60 days
20 after the first day of the first plan year in which such
21 requirement apply.

22 “(c) PRE-EXISTING CONDITION.—For purposes of
23 this section, the term ‘pre-existing condition’ means, in
24 connection with any change in premium rates charged for
25 coverage of a participant or beneficiary, a medical condi-
26 tion of the participant or beneficiary that was present be-

1 fore the effective date of the change in premium rates,
2 whether or not any medical advice, diagnosis, care, or
3 treatment was recommended or received before such
4 date.”.

5 (b) CONFORMING AMENDMENTS.—

6 (1) Section 732(a) of such Act (as amended by
7 section 4 of this Act) is amended further by striking
8 “sections 711 and 714” and inserting “sections 711,
9 714, and 715”.

10 (2) The table of contents in section 1 of such
11 Act (as amended by section 4 of this Act) is amend-
12 ed further by inserting after the item relating to sec-
13 tion 714 the following new item:

“Sec. 715. Prohibition on discrimination based on pre-existing conditions.”.

14 (c) EFFECTIVE DATES.—

15 (1) IN GENERAL.—Subject to paragraph (2),
16 the amendments made by this section apply with re-
17 spect to group health plans for plan years beginning
18 on or after January 1, 2005.

19 (2) COLLECTIVE BARGAINING EXCEPTION.—In
20 the case of a group health plan maintained pursuant
21 to 1 or more collective bargaining agreements be-
22 tween employee representatives and 1 or more em-
23 ployers ratified before the date of enactment of this
24 Act, the amendments made by this section shall not
25 apply to plan years beginning before the later of—

1 (A) the date on which the last collective
2 bargaining agreements relating to the plan ter-
3 minates (determined without regard to any ex-
4 tension thereof agreed to after the date of en-
5 actment of this Act), or

6 (B) January 1, 2005.

7 For purposes of subparagraph (A), any plan amend-
8 ment made pursuant to a collective bargaining
9 agreement relating to the plan which amends the
10 plan solely to conform to any requirement added by
11 this section shall not be treated as a termination of
12 such collective bargaining agreement.

13 **SEC. 6. PAYMENTS BY PENSION AND ANNUITY PLANS FOR**
14 **COBRA BENEFITS.**

15 (a) IN GENERAL.—Section 401 of the Internal Rev-
16 enue Code of 1986 is amended by redesignating subsection
17 (o) as subsection (p) and by inserting after subsection (n)
18 the following new subsection:

19 “(o) PAYMENTS BY PLANS FOR CONTINUATION COV-
20 ERAGE PREMIUMS.—Under regulations prescribed by the
21 Secretary, a pension or annuity plan shall not be consid-
22 ered as not satisfying the requirements of subsection (a)
23 merely because the plan makes payments for premiums
24 for continuation coverage under a group health plan on
25 behalf of a qualified beneficiary which meet the require-

1 ments of section 4980B(f), but such a plan making such
 2 payments shall be considered as not satisfying such re-
 3 quirements unless such benefits are subordinate to the re-
 4 tirement benefits provided by the plan and to the qualified
 5 current retiree health liabilities (as defined in section 420)
 6 of a health benefits account which is part of such plan.”.

7 (b) EFFECTIVE DATE.—The amendment made by
 8 subsection (a) shall apply to taxable years beginning after
 9 the date of the enactment of this Act.

10 **SEC. 7. NOTICE TO PARTICIPANTS AND BENEFICIARIES**

11 **CLAIMING GROUP HEALTH PLAN BENEFITS**

12 **OF AVAILABILITY OF SSI BENEFITS.**

13 (a) IN GENERAL.—Section 609 of the Employee Re-
 14 tirement Income Security Act of 1974 (29 U.S.C. 1169)
 15 is amended—

16 (1) by redesignating subsection (e) as sub-
 17 section (f); and

18 (2) by inserting after subsection (d) the fol-
 19 lowing new subsection:

20 “(e) NOTICE TO CLAIMANT OF AVAILABLE SSI BEN-
 21 EFITS.—Upon receipt of a claim for benefits under a
 22 group health plan, the administrator of such plan shall,
 23 not later than 30 days after receipt of the claim, provide
 24 to the claimant written notice of the availability to eligible
 25 elderly or disabled individuals with limited income and re-

1 sources to cash benefits under the supplemental security
 2 income program under title XVI of the Social Security
 3 Act. Such notice shall be in a form which shall be pre-
 4 scribed by the Secretary of Health and Human Services.”.

5 (b) ENFORCEMENT.—Section 502(e)(1)(A) of such
 6 Act (as amended by section 3(b)) is amended further by
 7 striking “or paragraph (1) or (4) of section 606” and in-
 8 serting “paragraph (1) or (4) of section 606, or section
 9 609(e)”.

10 (c) EFFECTIVE DATE.—The amendments made by
 11 this section shall apply in connection with claims for bene-
 12 fits filed during plan years beginning on or after January
 13 1, 2005.

14 **SEC. 8. REQUIREMENT FOR QUALIFIED INDIVIDUALS WHO**
 15 **OBTAIN EMERGENCY ROOM SERVICES TO**
 16 **MAINTAIN SUBSTANTIAL HEALTH INSUR-**
 17 **ANCE COVERAGE FOR 2 YEARS.**

18 (a) ALIENATION OF PENSION BENEFITS TO EN-
 19 FORCE COURT ORDER TO MAINTAIN COVERAGE.—Section
 20 206 of the Employee Retirement Income Security Act of
 21 1974 (29 U.S.C. 1056) is amended by adding at the end
 22 the following new subsection:

23 “(g) ALIENATION OF PENSION BENEFITS TO EN-
 24 FORCE CERTAIN COURT ORDERS TO MAINTAIN SUBSTAN-
 25 TIAL HEALTH INSURANCE COVERAGE.—

1 “(1) ALIENATION OF PENSION BENEFITS.—
2 Subsection (d)(1) shall not apply in connection with
3 any pension plan with respect to amounts payable,
4 by an individual who is a participant or beneficiary
5 under such plan and fails to meet the requirements
6 of paragraph (2), for the purpose of acquiring and
7 maintaining health insurance coverage pursuant to
8 an order of a court of competent jurisdiction under
9 section 502(c)(7).

10 “(2) REQUIREMENT OF COVERAGE UPON OB-
11 TAINING EMERGENCY ROOM SERVICES.—In any case
12 in which emergency room services are obtained for
13 a qualified individual or for such individual’s spouse
14 or dependent, such individual shall be treated as fail-
15 ing to meet the requirements of this paragraph with
16 respect to the patient if, at the time that such serv-
17 ices are obtained, such patient is not covered under
18 substantial health insurance coverage.

19 “(3) DEFINITIONS.—For purposes of this sub-
20 section—

21 “(A) QUALIFIED INDIVIDUAL.—The term
22 ‘qualified individual’ means an individual whose
23 adjusted gross income for the taxable year pre-
24 ceding the time emergency room services de-
25 scribed in paragraph (2) are obtained is greater

1 than or equal to 500 percent of the poverty line
2 (as defined by the Office of Management and
3 Budget).

4 “(B) EMERGENCY ROOM SERVICES.—The
5 term ‘emergency room services’ means medical
6 care at a hospital emergency department (as
7 defined for purposes of section 1867 of the So-
8 cial Security Act (42 U.S.C. 1395dd)).”.

9 “(C) SUBSTANTIAL HEALTH INSURANCE
10 COVERAGE.—

11 “(i) IN GENERAL.—The term ‘sub-
12 stantial health insurance coverage’ means
13 health insurance coverage (within the
14 meaning of section 733(b)(1)) which is de-
15 termined by the Secretary (in consultation
16 with the Secretary of Health and Human
17 Services) to meet the following require-
18 ments:

19 “(I) AGGREGATE ACTUARIAL
20 VALUE EQUIVALENT TO BENCHMARK
21 PACKAGE.—The coverage has an ag-
22 gregate actuarial value that is at least
23 actuarially equivalent to one of the
24 benchmark benefit packages.

1 “(II) INCLUSION OF BASIC SERV-
2 ICES.—The coverage includes benefits
3 for items and services within each of
4 the categories of basic services de-
5 scribed in clause (iii).

6 “(III) SUBSTANTIAL ACTUARIAL
7 VALUE FOR ADDITIONAL SERVICES IN-
8 CLUDED IN BENCHMARK PACKAGE.—
9 With respect to each of the categories
10 of additional services described in
11 clause (iv) for which coverage is pro-
12 vided under the benchmark benefit
13 package used under subclause (I), the
14 coverage has an actuarial value that is
15 equal to at least 75 percent of the ac-
16 tuarial value of the coverage of that
17 category of services in such package.

18 “(ii) BENCHMARK BENEFIT PACK-
19 AGES.—The benchmark benefit packages
20 are as follows:

21 “(I) FEHBP-EQUIVALENT
22 HEALTH INSURANCE COVERAGE.—The
23 standard Blue Cross/Blue Shield pre-
24 ferred provider option service benefit
25 plan, described in and offered under

1 section 8903(1) of title 5, United
2 States Code.

3 “(II) STATE EMPLOYEE COV-
4 ERAGE.—A health benefits coverage
5 plan that is offered and generally
6 available to State employees in the
7 State involved.

8 “(III) COVERAGE OFFERED
9 THROUGH HMO.—The health insur-
10 ance coverage plan that is offered by
11 a health maintenance organization (as
12 defined in section 2791(b)(3) of the
13 Public Health Service Act), and has
14 the largest insured commercial, non-
15 medicaid enrollment of covered lives of
16 such coverage plans offered by such a
17 health maintenance organization in
18 the State involved.

19 “(iii) CATEGORIES OF BASIC SERV-
20 ICES.—For purposes of this subparagraph,
21 the categories of basic services described in
22 this clause are as follows:

23 “(I) Inpatient and outpatient
24 hospital services.

1 “(II) Physicians’ surgical and
2 medical services.

3 “(III) Laboratory and x-ray serv-
4 ices.

5 “(IV) Well-baby and well-child
6 care, including age-appropriate immu-
7 nizations.

8 “(iv) CATEGORIES OF ADDITIONAL
9 SERVICES.—For purposes of this subpara-
10 graph, the categories of additional services
11 described in this clause are as follows:

12 “(I) Coverage of prescription
13 drugs.

14 “(II) Mental health services.

15 “(III) Vision services.

16 “(IV) Hearing services.

17 “(v) TREATMENT OF OTHER CAT-
18 EGORIES.—Nothing in this subparagraph
19 shall be construed as preventing substan-
20 tial health insurance coverage from includ-
21 ing coverage of benefits that are not within
22 a category of services described in clause
23 (iii) or (iv).

24 “(vi) DETERMINATION OF ACTUARIAL
25 VALUE.—The actuarial value of coverage

1 of benchmark benefit packages and cov-
2 erage of any categories of additional serv-
3 ices under benchmark benefit packages and
4 under coverage offered by such a plan shall
5 be set forth in an actuarial opinion in an
6 actuarial report that has been prepared—

7 “(I) by an individual who is a
8 member of the American Academy of
9 Actuaries;

10 “(II) using generally accepted ac-
11 tuarial principles and methodologies;

12 “(III) using a standardized set of
13 utilization and price factors;

14 “(IV) using a standardized popu-
15 lation that is representative of pri-
16 vately insured individuals similarly sit-
17 uated when compared to individuals
18 expected to be covered under the sub-
19 stantial health insurance coverage;

20 “(V) applying the same principles
21 and factors in comparing the value of
22 different coverage (or categories of
23 services); and

24 “(VI) without taking into ac-
25 count any differences in coverage

1 based on the method of delivery or
2 means of cost control or utilization
3 used.

4 The actuary preparing the opinion shall se-
5 lect and specify in the memorandum the
6 standardized set and population to be used
7 under subclauses (III) and (IV).”.

8 (b) REMEDY AGAINST QUALIFIED INDIVIDUALS FOR
9 NOT MAINTAINING SUBSTANTIAL HEALTH INSURANCE
10 COVERAGE WHILE OBTAINING EMERGENCY ROOM SERV-
11 ICES.—

12 (1) IN GENERAL.—Section 502 of the Employee
13 Retirement Income Security Act of 1974 (29 U.S.C.
14 1102) is amended—

15 (A) in subsection (a)(8), by striking “or”
16 at the end;

17 (B) in subsection (a)(9), by striking the
18 period and inserting “; or”;

19 (C) by adding at the end of subsection (a)
20 the following new paragraph:

21 “(10) by the Secretary or a State, in accord-
22 ance with subsection (c)(7), to provide appropriate
23 equitable remedies for failures to meet the require-
24 ments of section 206(g)(2).”;

1 (D) by redesignating subsection (c)(8) as
2 subsection (c)(9); and

3 (E) by inserting after subsection (c)(7) the
4 following new paragraph:

5 “(8) In any action under subsection (a)(10), the
6 court may provide appropriate equitable relief in connec-
7 tion with failures to meet the requirements of section
8 206(g)(2). Such relief may include an order that the de-
9 fendant maintain, for at least the 2-year period com-
10 mencing with the date of the failure described in section
11 206(g)(2), substantial health insurance coverage (as de-
12 fined in section 206(g)(3)(B)) covering the patient in-
13 volved.”.

14 (2) CONCURRENT JURISDICTION.—Section
15 502(e)(1) of such Act (29 U.S.C. 1132(e)(1)) is
16 amended—

17 (A) in the first sentence, by striking “sub-
18 section (a)(1)(B)” and inserting “paragraph
19 (1)(B), (7), or (10) of subsection (a) of this
20 section”; and

21 (B) in the last sentence, by striking “para-
22 graphs (1)(B) and (7)” and inserting “para-
23 graphs (1)(B), (7), and (10)”.

24 (c) EFFECTIVE DATE.—The amendments made by
25 this section shall apply with respect to failures (to meet

1 the requirements of section 206(g)(2) of the Employee Re-
2 tirement Income Security Act of 1974) occurring on or
3 after the date of the enactment of this Act.

○