

108TH CONGRESS
2D SESSION

H. R. 4097

To require group and individual health plans to provide coverage for colorectal cancer screenings.

IN THE HOUSE OF REPRESENTATIVES

MARCH 31, 2004

Ms. SLAUGHTER (for herself and Mr. KING of New York) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on 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

A BILL

To require group and individual health plans to provide coverage for colorectal cancer screenings.

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; FINDINGS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Eliminate Colorectal Cancer Act of 2004”.

6 (b) FINDINGS.—The Congress finds the following:

1 (1) Colorectal cancer is the second leading
2 cause of cancer deaths in the United States for men
3 and women combined.

4 (2) It is estimated that in 2004, 146,940 new
5 cases of colorectal cancer will be diagnosed in men
6 and women in the United States.

7 (3) Colorectal cancer is expected to kill 56,730
8 individuals in the United States in 2004.

9 (4) When colorectal cancer is diagnosed early,
10 at a localized stage, more than 90 percent of pa-
11 tients survive for 5 years or more. Once the disease
12 has metastasized, 92 percent of patients die within
13 5 years. Yet, only 37 percent of colorectal cancer
14 cases are diagnosed while the disease is still in the
15 localized stage.

16 (5) If all men and women age 50 and over prac-
17 ticed regular colorectal cancer screening, without
18 any new scientific discoveries, the United States
19 could see up to a 50 to 90 percent reduction in
20 deaths from this disease.

21 (6) Currently, many private insurance health
22 plans are not providing coverage for the full range
23 of colorectal cancer screening tests. Lack of insur-
24 ance coverage can act as a barrier to care.

1 (7) Assuring coverage for the full range of
 2 colorectal cancer tests is an important step in in-
 3 creasing screening rates for these life saving tests.

4 **SEC. 2. COVERAGE FOR COLORECTAL CANCER SCREENING.**

5 (a) GROUP HEALTH PLANS.—

6 (1) PUBLIC HEALTH SERVICE ACT AMEND-
 7 MENTS.—The Public Health Service Act (42 U.S.C.
 8 201 et seq.) is amended by adding at the end the
 9 following:

10 **“TITLE XXIX—MISCELLANEOUS**
 11 **HEALTH COVERAGE**

12 **“SEC. 2901. COVERAGE FOR COLORECTAL CANCER SCREEN-**
 13 **ING.**

14 “(a) COVERAGE FOR COLORECTAL CANCER SCREEN-
 15 ING.—

16 “(1) IN GENERAL.—A group health plan, and a
 17 health insurance issuer offering group health insur-
 18 ance coverage, shall provide coverage for colorectal
 19 cancer screening consistent with this subsection to—

20 “(A) any participant or beneficiary age 50
 21 or over; and

22 “(B) any participant or beneficiary under
 23 the age of 50 who is at a high risk for
 24 colorectal cancer.

1 “(2) DEFINITION OF HIGH RISK.—For purposes
2 of subsection (a)(1)(B), the term ‘high risk for
3 colorectal cancer’ has the meaning given such term
4 in section 1861(pp)(2) of the Social Security Act (42
5 U.S.C. 1395x(pp)(2)).

6 “(3) REQUIREMENT FOR SCREENING.—The
7 group health plan or health insurance issuer shall
8 cover methods of colorectal cancer screening that—

9 “(A) are deemed appropriate by a physi-
10 cian (as defined in section 1861(r) of the Social
11 Security Act (42 U.S.C. 1395x(r))) treating the
12 participant or beneficiary, in consultation with
13 the participant or beneficiary;

14 “(B) are—

15 “(i) described in section 1861(pp)(1)
16 of the Social Security Act (42 U.S.C.
17 1395x(pp)(1)) or section 410.37 of title
18 42, Code of Federal Regulations; or

19 “(ii) specified by the Secretary, based
20 upon the recommendations of appropriate
21 organizations with special expertise in the
22 field of colorectal cancer; and

23 “(C) are performed at a frequency not
24 greater than that—

1 “(i) described for such method in sec-
2 tion 1834(d) of the Social Security Act (42
3 U.S.C. 1395m(d)) or section 410.37 of
4 title 42, Code of Federal Regulations; or

5 “(ii) specified by the Secretary for
6 such method, if the Secretary finds, based
7 upon new scientific knowledge and con-
8 sistent with the recommendations of appro-
9 priate organizations with special expertise
10 in the field of colorectal cancer, that a dif-
11 ferent frequency would not adversely affect
12 the effectiveness of such screening.

13 “(b) NOTICE.—A group health plan under this sec-
14 tion shall comply with the notice requirement under sec-
15 tion 714(b) of the Employee Retirement Income Security
16 Act of 1974 with respect to the requirements of this sec-
17 tion as if such section applied to such plan.

18 “(c) NON-PREEMPTION OF MORE PROTECTIVE
19 STATE LAW WITH RESPECT TO HEALTH INSURANCE
20 ISSUERS.—This section shall not be construed to super-
21 sede any provision of State law which establishes, imple-
22 ments, or continues in effect any standard or requirement
23 solely relating to health insurance issuers in connection
24 with group health insurance coverage that provides great-

1 er protections to participants and beneficiaries than the
 2 protections provided under this section.

3 “(d) DEFINITIONS AND ENFORCEMENT.—The defini-
 4 tions and enforcement provisions of title XXVII shall
 5 apply for purposes of this section.”.

6 (2) ERISA AMENDMENTS.—

7 (A) IN GENERAL.—Subpart B of part 7 of
 8 subtitle B of title I of the Employee Retirement
 9 Income Security Act of 1974 (29 U.S.C. 1185
 10 et seq.) is amended by adding at the end the
 11 following new section:

12 **“SEC. 714. COVERAGE FOR COLORECTAL CANCER SCREEN-**
 13 **ING.**

14 “(a) COVERAGE FOR COLORECTAL CANCER SCREEN-
 15 ING.—

16 “(1) IN GENERAL.—A group health plan, and a
 17 health insurance issuer offering group health insur-
 18 ance coverage, shall provide coverage for colorectal
 19 cancer screening consistent with this subsection to—

20 “(A) any participant or beneficiary age 50
 21 or over; and

22 “(B) any participant or beneficiary under
 23 the age of 50 who is at a high risk for
 24 colorectal cancer.

1 “(2) DEFINITION OF HIGH RISK.—For purposes
2 of subsection (a)(1)(B), the term ‘high risk for
3 colorectal cancer’ has the meaning given such term
4 in section 1861(pp)(2) of the Social Security Act (42
5 U.S.C. 1395x(pp)(2)).

6 “(3) REQUIREMENT FOR SCREENING.—The
7 group health plan or health insurance issuer shall
8 cover methods of colorectal cancer screening that—

9 “(A) are deemed appropriate by a physi-
10 cian (as defined in section 1861(r) of the Social
11 Security Act (42 U.S.C. 1395x(r))) treating the
12 participant or beneficiary, in consultation with
13 the participant or beneficiary;

14 “(B) are—

15 “(i) described in section 1861(pp)(1)
16 of the Social Security Act (42 U.S.C.
17 1395x(pp)(1)) or section 410.37 of title
18 42, Code of Federal Regulations; or

19 “(ii) specified by the Secretary, based
20 upon the recommendations of appropriate
21 organizations with special expertise in the
22 field of colorectal cancer; and

23 “(C) are performed at a frequency not
24 greater than that—

1 “(i) described for such method in sec-
2 tion 1834(d) of the Social Security Act (42
3 U.S.C. 1395m(d)) or section 410.37 of
4 title 42, Code of Federal Regulations; or

5 “(ii) specified by the Secretary for
6 such method, if the Secretary finds, based
7 upon new scientific knowledge and con-
8 sistent with the recommendations of appro-
9 priate organizations with special expertise
10 in the field of colorectal cancer, that a dif-
11 ferent frequency would not adversely affect
12 the effectiveness of such screening.

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

23 (B) TECHNICAL AND CONFORMING AMEND-
24 MENTS.—

1 (i) Section 731(c) of the Employee
 2 Retirement Income Security Act of 1974
 3 (29 U.S.C. 1191(c)) is amended by strik-
 4 ing “section 711” and inserting “sections
 5 711 and 714”.

6 (ii) Section 732(a) of the Employee
 7 Retirement Income Security Act of 1974
 8 (29 U.S.C. 1191a(a)) is amended by strik-
 9 ing “section 711” and inserting “sections
 10 711 and 714”.

11 (iii) The table of contents in section 1
 12 of the Employee Retirement Income Secu-
 13 rity Act of 1974 is amended by inserting
 14 after the item relating to section 713 the
 15 following new item:

“Sec. 714. Coverage for colorectal cancer screening.”.

16 (b) INDIVIDUAL HEALTH INSURANCE.—

17 (1) IN GENERAL.—Part B of title XXVII of the
 18 Public Health Service Act (42 U.S.C. 300gg–41 et
 19 seq.) is amended by inserting after section 2752 the
 20 following new section:

21 **“SEC. 2753. COVERAGE FOR COLORECTAL CANCER SCREEN-**
 22 **ING.**

23 “(a) IN GENERAL.—The provisions of section
 24 2901(a) shall apply to health insurance coverage offered
 25 by a health insurance issuer in the individual market in

1 the same manner as it applies to health insurance coverage
2 offered by a health insurance issuer in connection with a
3 group health plan in the small or large group market.

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

10 (2) TECHNICAL AMENDMENT.—Section
11 2762(b)(2) of the Public Health Service Act (42
12 U.S.C. 300gg–62(b)(2)) is amended by striking
13 “section 2751” and inserting “sections 2751 and
14 2753”.

15 (c) EFFECTIVE DATES.—

16 (1) GROUP HEALTH PLANS.—The amendments
17 made by subsection (a) shall apply with respect to
18 group health plans for plan years beginning on or
19 after January 1, 2005.

20 (2) INDIVIDUAL HEALTH INSURANCE.—The
21 amendments made by subsection (b) shall apply with
22 respect to health insurance coverage offered, sold,
23 issued, renewed, in effect, or operated in the indi-
24 vidual market on or after January 1, 2005.

1 (d) COORDINATED REGULATIONS.—The Secretary of
2 Labor and the Secretary of Health and Human Services
3 shall ensure, through the execution of an interagency
4 memorandum of understanding among such Secretaries,
5 that—

6 (1) regulations, rulings, and interpretations
7 issued by such Secretaries relating to the same mat-
8 ter over which both Secretaries have responsibility
9 under the provisions of this section (and the amend-
10 ments made thereby) are administered so as to have
11 the same effect at all times; and

12 (2) coordination of policies relating to enforcing
13 the same requirements through such Secretaries in
14 order to have a coordinated enforcement strategy
15 that avoids duplication of enforcement efforts and
16 assigns priorities in enforcement.

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