

110TH CONGRESS
1ST SESSION

H. R. 1247

To amend title XVIII of the Social Security Act to provide for comprehensive health benefits for the relief of individuals whose health was adversely affected by the 9/11 disaster.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 28, 2007

Mr. NADLER (for himself, Mr. ACKERMAN, Mr. BISHOP of Georgia, Ms. CORRINE BROWN of Florida, Mrs. CHRISTENSEN, Ms. CLARKE, Mr. CROWLEY, Ms. DELAUBO, Mr. ENGEL, Mr. AL GREEN of Texas, Mr. GRIJALVA, Mr. HASTINGS of Florida, Mr. HIGGINS, Mr. HINCHEY, Mr. HOLT, Mr. ISRAEL, Mr. KUCINICH, Ms. MATSUI, Mrs. McCARTHY of New York, Mr. MEEHAN, Mr. MEEKS of New York, Mr. GEORGE MILLER of California, Ms. NORTON, Mr. OBERSTAR, Mr. PASCRELL, Mr. RUSH, Mr. SERRANO, Ms. SLAUGHTER, Ms. VELÁZQUEZ, Mr. WEINER, Mr. BISHOP of New York, and Mr. CONYERS) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on 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 title XVIII of the Social Security Act to provide for comprehensive health benefits for the relief of individuals whose health was adversely affected by the 9/11 disaster.

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 “9/11 Comprehensive
3 Health Benefits Act of 2007”.

4 **SEC. 2. MEDICARE-BASED ELIGIBILITY AND BENEFITS FOR**
5 **INDIVIDUALS WITH A 9/11 DISASTER-CON-**
6 **NECTED HEALTH CONDITION.**

7 (a) IN GENERAL.—Title XVIII of the Social Security
8 Act is amended by inserting after section 1808 the fol-
9 lowing new section:

10 “BENEFITS FOR INDIVIDUALS WITH A 9/11 DISASTER-
11 CONNECTED HEALTH CONDITION

12 “SEC. 1809. (a) IN GENERAL.—Every 9/11 impacted
13 individual (as defined in subsection (b)(1)(A)) who has a
14 9/11 disaster-connected health condition (as defined in
15 subsection (b)(2))—

16 “(1) is entitled to 9/11-related benefits (as de-
17 fined in subsection (c)(1)) under this title without
18 payment of any premium; and

19 “(2) if the individual is not otherwise entitled
20 to benefits under part A (or enrolled under part B),
21 is eligible to enroll under subsection (d) for benefits
22 under parts A, B, and D that are in addition to the
23 9/11-related benefits provided under paragraph (1).

24 Paragraph (1) shall apply regardless of whether or not
25 the individual is otherwise entitled to benefits under part
26 A, B, or D. Paragraph (2) shall apply regardless of wheth-

1 er the individual is covered under a group health plan or
2 otherwise has other health insurance or benefits coverage.

3 “(b) ELIGIBILITY.—

4 “(1) 9/11 IMPACTED INDIVIDUAL DEFINED.—

5 “(A) IN GENERAL.—For purposes of this
6 section, the term ‘9/11 impacted individual’
7 means any of the following:

8 “(i) EMERGENCY SERVICES OR RES-
9 CUE AND RECOVERY PERSONNEL.—Any
10 emergency services or rescue and recovery
11 personnel who responded to the 9/11 New
12 York terrorist attacks at any time during
13 the period beginning on September 11,
14 2001, and ending on August 31, 2002.

15 “(ii) INDIVIDUALS EXPOSED TO HAZ-
16 ARDOUS SUBSTANCES, POLLUTANTS, OR
17 CONTAMINANTS.—Any individual exposed
18 in New York City to hazardous substances,
19 pollutants, or contaminants released from
20 the collapse of the World Trade Center
21 that occurred in the 9/11 New York ter-
22 rrorist attacks or from the fires that oc-
23 curred, or from the handling of resulting
24 debris, thereafter.

1 “(iii) OTHER INDIVIDUALS.—Any
2 other individual whom the Secretary deter-
3 mines to be appropriate.

4 “(B) EMERGENCY SERVICES OR RESCUE
5 AND RECOVERY PERSONNEL INCLUDED.—For
6 purposes of this paragraph, the term ‘emer-
7 gency services personnel or rescue and recovery
8 personnel’ includes any of the following:

9 “(i) A Federal, State, or city employee
10 who responded to the 9/11 New York ter-
11 rorist attacks.

12 “(ii) An individual who, as a worker
13 or volunteer, was involved in clean-up, re-
14 pair, or infrastructure restoration activities
15 related to the 9/11 New York terrorist at-
16 tacks.

17 “(iii) An individual participating in a
18 search and rescue team, or who assisted in
19 the recovery of human remains, after the
20 9/11 New York terrorist attacks.

21 “(iv) Any other relief or rescue worker
22 who the Secretary determines to be appro-
23 priate.

1 “(C) PRESUMPTION OF EXPOSURE TO
2 HAZARDOUS SUBSTANCES, POLLUTANTS, OR
3 CONTAMINANTS.—

4 “(i) IN GENERAL.—An individual
5 shall be treated as described in subparagraph
6 (A)(ii) if the individual resided,
7 owned a business, was employed, or at-
8 tended school, child care, or adult day care
9 in a building that was exposed to haz-
10 ardous substances, pollutants, or contami-
11 nants released from the collapse of the
12 World Trade Center that occurred during
13 such attacks on or after September 11,
14 2001 or from the fires that occurred, or
15 from the handling of resulting debris,
16 thereafter.

17 “(ii) TREATMENT OF BUILDINGS.—
18 For purposes of clause (i), any building in
19 Manhattan, Brooklyn, Queens, Staten Is-
20 land, or Northern New Jersey (as delin-
21 eated by the Secretary) shall be treated as
22 being described in such clause if there is
23 evidence that the building was exposed to
24 hazardous substances, pollutants, or con-
25 taminants released from the collapse of the

5 “(2) 9/11 DISASTER-CONNECTED HEALTH CON-
6 DITION DEFINED.—

7 “(A) IN GENERAL.—For purposes of this
8 section, the term ‘9/11 disaster-connected
9 health condition’ means an adverse health con-
10 dition (including the exacerbation of a pre-exist-
11 ing health condition), which also may be an ad-
12 verse mental health condition, that, in the judg-
13 ment of a qualified medical practitioner (includ-
14 ing a therapist in the case of an adverse mental
15 health condition), can reasonably be considered
16 to be associated with exposure to the 9/11 New
17 York terrorist attacks.

18 “(B) 9/11 NEW YORK TERRORIST ATTACKS
19 DEFINED.—For purposes of this section, the
20 term ‘9/11 New York terrorist attacks’ means
21 the terrorist attacks that occurred on Sep-
22 tember 11, 2001, in New York City, New York.

23 “(C) TREATMENT OF ADVERSE MENTAL
24 HEALTH CONDITION.—For purposes of sub-
25 paragraph (A), an individual shall be considered

1 to have a 9/11 disaster-connected health condi-
2 tion if the individual has an adverse emotional
3 or psychological health impact that—

4 “(i) has been formally diagnosed by a
5 qualified medical practitioner or therapist;
6 and

7 “(ii) can be reasonably considered, in
8 the judgment of such practitioner or thera-
9 pist, to be associated with exposure to the
10 9/11 New York terrorist attacks.

11 “(3) CRITERIA.—Not later than 30 days after
12 the date of establishment of the Consortium estab-
13 lished under section 3 of the 9/11 Comprehensive
14 Health Benefits Act of 2007, the Secretary, in con-
15 sultation with such Consortium, shall initially de-
16 velop standardized criteria for medical practitioners
17 to consult with for assistance in their determination
18 of whether an individual has a 9/11 disaster-con-
19 nected health condition consistent with this sub-
20 section. The Secretary shall periodically review such
21 criteria and may, from time to time and in consulta-
22 tion with the Consortium, modify such criteria as
23 the Secretary determines appropriate.

24 “(4) APPEALS PROCESS.—The Secretary shall
25 specify a process for the appeal of a determination

1 that an individual is not eligible for benefits under
2 this section. Such process shall be consistent with
3 the process under section 1869 for the appeal of a
4 determination that an individual is entitled to bene-
5 fits under parts A and B.

6 “(5) TREATMENT OF NONRESIDENTS AND UN-
7 DOCUMENTED ALIENS.—Nothing in this section
8 shall be construed as making an individual ineligible
9 for benefits under this section because the individual
10 is not a resident of New York or the United States
11 or because the individual is an alien or is not au-
12 thorized to reside in the United States. Nothing in
13 this paragraph shall be construed to provide for any
14 benefits under this title for items and services fur-
15 nished outside the United States, except as may oth-
16 erwise be authorized under this title.

17 “(c) 9/11-RELATED BENEFITS DEFINED.—

18 “(1) IN GENERAL.—For purposes of this sec-
19 tion, the term ‘9/11-related benefits’ means benefits
20 under parts A, B, and D for the treatment of any
21 9/11 disaster-related health condition, subject to the
22 following modifications with respect to such treat-
23 ment:

1 “(A) NO COST-SHARING.—No deductibles,
2 coinsurance, copayments, or other cost-sharing
3 shall be applicable.

4 “(B) ELIMINATION OF DAY OR DOLLAR
5 LIMITATIONS.—Any day or dollar limitations on
6 coverage with respect to such treatment, includ-
7 ing such limitations under sections 1812,
8 1833(g), and 1860D-2(b)(3), shall not be ap-
9 plicable.

10 “(2) ENTITLEMENT WITHOUT PREMIUMS.—An
11 individual entitled to 9/11-related benefits under this
12 section is deemed to be entitled to benefits under
13 parts A, B, and D with respect to such 9/11-related
14 benefits without requirement for payment for any
15 premium. The entitlement to such benefits shall
16 begin on the date that the individual is determined
17 to be eligible for such benefits, but in no case before
18 the date of the enactment of this section.

19 “(3) RELATION TO PART C.—Except in the case
20 of an individual enrolled under part A or B under
21 subsection (d) or otherwise, 9/11-related benefits are
22 not available through enrollment in a Medicare Ad-
23 vantage plan under part C.

24 “(d) ENROLLMENT OPTION FOR ADDITIONAL MEDI-
25 CARE BENEFITS.—

1 “(1) IN GENERAL.—With respect to the enrollment
2 option described in subsection (a)(2), an eligible
3 individual may enroll under part A or B (or
4 both), and under part D, in a manner and form pre-
5 scribed in regulations. Such regulations shall provide
6 for continuous open enrollment for such individuals.

7 “(2) PREMIUMS.—

8 “(A) IN GENERAL.—Except as provided in
9 this paragraph, the premium for enrollment
10 under part A under this subsection shall be the
11 same as the premium established under sub-
12 section (d) of section 1818 for enrollment under
13 such section, subject to any reduction provided
14 under such subsection.

15 “(B) ELIMINATION OF PREMIUM BASED
16 ON QUARTERS OF COVERAGE.—No premium
17 shall be imposed under subparagraph (A) in the
18 case of an individual if the individual would be
19 entitled, based solely on the number of quarters
20 of coverage under title II, to benefits under
21 part A under section 226(a), 226(b), or 226A.

22 “(C) NO LATE ENROLLMENT PENALTY.—
23 An individual enrolling under part A, B, or D
24 under this subsection shall not be subject to

1 any late enrollment penalty, including under
2 sections 1839(b) and 1860D–13(b).

3 **“(3) ENROLLMENT UNDER PARTS B AND D.—**

4 For purposes of parts B and D, in the case of an
5 individual eligible to enroll under this subsection, the
6 individual’s initial enrollment period under such
7 parts shall be treated as beginning on the date of
8 such eligibility and having no end date.

9 **“(4) COVERAGE.—**

10 **“(A) IN GENERAL.—**The period (in this
11 subsection referred to as a ‘coverage period’)
12 during which an individual enrolled under this
13 subsection is entitled to benefits under the re-
14 spective part shall begin on the first day of the
15 first month that begins at least 15 days after
16 the date of the individual’s enrollment under
17 such part.

18 **“(B) TERMINATION.—**An individual’s cov-
19 erage period under this subsection under a part
20 shall continue until the individual’s enrollment
21 under such part is terminated as follows:

22 **“(i)** As of the month following the
23 month in which the individual files notice
24 that the individual no longer wishes to be
25 enrolled in the part under this subsection.

1 “(ii) For nonpayment of any applica-
2 ble premiums under such part.

3 “(iii) With respect to coverage under
4 part D, as of the month in which the indi-
5 vidual is neither enrolled in part A nor en-
6 rolled in part B.

7 The termination of a coverage period under
8 clause (ii) shall take effect on a date deter-
9 mined under regulations, which may be deter-
10 mined so as to provide a grace period in which
11 overdue premiums may be paid and coverage
12 continued. The grace period determined under
13 the preceding sentence shall not exceed 90 days;
14 except that it may be extended to not to exceed
15 180 days in any case where the Secretary deter-
16 mines that there was good cause for failure to
17 pay the overdue premiums within such 90-day
18 period.

19 “(e) PAYMENT-RELATED PROVISIONS.—

20 “(1) AUTHORIZATION OF APPROPRIATIONS TO
21 COVER ADDITIONAL BENEFITS.—There are author-
22 ized to be appropriated to the Federal Hospital In-
23 surance Trust Fund and the Federal Supplementary
24 Medical Insurance Trust Fund, and the Medicare
25 Prescription Drug Account in such Trust Fund,

1 such sums as may be necessary to cover the costs
2 under such Trust Funds and Account of providing
3 benefits under this section, net of any premiums
4 paid with respect to such benefits under subsection
5 (d).

6 “(2) REIMBURSEMENT OF PRESCRIPTION DRUG
7 PLANS AND MA PLANS FOR 9/11-RELATED BENE-
8 FITS.—With respect to benefits under a prescription
9 drug plan under part D or under a Medicare Advan-
10 tage plan under part C, the Secretary shall provide
11 for reimbursement to the plan from the appropriate
12 Trust Funds and Accounts under this title for the
13 cost of 9/11-related benefits provided under the plan
14 under this section, including costs related to the ap-
15 plication of the benefit modifications described in
16 subsection (c)(1).”.

17 (b) NONDISCRIMINATION IN HEALTH BENEFITS;
18 MEDICARE MADE PRIMARY PAYER FOR TREATMENT OF
19 9/11 DISASTER-CONNECTED HEALTH CONDITIONS.—

20 (1) NONDISCRIMINATION REQUIREMENT.—Sec-
21 tion 1862(b) of such Act (42 U.S.C. 1395y(b)) is
22 amended—

23 (A) by redesignating subparagraph (D) of
24 paragraph (1) as subparagraph (G) and by
25 moving it to the end of such paragraph;

1 (B) by inserting after subparagraph (C) of
2 paragraph (1) the following new subparagraph:

“(D) INDIVIDUALS WITH A 9/11-DISASTER CONNECTED HEALTH CONDITION.—

22 “(ii) ENFORCEMENT.—

18 (C) in the second sentence of paragraph
19 (2)(A), by inserting after “large group health
20 plan” the following: “or other coverage de-
21 scribed in paragraph (1)(D)(i)”;

22 (D) in paragraph (2)(B)(vi), by inserting
23 “or other coverage described in paragraph
24 (1)(D)(i)” after “employer group health plan”;
25 and

1 (E) in paragraph (3)(C)—

2 (i) in the heading by inserting “OR
3 OTHER COVERAGE” after “LARGE GROUP
4 HEALTH PLAN”; and

5 (ii) by inserting “or other coverage
6 described in paragraph (1)(D)(i)” after
7 “large group health plan”.

12 (A) in subparagraph (A), by striking “sub-
13 paragraph (B)” and inserting “subparagraphs
14 (B) and (D)”;
and

15 (B) by adding at the end the following new
16 subparagraph:

17 “(D) MEDICARE IS PRIMARY PAYER FOR
18 TREATMENT OF 9/11 DISASTER-CONNECTED
19 HEALTH CONDITIONS.—Payment under this
20 title shall be made without regard to subparagraph
21 (A) for an item or service for the treat-
22 ment of a 9/11 disaster-connected health condi-
23 tion (as defined in section 1809(b)(2)).”.

24 (c) PROHIBITION OF DISCRIMINATION IN WORKERS'
25 COMPENSATION AND EMPLOYMENT.—

1 (1) WORKERS' COMPENSATION.—

2 (A) DISCRIMINATION PROHIBITED.—A
3 workers' compensation law or plan may not dis-
4 criminate against an individual by virtue of the
5 individual's entitlement to benefits under title
6 XVIII of the Social Security Act under section
7 1809 of such Act, as inserted by subsection (a).8 (B) PRIVATE CAUSE OF ACTION.—An indi-
9 vidual adversely affected by a violation of sub-
10 paragraph (A) may bring a private cause of ac-
11 tion to enjoin the violation and to obtain dam-
12 ages (which shall be in an amount double the
13 amount such individual was otherwise entitled
14 to under such law or plan and may include rea-
15 sonable attorney's fees) resulting from such a
16 violation.

17 (2) EMPLOYMENT.—

18 (A) DISCRIMINATION PROHIBITED.—An
19 employer may not discriminate against an indi-
20 vidual in regards to hiring, advancement, com-
21 pensation, or other terms, conditions, and privi-
22 leges of employment by virtue of the individ-
23 ual's entitlement to benefits under title XVIII
24 of the Social Security Act under section 1809
25 of such Act, as inserted by subsection (a).

(B) ENFORCEMENT.—The powers, remedies, and procedures provided in sections 705, 706, 707, 709, 710, and 711 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–4 et seq.) to the Equal Employment Opportunity Commission, the Attorney General, or any person, alleging a violation of title VII of that Act (42 U.S.C. 2000e et seq.) shall be the powers, remedies, and procedures this subsection provides to the Equal Employment Opportunity Commission, the Attorney General, or any person, respectively, alleging discrimination in violation of subparagraph (A), except that any employer found by a court to have intentionally engaged in discrimination in violation of subparagraph (A) shall be additionally subject to a civil penalty of not to exceed \$25,000 for each such violation.

19 (C) EMPLOYER DEFINED.—As used in this
20 paragraph, the term “employer” has the same
21 meaning given that term in section 101(5) of
22 the Americans with Disabilities Act of 1990 (42
23 U.S.C. 12112(5)).

24 (d) CONFORMING AMENDMENTS.—

13 SEC. 3. CONSORTIUM TO CONDUCT SCREENING, MONI-
14 TORING, TREATMENT, AND RESEARCH RE-
15 GARDING 9/11 DISASTER-CONNECTED
16 HEALTH CONDITIONS.

17 (a) ESTABLISHMENT OF CONSORTIUM.—

25 (2) COMPOSITION.—

1 (A) IN GENERAL.—The Consortium shall
2 consist of institutions, programs, and practi-
3 tioners that have provided, or are qualified to
4 provide, screening, clinical examinations, or
5 long-term health monitoring and analysis and
6 treatment regarding 9/11 disaster-connected
7 health conditions. The Consortium shall also in-
8 clude community-based organizations with ex-
9 pertise in providing outreach to hard-to-reach
10 affected communities.

11 (B) DIRECTOR.—The Consortium shall
12 have a director, appointed by the Secretary,
13 who shall be a Federal official responsible for
14 the administration of the Consortium, including
15 its governance and management. The director
16 also shall be the primary Federal official re-
17 sponsible for general health issues relating to
18 the 9/11 New York terrorist attacks.

19 (C) PUBLIC PARTICIPATION IN GOVERN-
20 ANCE.—The Secretary shall provide for public
21 participation, including representatives of af-
22 fected communities or members of affected pop-
23 ulations, in the governance of the Consortium.

24 (3) DUTIES.—

5 (B) SPECIFIC DUTIES.—Specifically, the
6 Consortium shall—

7 (i) conduct outreach to hard-to-reach
8 affected communities;

9 (ii) develop diagnostic criteria for the
10 purposes of identifying latent and late-
11 onset 9/11 disaster-connected health condi-
12 tions;

13 (iii) develop treatments for 9/11 dis-
14 aster-connected health conditions; and

15 (iv) track the adverse health and men-
16 tal health conditions on historically under-
17 served populations, including children, the
18 elderly, and minority populations.

22 (b) ANNUAL REPORT BY NIH.—The Director of the
23 National Institutes of Health shall submit to Congress an
24 annual report describing the findings of research con-
25 ducted under this section.

1 (c) AUTHORIZATION OF APPROPRIATIONS.—There
2 are authorized to be appropriated such sums as may be
3 required to carry out this section.

4 (d) 9/11 DISASTER-CONNECTED HEALTH CONDI-
5 TION.—The term “9/11 disaster-connected health condi-
6 tion” has the meaning given such term in section
7 1809(b)(2)(A) of the Social Security Act, as inserted by
8 the amendment made by section 2(a).

○