

109TH CONGRESS
1ST SESSION

H. R. 437

To amend the Internal Revenue Code of 1986 to require group health plans to provide coverage for reconstructive surgery following mastectomy, consistent with the Women’s Health and Cancer Rights Act of 1998.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 1, 2005

Mrs. KELLY introduced the following bill; which was referred to the
Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to require group health plans to provide coverage for reconstructive surgery following mastectomy, consistent with the Women’s Health and Cancer Rights Act of 1998.

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 “Women’s Health and
5 Cancer Rights Conforming Amendments of 2005”.

1 **SEC. 2. CONFORMING THE INTERNAL REVENUE CODE OF**
2 **1986 TO REQUIREMENTS IMPOSED BY THE**
3 **WOMEN'S HEALTH AND CANCER RIGHTS ACT**
4 **OF 1998.**

5 (a) IN GENERAL.—Subchapter B of chapter 100 of
6 the Internal Revenue Code of 1986 (relating to other re-
7 quirements) is amended by inserting after section 9812
8 the following new section:

9 **“SEC. 9813. REQUIRED COVERAGE FOR RECONSTRUCTIVE**
10 **SURGERY FOLLOWING MASTECTOMIES.**

11 “(a) IN GENERAL.—A group health plan that pro-
12 vides medical and surgical benefits with respect to a mas-
13 tectomy shall provide, in a case of a participant or bene-
14 ficiary who is receiving benefits in connection with a mas-
15 tectomy and who elects breast reconstruction in connection
16 with such mastectomy, coverage for—

17 “(1) all stages of reconstruction of the breast
18 on which the mastectomy has been performed,

19 “(2) surgery and reconstruction of the other
20 breast to produce a symmetrical appearance, and

21 “(3) prostheses and physical complications of
22 mastectomy, including lymphedemas,

23 in a manner determined in consultation with the attending
24 physician and the patient. Such coverage may be subject
25 to annual deductibles and coinsurance provisions as may
26 be deemed appropriate and as are consistent with those

1 established for other benefits under the plan. Written no-
 2 tice of the availability of such coverage shall be delivered
 3 to the participant upon enrollment and annually there-
 4 after.

5 “(b) PROHIBITIONS.—A group health plan may not—

6 “(1) deny to a patient eligibility, or continued
 7 eligibility, to enroll or to renew coverage under the
 8 terms of the plan, solely for the purpose of avoiding
 9 the requirements of this section, and

10 “(2) penalize or otherwise reduce or limit the
 11 reimbursement of an attending provider, or provide
 12 incentives (monetary or otherwise) to an attending
 13 provider, to induce such provider to provide care to
 14 an individual participant or beneficiary in a manner
 15 inconsistent with this section.

16 “(c) RULE OF CONSTRUCTION.—Nothing in this sec-
 17 tion shall be construed to prevent a group health plan
 18 from negotiating the level and type of reimbursement with
 19 a provider for care provided in accordance with this sec-
 20 tion.”

21 (b) CLERICAL AMENDMENT.—The table of sections
 22 for chapter 100 of such Code is amended inserting after
 23 the item relating to section 9812 the following new item:

“Sec. 9813. Required coverage for reconstructive surgery following
 mastectomies.”

24 (c) EFFECTIVE DATE.—

1 (1) IN GENERAL.—The amendments made by
2 this section shall apply with respect to plan years be-
3 ginning on or after the date of enactment of this
4 Act.

5 (2) SPECIAL RULE FOR COLLECTIVE BAR-
6 GAINING AGREEMENTS.—In the case of a group
7 health plan maintained pursuant to 1 or more collec-
8 tive bargaining agreements between employee rep-
9 resentatives and 1 or more employers, any plan
10 amendment made pursuant to a collective bargaining
11 agreement relating to the plan which amends the
12 plan solely to conform to any requirement added by
13 this section shall not be treated as a termination of
14 such collective bargaining agreement.

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