

109TH CONGRESS
1ST SESSION

H. R. 1258

To amend the Employee Retirement Income Security Act of 1974, Public Health Service Act, and the Internal Revenue Code of 1986 to provide parity with respect to substance abuse treatment benefits under group health plans and health insurance coverage.

IN THE HOUSE OF REPRESENTATIVES

MARCH 10, 2005

Mr. RAMSTAD 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 Ways and Means, 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 amend the Employee Retirement Income Security Act of 1974, Public Health Service Act, and the Internal Revenue Code of 1986 to provide parity with respect to substance abuse treatment benefits under group health plans and health insurance coverage.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Time for Recovery and
3 Equal Access to Treatment in America (TREAT America)
4 Act of 2005”.

5 **SEC. 2. FINDINGS.**

6 Congress finds the following:

7 (1) Substance abuse, if left untreated, is a med-
8 ical emergency and a private and public health cri-
9 sis.

10 (2) Nothing in this Act should be construed as
11 prohibiting application of the concept of parity to
12 substance abuse treatment provided by faith-based
13 treatment providers.

14 **SEC. 3. PARITY IN SUBSTANCE ABUSE TREATMENT BENE-**
15 **FITS.**

16 (a) GROUP HEALTH PLANS.—

17 (1) PUBLIC HEALTH SERVICE ACT AMEND-
18 MENTS.—

19 (A) IN GENERAL.—Subpart 2 of part A of
20 title XXVII of the Public Health Service Act is
21 amended by adding at the end the following
22 new section:

1 **“SEC. 2707. PARITY IN THE APPLICATION OF TREATMENT**
2 **LIMITATIONS AND FINANCIAL REQUIRE-**
3 **MENTS TO SUBSTANCE ABUSE TREATMENT**
4 **BENEFITS.**

5 “(a) IN GENERAL.—In the case of a group health
6 plan (or health insurance coverage offered in connection
7 with such a plan) that provides both medical and surgical
8 benefits and substance abuse treatment benefits, the plan
9 or coverage shall not impose treatment limitations or fi-
10 nancial requirements on the substance abuse treatment
11 benefits unless similar limitations or requirements are im-
12 posed for medical and surgical benefits.

13 “(b) CONSTRUCTION.—Nothing in this section shall
14 be construed—

15 “(1) as requiring a group health plan (or health
16 insurance coverage offered in connection with such a
17 plan) to provide any substance abuse treatment ben-
18 efits; or

19 “(2) to prevent a group health plan or a health
20 insurance issuer offering group health insurance cov-
21 erage from negotiating the level and type of reim-
22 bursement with a provider for care provided in ac-
23 cordance with this section.

24 “(c) EXEMPTIONS.—

25 “(1) SMALL EMPLOYER EXEMPTION.—

1 “(A) IN GENERAL.—This section shall not
2 apply to any group health plan (and group
3 health insurance coverage offered in connection
4 with a group health plan) for any plan year of
5 a small employer.

6 “(B) SMALL EMPLOYER.—For purposes of
7 subparagraph (A), the term ‘small employer’
8 means, in connection with a group health plan
9 with respect to a calendar year and a plan year,
10 an employer who employed an average of at
11 least 2 but not more than 50 employees on
12 business days during the preceding calendar
13 year and who employs at least 2 employees on
14 the first day of the plan year.

15 “(C) APPLICATION OF CERTAIN RULES IN
16 DETERMINATION OF EMPLOYER SIZE.—For
17 purposes of this paragraph—

18 “(i) APPLICATION OF AGGREGATION
19 RULE FOR EMPLOYERS.—Rules similar to
20 the rules under subsections (b), (c), (m),
21 and (o) of section 414 of the Internal Rev-
22 enue Code of 1986 shall apply for purposes
23 of treating persons as a single employer.

24 “(ii) EMPLOYERS NOT IN EXISTENCE
25 IN PRECEDING YEAR.—In the case of an

1 employer which was not in existence
2 throughout the preceding calendar year,
3 the determination of whether such em-
4 ployer is a small employer shall be based
5 on the average number of employees that
6 it is reasonably expected such employer
7 will employ on business days in the current
8 calendar year.

9 “(iii) PREDECESSORS.—Any reference
10 in this paragraph to an employer shall in-
11 clude a reference to any predecessor of
12 such employer.

13 “(2) INCREASED COST EXEMPTION.—This sec-
14 tion shall not apply with respect to a group health
15 plan (or health insurance coverage offered in connec-
16 tion with a group health plan) if the application of
17 this section to such plan (or to such coverage) re-
18 sults in an increase in the cost under the plan (or
19 for such coverage) of at least 1 percent.

20 “(d) SEPARATE APPLICATION TO EACH OPTION OF-
21 FERED.—In the case of a group health plan that offers
22 a participant or beneficiary two or more benefit package
23 options under the plan, the requirements of this section
24 shall be applied separately with respect to each such op-
25 tion.

1 “(e) DEFINITIONS.—For purposes of this section—

2 “(1) TREATMENT LIMITATION.—The term
3 ‘treatment limitation’ means, with respect to benefits
4 under a group health plan or health insurance cov-
5 erage, any day or visit limits imposed on coverage of
6 benefits under the plan or coverage during a period
7 of time.

8 “(2) FINANCIAL REQUIREMENT.—The term ‘fi-
9 nancial requirement’ means, with respect to benefits
10 under a group health plan or health insurance cov-
11 erage, any deductible, coinsurance, or cost-sharing
12 or an annual or lifetime dollar limit imposed with re-
13 spect to the benefits under the plan or coverage.

14 “(3) MEDICAL OR SURGICAL BENEFITS.—The
15 term ‘medical or surgical benefits’ means benefits
16 with respect to medical or surgical services, as de-
17 fined under the terms of the plan or coverage (as the
18 case may be), but does not include substance abuse
19 treatment benefits.

20 “(4) SUBSTANCE ABUSE TREATMENT BENE-
21 FITS.—The term ‘substance abuse treatment bene-
22 fits’ means benefits with respect to substance abuse
23 treatment services.

24 “(5) SUBSTANCE ABUSE TREATMENT SERV-
25 ICES.—The term ‘substance abuse services’ means

1 any of the following items and services provided for
2 the treatment of substance abuse:

3 “(A) Inpatient treatment, including detoxi-
4 fication.

5 “(B) Non-hospital residential treatment.

6 “(C) Outpatient treatment, including
7 screening and assessment, medication manage-
8 ment, individual, group, and family counseling,
9 and relapse prevention.

10 “(D) Prevention services, including health
11 education and individual and group counseling
12 to encourage the reduction of risk factors for
13 substance abuse.

14 “(6) SUBSTANCE ABUSE.—The term ‘substance
15 abuse’ includes chemical dependency.

16 “(f) NOTICE.—A group health plan under this part
17 shall comply with the notice requirement under section
18 714(f) of the Employee Retirement Income Security Act
19 of 1974 with respect to the requirements of this section
20 as if such section applied to such plan.”.

21 (B) CONFORMING AMENDMENT.—Section
22 2723(c) of such Act (42 U.S.C. 300gg-23(c)) is
23 amended by striking “section 2704” and insert-
24 ing “sections 2704 and 2707”.

25 (2) ERISA AMENDMENTS.—

1 (A) IN GENERAL.—Subpart B of part 7 of
2 subtitle B of title I of the Employee Retirement
3 Income Security Act of 1974 is amended by
4 adding at the end the following new section:

5 **“SEC. 714. PARITY IN THE APPLICATION OF TREATMENT**
6 **LIMITATIONS AND FINANCIAL REQUIRE-**
7 **MENTS TO SUBSTANCE ABUSE TREATMENT**
8 **BENEFITS.**

9 “(a) IN GENERAL.—In the case of a group health
10 plan (or health insurance coverage offered in connection
11 with such a plan) that provides both medical and surgical
12 benefits and substance abuse treatment benefits, the plan
13 or coverage shall not impose treatment limitations or fi-
14 nancial requirements on the substance abuse treatment
15 benefits unless similar limitations or requirements are im-
16 posed for medical and surgical benefits.

17 “(b) CONSTRUCTION.—Nothing in this section shall
18 be construed—

19 “(1) as requiring a group health plan (or health
20 insurance coverage offered in connection with such a
21 plan) to provide any substance abuse treatment ben-
22 efits; or

23 “(2) to prevent a group health plan or a health
24 insurance issuer offering group health insurance cov-
25 erage from negotiating the level and type of reim-

1 bursement with a provider for care provided in ac-
2 cordance with this section.

3 “(c) EXEMPTIONS.—

4 “(1) SMALL EMPLOYER EXEMPTION.—

5 “(A) IN GENERAL.—This section shall not
6 apply to any group health plan (and group
7 health insurance coverage offered in connection
8 with a group health plan) for any plan year of
9 a small employer.

10 “(B) SMALL EMPLOYER.—For purposes of
11 subparagraph (A), the term ‘small employer’
12 means, in connection with a group health plan
13 with respect to a calendar year and a plan year,
14 an employer who employed an average of at
15 least 2 but not more than 50 employees on
16 business days during the preceding calendar
17 year and who employs at least 2 employees on
18 the first day of the plan year.

19 “(C) APPLICATION OF CERTAIN RULES IN
20 DETERMINATION OF EMPLOYER SIZE.—For
21 purposes of this paragraph—

22 “(i) APPLICATION OF AGGREGATION
23 RULE FOR EMPLOYERS.—Rules similar to
24 the rules under subsections (b), (c), (m),
25 and (o) of section 414 of the Internal Rev-

1 venue Code of 1986 shall apply for purposes
2 of treating persons as a single employer.

3 “(ii) EMPLOYERS NOT IN EXISTENCE
4 IN PRECEDING YEAR.—In the case of an
5 employer which was not in existence
6 throughout the preceding calendar year,
7 the determination of whether such em-
8 ployer is a small employer shall be based
9 on the average number of employees that
10 it is reasonably expected such employer
11 will employ on business days in the current
12 calendar year.

13 “(iii) PREDECESSORS.—Any reference
14 in this paragraph to an employer shall in-
15 clude a reference to any predecessor of
16 such employer.

17 “(2) INCREASED COST EXEMPTION.—This sec-
18 tion shall not apply with respect to a group health
19 plan (or health insurance coverage offered in connec-
20 tion with a group health plan) if the application of
21 this section to such plan (or to such coverage) re-
22 sults in an increase in the cost under the plan (or
23 for such coverage) of at least 1 percent.

24 “(d) SEPARATE APPLICATION TO EACH OPTION OF-
25 FERED.—In the case of a group health plan that offers

1 a participant or beneficiary two or more benefit package
2 options under the plan, the requirements of this section
3 shall be applied separately with respect to each such op-
4 tion.

5 “(e) DEFINITIONS.—For purposes of this section—

6 “(1) TREATMENT LIMITATION.—The term
7 ‘treatment limitation’ means, with respect to benefits
8 under a group health plan or health insurance cov-
9 erage, any day or visit limits imposed on coverage of
10 benefits under the plan or coverage during a period
11 of time.

12 “(2) FINANCIAL REQUIREMENT.—The term ‘fi-
13 nancial requirement’ means, with respect to benefits
14 under a group health plan or health insurance cov-
15 erage, any deductible, coinsurance, or cost-sharing
16 or an annual or lifetime dollar limit imposed with re-
17 spect to the benefits under the plan or coverage.

18 “(3) MEDICAL OR SURGICAL BENEFITS.—The
19 term ‘medical or surgical benefits’ means benefits
20 with respect to medical or surgical services, as de-
21 fined under the terms of the plan or coverage (as the
22 case may be), but does not include substance abuse
23 treatment benefits.

24 “(4) SUBSTANCE ABUSE TREATMENT BENE-
25 FITS.—The term ‘substance abuse treatment bene-

1 fits’ means benefits with respect to substance abuse
2 treatment services.

3 “(5) SUBSTANCE ABUSE TREATMENT SERV-
4 ICES.—The term ‘substance abuse services’ means
5 any of the following items and services provided for
6 the treatment of substance abuse:

7 “(A) Inpatient treatment, including detoxi-
8 fication.

9 “(B) Non-hospital residential treatment.

10 “(C) Outpatient treatment, including
11 screening and assessment, medication manage-
12 ment, individual, group, and family counseling,
13 and relapse prevention.

14 “(D) Prevention services, including health
15 education and individual and group counseling
16 to encourage the reduction of risk factors for
17 substance abuse.

18 “(6) SUBSTANCE ABUSE.—The term ‘substance
19 abuse’ includes chemical dependency.

20 “(f) NOTICE UNDER GROUP HEALTH PLAN.—The
21 imposition of the requirements of this section shall be
22 treated as a material modification in the terms of the plan
23 described in section 102(a)(1), for purposes of assuring
24 notice of such requirements under the plan; except that
25 the summary description required to be provided under the

1 last sentence of section 104(b)(1) with respect to such
 2 modification shall be provided by not later than 60 days
 3 after the first day of the first plan year in which such
 4 requirements apply.”.

5 (B) Section 731(c) of such Act (29 U.S.C.
 6 1191(c)) is amended by striking “section 711”
 7 and inserting “sections 711 and 714”.

8 (C) Section 732(a) of such Act (29 U.S.C.
 9 1191a(a)) is amended by striking “section 711”
 10 and inserting “sections 711 and 714”.

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

“714. Parity in the application of treatment limitations and financial require-
 ments to substance abuse treatment benefits.”.

14 (3) INTERNAL REVENUE CODE AMEND-
 15 MENTS.—(A) Subchapter B of chapter 100 of the
 16 Internal Revenue Code of 1986 (relating to other re-
 17 quirements) is amended by adding at the end the
 18 following new section:

19 **“SEC. 9813. PARITY IN THE APPLICATION OF TREATMENT**
 20 **LIMITATIONS AND FINANCIAL REQUIRE-**
 21 **MENTS TO SUBSTANCE ABUSE TREATMENT**
 22 **BENEFITS.**

23 “(a) IN GENERAL.—In the case of a group health
 24 plan that provides both medical and surgical benefits and

1 substance abuse treatment benefits, the plan shall not im-
2 pose treatment limitations or financial requirements on
3 the substance abuse treatment benefits unless similar limi-
4 tations or requirements are imposed for medical and sur-
5 gical benefits.

6 “(b) CONSTRUCTION.—Nothing in this section shall
7 be construed—

8 “(1) as requiring a group health plan to provide
9 any substance abuse treatment benefits; or

10 “(2) to prevent a group health plan from nego-
11 tiating the level and type of reimbursement with a
12 provider for care provided in accordance with this
13 section.

14 “(c) EXEMPTIONS.—

15 “(1) SMALL EMPLOYER EXEMPTION.—

16 “(A) IN GENERAL.—This section shall not
17 apply to any group health plan for any plan
18 year of a small employer.

19 “(B) SMALL EMPLOYER.—For purposes of
20 subparagraph (A), the term ‘small employer’
21 means, in connection with a group health plan
22 with respect to a calendar year and a plan year,
23 an employer who employed an average of at
24 least 2 but not more than 50 employees on
25 business days during the preceding calendar

1 year and who employs at least 2 employees on
2 the first day of the plan year.

3 “(C) APPLICATION OF CERTAIN RULES IN
4 DETERMINATION OF EMPLOYER SIZE.—For
5 purposes of this paragraph—

6 “(i) APPLICATION OF AGGREGATION
7 RULE FOR EMPLOYERS.—Rules similar to
8 the rules under subsections (b), (c), (m),
9 and (o) of section 414 shall apply for pur-
10 poses of treating persons as a single em-
11 ployer.

12 “(ii) EMPLOYERS NOT IN EXISTENCE
13 IN PRECEDING YEAR.—In the case of an
14 employer which was not in existence
15 throughout the preceding calendar year,
16 the determination of whether such em-
17 ployer is a small employer shall be based
18 on the average number of employees that
19 it is reasonably expected such employer
20 will employ on business days in the current
21 calendar year.

22 “(iii) PREDECESSORS.—Any reference
23 in this paragraph to an employer shall in-
24 clude a reference to any predecessor of
25 such employer.

1 “(2) INCREASED COST EXEMPTION.—This sec-
2 tion shall not apply with respect to a group health
3 plan if the application of this section to such plan
4 results in an increase in the cost under the plan of
5 at least 1 percent.

6 “(d) SEPARATE APPLICATION TO EACH OPTION OF-
7 FERED.—In the case of a group health plan that offers
8 a participant or beneficiary two or more benefit package
9 options under the plan, the requirements of this section
10 shall be applied separately with respect to each such op-
11 tion.

12 “(e) DEFINITIONS.—For purposes of this section—

13 “(1) TREATMENT LIMITATION.—The term
14 ‘treatment limitation’ means, with respect to benefits
15 under a group health plan, any day or visit limits
16 imposed on coverage of benefits under the plan dur-
17 ing a period of time.

18 “(2) FINANCIAL REQUIREMENT.—The term ‘fi-
19 nancial requirement’ means, with respect to benefits
20 under a group health plan, any deductible, coinsur-
21 ance, or cost-sharing or an annual or lifetime dollar
22 limit imposed with respect to the benefits under the
23 plan.

24 “(3) MEDICAL OR SURGICAL BENEFITS.—The
25 term ‘medical or surgical benefits’ means benefits

1 with respect to medical or surgical services, as de-
2 fined under the terms of the plan, but does not in-
3 clude substance abuse treatment benefits.

4 “(4) SUBSTANCE ABUSE TREATMENT BENE-
5 FITS.—The term ‘substance abuse treatment bene-
6 fits’ means benefits with respect to substance abuse
7 treatment services.

8 “(5) SUBSTANCE ABUSE TREATMENT SERV-
9 ICES.—The term ‘substance abuse services’ means
10 any of the following items and services provided for
11 the treatment of substance abuse:

12 “(A) Inpatient treatment, including detoxi-
13 fication.

14 “(B) Non-hospital residential treatment.

15 “(C) Outpatient treatment, including
16 screening and assessment, medication manage-
17 ment, individual, group, and family counseling,
18 and relapse prevention.

19 “(D) Prevention services, including health
20 education and individual and group counseling
21 to encourage the reduction of risk factors for
22 substance abuse.

23 “(6) SUBSTANCE ABUSE.—The term ‘substance
24 abuse’ includes chemical dependency.”.

1 (B) Section 4980D(d)(1) of such Code is
 2 amended by inserting “(other than a failure attrib-
 3 utable to section 9813)” after “on any failure”.

4 (C) The table of sections of subchapter B of
 5 chapter 100 of such Code is amended by adding at
 6 the end the following new item:

“9813. Parity in the application of treatment limitations and financial require-
 ments to substance abuse treatment benefits.”

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

11 **“SEC. 2753. PARITY IN THE APPLICATION OF TREATMENT**
 12 **LIMITATIONS AND FINANCIAL REQUIRE-**
 13 **MENTS TO SUBSTANCE ABUSE BENEFITS.**

14 “(a) IN GENERAL.—The provisions of section 2707
 15 (other than subsections (e)) shall apply to health insur-
 16 ance coverage offered by a health insurance issuer in the
 17 individual market in the same manner as it applies to
 18 health insurance coverage offered by a health insurance
 19 issuer in connection with a group health plan in the small
 20 or large group market.

21 “(b) NOTICE.—A health insurance issuer under this
 22 part shall comply with the notice requirement under sec-
 23 tion 714(f) of the Employee Retirement Income Security
 24 Act of 1974 with respect to the requirements referred to

1 in subsection (a) as if such section applied to such issuer
2 and such issuer were a group health plan.”.

3 (2) Section 2762(b)(2) of such Act (42 U.S.C.
4 300gg-62(b)(2)) is amended by striking “section 2751”
5 and inserting “sections 2751 and 2753”.

6 (c) EFFECTIVE DATES.—(1) Subject to paragraph
7 (3), the amendments made by subsection (a) apply with
8 respect to group health plans for plan years beginning on
9 or after January 1, 2006.

10 (2) The amendments made by subsection (b) apply
11 with respect to health insurance coverage offered, sold,
12 issued, renewed, in effect, or operated in the individual
13 market on or after January 1, 2006.

14 (3) In the case of a group health plan maintained
15 pursuant to 1 or more collective bargaining agreements
16 between employee representatives and 1 or more employ-
17 ers ratified before the date of enactment of this Act, the
18 amendments made in subsection (a) shall not apply to plan
19 years beginning before the later of—

20 (A) the date on which the last collective bar-
21 gaining agreements relating to the plan terminates
22 (determined without regard to any extension thereof
23 agreed to after the date of enactment of this Act),
24 or

25 (B) January 1, 2006.

1 For purposes of subparagraph (A), any plan amendment
2 made pursuant to a collective bargaining agreement relat-
3 ing to the plan which amends the plan solely to conform
4 to any requirement added by subsection (a) shall not be
5 treated as a termination of such collective bargaining
6 agreement.

7 (d) COORDINATED REGULATIONS.—Section 104(1)
8 of Health Insurance Portability and Accountability Act of
9 1996 is amended by striking “this subtitle (and the
10 amendments made by this subtitle and section 401)” and
11 inserting “the provisions of part 7 of subtitle B of title
12 I of the Employee Retirement Income Security Act of
13 1974, and the provisions of parts A and C of title XXVII
14 of the Public Health Service Act, and chapter 1000 of the
15 Internal Revenue Code of 1986”.

16 (e) PREEMPTION.—Nothing in the amendments made
17 by this section shall be construed to preempt any provision
18 of State law that provides protections to individuals that
19 are greater than the protections provided under such
20 amendments.

○