

109TH CONGRESS
1ST SESSION

H. R. 4022

To require health insurance coverage for certain reconstructive surgery.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 7, 2005

Mr. ROSS 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 health insurance coverage for certain
reconstructive surgery.

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 “Reconstructive Surgery
5 Act of 2005”.

6 **SEC. 2. COVERAGE OF RECONSTRUCTIVE SURGERY.**

7 (a) GROUP HEALTH PLANS.—

8 (1) PUBLIC HEALTH SERVICE ACT AMEND-
9 MENTS.—

1 (A) IN GENERAL.—Section 2706 of the
2 Public Health Service Act (42 U.S.C. 300gg–6)
3 is amended to read as follows:

4 **“SEC. 2706. COVERAGE OF RECONSTRUCTIVE SURGERY.**

5 “(a) REQUIREMENT.—A group health plan and a
6 health insurance issuer offering group health insurance
7 coverage in connection with a group health plan that pro-
8 vides coverage for surgery shall provide coverage for re-
9 constructive surgery, including medically-necessary treat-
10 ment for pre-operative and post-operative care deemed
11 necessary by the treating physician or team of physicians.

12 “(b) DEFINITION.—In subsection (a), the term ‘re-
13 constructive surgery’ means any medically necessary and
14 appropriate surgery performed to correct or repair abnor-
15 mal structures of the body caused by congenital defects,
16 developmental abnormalities, trauma, infection, tumors, or
17 disease to—

18 “(1) improve functions; or

19 “(2) give the patient a normal appearance, to
20 the extent possible, in the judgment of the physician
21 performing the surgery.

22 “(c) RULE OF CONSTRUCTION.—

23 “(1) IN GENERAL.—Nothing in this section
24 shall be construed to require a group health plan or

1 health insurance issuer in connection with a group
 2 health plan to provide coverage for cosmetic surgery.

3 “(2) DEFINITION.—In paragraph (1), the term
 4 ‘cosmetic surgery’ means surgery that is performed
 5 to alter or reshape normal structures of the body in
 6 order to improve appearance.”.

7 (B) CONFORMING AMENDMENT.—Section
 8 2723(c) of the Public Health Service Act (42
 9 U.S.C. 300gg–23(c)) is amended by striking
 10 “section 2704” and inserting “sections 2704
 11 and 2706”.

12 (2) ERISA AMENDMENTS.—

13 (A) IN GENERAL.—Section 713 of the Em-
 14 ployee Retirement Income Security Act of 1974
 15 (29 U.S.C. 1185b) is amended to read as fol-
 16 lows:

17 **“SEC. 713. COVERAGE FOR RECONSTRUCTIVE SURGERY.**

18 “(a) REQUIREMENT.—A group health plan and a
 19 health insurance issuer offering group health insurance
 20 coverage in connection with a group health plan that pro-
 21 vides coverage for surgery shall provide coverage for re-
 22 constructive surgery, including medically-necessary treat-
 23 ment for pre-operative and post-operative care deemed
 24 necessary by the treating physician or team of physicians.

1 “(b) DEFINITION.—In subsection (a), the term ‘re-
 2 constructive surgery’ means any medically necessary and
 3 appropriate surgery performed to correct or repair abnor-
 4 mal structures of the body caused by congenital defects,
 5 developmental abnormalities, trauma, infection, tumors, or
 6 disease to—

7 “(1) improve functions; or

8 “(2) give the patient a normal appearance, to
 9 the extent possible, in the judgment of the physician
 10 performing the surgery.

11 “(c) RULE OF CONSTRUCTION.—

12 “(1) IN GENERAL.—Nothing in this section
 13 shall be construed to require a group health plan or
 14 health insurance issuer in connection with a group
 15 health plan to provide coverage for cosmetic surgery.

16 “(2) DEFINITION.—In paragraph (1), the term
 17 ‘cosmetic surgery’ means surgery that is performed
 18 to alter or reshape normal structures of the body in
 19 order to improve appearance.”.

20 (B) CONFORMING AMENDMENTS.—

21 (i) Section 731(c) of such Act (29
 22 U.S.C. 1191(c)) is amended by striking
 23 “section 711” and inserting “sections 711
 24 and 713”.

1 (ii) Section 732(a) of such Act (29
 2 U.S.C. 1191a(a)) is amended by striking
 3 “section 711” and inserting “sections 711
 4 and 713”.

5 (iii) The table of contents in section 1
 6 of such Act is amended by inserting after
 7 the item relating to section 712 the fol-
 8 lowing new item:

“Sec. 713. Coverage for reconstructive surgery.”.

9 (b) INDIVIDUAL MARKET.—Section 2752 of the Pub-
 10 lic Health Service Act (42 U.S.C. 300gg–52) is amended
 11 to read as follows:

12 **“SEC. 2752. COVERAGE FOR RECONSTRUCTIVE SURGERY.**

13 “The provisions of section 2706 shall apply to health
 14 insurance coverage offered by a health insurance issuer
 15 in the individual market in the same manner as they apply
 16 to health insurance coverage offered by a health insurance
 17 issuer in connection with a group health plan in the small
 18 or large group market.”.

19 (c) EFFECTIVE DATES.—

20 (1) GROUP HEALTH PLANS.—Subject to para-
 21 graph (3), the amendments made by subsection (a)
 22 shall apply with respect to group health plans for
 23 plan years beginning on or after January 1, 2006.

24 (2) HEALTH INSURANCE COVERAGE.—The
 25 amendment made by subsection (b) shall apply with

1 respect to health insurance coverage offered, sold,
2 issued, renewed, in effect, or operated in the indi-
3 vidual market on or after such date.

4 (3) COLLECTIVE BARGAINING AGREEMENTS.—

5 In the case of a group health plan maintained pur-
6 suant to 1 or more collective bargaining agreements
7 between employee representatives and 1 or more em-
8 ployers ratified before the date of enactment of this
9 Act, the amendments made by subsection (a) shall
10 not apply to plan years beginning before the later
11 of—

12 (A) the date on which the last collective
13 bargaining agreements relating to the plan ter-
14 minates (determined without regard to any ex-
15 tension thereof agreed to after the date of en-
16 actment of this Act), or

17 (B) January 1, 2006.

18 For purposes of subparagraph (A), any plan amend-
19 ment made pursuant to a collective bargaining
20 agreement relating to the plan which amends the
21 plan solely to conform to any requirement added by
22 subsection (a) shall not be treated as a termination
23 of such collective bargaining agreement.

24 (d) COORDINATED REGULATIONS.—Section 104(1)
25 of Health Insurance Portability and Accountability Act of

1 1996 (Public Law 104–191) is amended by striking “this
2 subtitle (and the amendments made by this subtitle and
3 section 401)” and inserting “the provisions of part 7 of
4 subtitle B of title I of the Employee Retirement Income
5 Security Act of 1974, and the provisions of parts A and
6 C of title XXVII of the Public Health Service Act”.

○