

108TH CONGRESS
1ST SESSION

H. R. 596

To amend title I of the Employee Retirement Income Security Act of 1974 to exclude from preemption State causes of action to enforce determinations under group health plans based on medical necessity.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 5, 2003

Mr. NORWOOD introduced the following bill; which was referred to the Committee on Education and the Workforce

A BILL

To amend title I of the Employee Retirement Income Security Act of 1974 to exclude from preemption State causes of action to enforce determinations under group health plans based on medical necessity.

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 “ERISA Clarification
5 Act of 2003”.

1 **SEC. 2. EXCLUSION FROM ERISA PREEMPTION OF STATE**
2 **CAUSES OF ACTION TO ENFORCE GROUP**
3 **HEALTH PLAN DETERMINATIONS BASED ON**
4 **MEDICAL NECESSITY.**

5 Section 514(b) of the Employee Retirement Income
6 Security Act of 1974 (29 U.S.C. 1144(b)) is amended—

7 (1) by redesignating paragraph (9) as para-
8 graph (10); and

9 (2) by inserting after paragraph (8) the fol-
10 lowing new paragraph:

11 “(9) Subsection (a) of this section shall not be con-
12 strued to preclude any State cause of action to enforce
13 a determination under a group health plan (as defined in
14 section 733(a)) regarding the existence or extent of cov-
15 erage of any item or service under the plan to the extent
16 that the determination is of whether or not the item or
17 service is medically necessary or appropriate or is based
18 on the application of substantially equivalent terms.”.

19 **SEC. 3. EFFECTIVE DATE.**

20 The amendments made by this Act shall apply with
21 respect to plan determinations made on or after the date
22 of the enactment of this Act.

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