

110TH CONGRESS  
1ST SESSION

# H. R. 822

To amend the Public Health Service Act, the Employee Retirement Income Security Act of 1974, the Internal Revenue Code of 1986, and title 5, United States Code, to require individual and group health insurance coverage and group health plans and Federal employees health benefit plans to provide coverage for routine HIV/AIDS screening.

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## IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 5, 2007

Ms. WATERS (for herself, Ms. LEE, Mrs. CHRISTENSEN, Mr. STARK, Ms. CARSON, and Mr. TOWNS) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committees on Education and Labor, Ways and Means, and Oversight and Government Reform, 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

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## A BILL

To amend the Public Health Service Act, the Employee Retirement Income Security Act of 1974, the Internal Revenue Code of 1986, and title 5, United States Code, to require individual and group health insurance coverage and group health plans and Federal employees health benefit plans to provide coverage for routine HIV/AIDS screening.

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; FINDINGS.**

2 (a) **SHORT TITLE.**—This Act may be cited as the  
3 “Routine HIV/AIDS Screening Coverage Act of 2007”.

4 (b) **FINDINGS.**—Congress finds the following:

5 (1) HIV/AIDS continues to infect and kill thou-  
6 sands of Americans, 25 years after the first cases  
7 were reported.

8 (2) It has been estimated that at least 1.6 mil-  
9 lion Americans have been infected by HIV/AIDS  
10 since the beginning of the epidemic and over  
11 500,000 of them have died.

12 (3) The HIV/AIDS epidemic has disproportion-  
13 ately impacted African Americans and Hispanic  
14 Americans and its impact on women is growing.

15 (4) It has been estimated that between 24 and  
16 27 percent of those infected with HIV/AIDS in the  
17 United States do not know they are infected.

18 (5) Not all individuals who have been infected  
19 with HIV/AIDS demonstrate clinical indications or  
20 fall into high risk categories.

21 (6) The Centers for Disease Control and Pre-  
22 vention has determined that increasing the propor-  
23 tion of people who know their HIV/AIDS status is  
24 an essential component of comprehensive HIV/AIDS  
25 treatment and prevention efforts and that early di-

1       agnosis is critical in order for people with HIV/  
2       AIDS to receive life-extending therapy.

3               (7) On September 21, 2006, the Centers for  
4       Disease Control and Prevention released new guide-  
5       lines that recommend routine HIV/AIDS screening  
6       in health care settings for all patients aged 13–64,  
7       regardless of risk.

8               (8) Standard health insurance plans generally  
9       cover HIV/AIDS screening when there are clinical  
10      indications of infection or when there are known risk  
11      factors present.

12              (9) Requiring health insurance plans to cover  
13      routine HIV/AIDS screening could play a critical  
14      role in preventing the spread of HIV/AIDS and al-  
15      lowing infected individuals to receive effective treat-  
16      ment.

17 **SEC. 2. COVERAGE FOR ROUTINE HIV/AIDS SCREENING**

18                               **UNDER GROUP HEALTH PLANS, INDIVIDUAL**

19                               **HEALTH INSURANCE COVERAGE, AND FEHBP.**

20       (a) **GROUP HEALTH PLANS.—**

21               (1) **PUBLIC HEALTH SERVICE ACT AMEND-**  
22      **MENTS.—**Subpart 2 of part A of title XXVII of the  
23      Public Health Service Act is amended by adding at  
24      the end the following new section:

1 **“SEC. 2707. COVERAGE FOR ROUTINE HIV/AIDS SCREENING.**

2       “(a) **COVERAGE.**—A group health plan, and a health  
3 insurance issuer offering group health insurance coverage,  
4 shall provide coverage for routine HIV/AIDS screening  
5 under terms and conditions that are no less favorable than  
6 the terms and conditions applicable to other routine health  
7 screenings.

8       “(b) **PROHIBITIONS.**—A group health plan, and a  
9 health insurance issuer offering group health insurance  
10 coverage, shall not—

11               “(1) deny to an individual eligibility, or contin-  
12 ued eligibility, to enroll or to renew coverage under  
13 the terms of the plan, solely for the purpose of  
14 avoiding the requirements of this section;

15               “(2) deny coverage for routine HIV/AIDS  
16 screening on the basis that there are no known risk  
17 factors present, or the screening is not clinically in-  
18 dicated, medically necessary, or pursuant to a refer-  
19 ral, consent, or recommendation by any health care  
20 provider;

21               “(3) provide monetary payments, rebates, or  
22 other benefits to individuals to encourage such indi-  
23 viduals to accept less than the minimum protections  
24 available under this section;

25               “(4) penalize or otherwise reduce or limit the  
26 reimbursement of a provider because such provider

1 provided care to an individual participant or bene-  
2 ficiary in accordance with this section;

3 “(5) provide incentives (monetary or otherwise)  
4 to a provider to induce such provider to provide care  
5 to an individual participant or beneficiary in a man-  
6 ner inconsistent with this section; or

7 “(6) deny to an individual participant or bene-  
8 ficiary continued eligibility to enroll or to renew cov-  
9 erage under the terms of the plan, solely because of  
10 the results of an HIV/AIDS test or other HIV/AIDS  
11 screening procedure for the individual or any other  
12 individual.

13 “(c) RULES OF CONSTRUCTION.—Nothing in this  
14 section shall be construed—

15 “(1) to require an individual who is a partici-  
16 pant or beneficiary to undergo HIV/AIDS screening;  
17 or

18 “(2) as preventing a group health plan or issuer  
19 from imposing deductibles, coinsurance, or other  
20 cost-sharing in relation to HIV/AIDS screening, ex-  
21 cept that such deductibles, coinsurance or other  
22 cost-sharing may not be greater than the  
23 deductibles, coinsurance, or other cost-sharing im-  
24 posed on other routine health screenings.

1       “(d) NOTICE.—A group health plan under this part  
2 shall comply with the notice requirement under section  
3 714(d) of the Employee Retirement Income Security Act  
4 of 1974 with respect to the requirements of this section  
5 as if such section applied to such plan.

6       “(e) PREEMPTION.—Nothing in this section shall be  
7 construed to preempt any State law in effect on the date  
8 of enactment of this section with respect to health insur-  
9 ance coverage that requires coverage of at least the cov-  
10 erage of HIV/AIDS screening otherwise required under  
11 this section.”.

12               (2) ERISA AMENDMENTS.—(A) Subpart B of  
13 part 7 of subtitle B of title I of the Employee Re-  
14 tirement Income Security Act of 1974 is amended by  
15 adding at the end the following new section:

16 **“SEC. 714. COVERAGE FOR ROUTINE HIV/AIDS SCREENING.**

17       “(a) COVERAGE.—A group health plan, and a health  
18 insurance issuer offering group health insurance coverage,  
19 shall provide coverage for routine HIV/AIDS screening  
20 under terms and conditions that are no less favorable than  
21 the terms and conditions applicable to other routine health  
22 screenings.

23       “(b) PROHIBITIONS.—A group health plan, and a  
24 health insurance issuer offering group health insurance  
25 coverage, shall not—

1           “(1) deny to an individual eligibility, or contin-  
2           ued eligibility, to enroll or to renew coverage under  
3           the terms of the plan, solely for the purpose of  
4           avoiding the requirements of this section;

5           “(2) deny coverage for routine HIV/AIDS  
6           screening on the basis that there are no known risk  
7           factors present, or the screening is not clinically in-  
8           dicated, medically necessary, or pursuant to a refer-  
9           ral, consent, or recommendation by any health care  
10          provider;

11          “(3) provide monetary payments, rebates, or  
12          other benefits to individuals to encourage such indi-  
13          viduals to accept less than the minimum protections  
14          available under this section;

15          “(4) penalize or otherwise reduce or limit the  
16          reimbursement of a provider because such provider  
17          provided care to an individual participant or bene-  
18          ficiary in accordance with this section;

19          “(5) provide incentives (monetary or otherwise)  
20          to a provider to induce such provider to provide care  
21          to an individual participant or beneficiary in a man-  
22          ner inconsistent with this section; or

23          “(6) deny to an individual participant or bene-  
24          ficiary continued eligibility to enroll or to renew cov-  
25          erage under the terms of the plan, solely because of

1 the results of an HIV/AIDS test or other HIV/AIDS  
2 screening procedure for the individual or any other  
3 individual.

4 “(c) RULES OF CONSTRUCTION.—Nothing in this  
5 section shall be construed—

6 “(1) to require an individual who is a partici-  
7 pant or beneficiary to undergo HIV/AIDS screening;  
8 or

9 “(2) as preventing a group health plan or issuer  
10 from imposing deductibles, coinsurance, or other  
11 cost-sharing in relation to HIV/AIDS screening, ex-  
12 cept that such deductibles, coinsurance or other  
13 cost-sharing may not be greater than the  
14 deductibles, coinsurance, or other cost-sharing im-  
15 posed on other routine health screenings.

16 “(d) NOTICE UNDER GROUP HEALTH PLAN.—A  
17 group health plan, and a health insurance issuer providing  
18 health insurance coverage in connection with a group  
19 health plan, shall provide notice to each participant and  
20 beneficiary under such plan regarding the coverage re-  
21 quired by this section in accordance with regulations pro-  
22 mulgated by the Secretary. Such notice shall be in writing  
23 and prominently positioned in any literature or cor-  
24 respondence made available or distributed by the plan or  
25 issuer and shall be transmitted—



1           “(1) in the next mailing made by the plan or  
2 issuer to the participant or beneficiary;

3           “(2) as part of any yearly informational packet  
4 sent to the participant or beneficiary; or

5           “(3) not later than January 1, 2008;

6 whichever is earliest.

7           “(e) PREEMPTION, RELATION TO STATE LAWS.—

8           “(1) IN GENERAL.—Nothing in this section  
9 shall be construed to preempt any State law in effect  
10 on the date of enactment of this section with respect  
11 to health insurance coverage that requires coverage  
12 of at least the coverage of HIV/AIDS screening oth-  
13 erwise required under this section.

14           “(2) ERISA.—Nothing in this section shall be  
15 construed to affect or modify the provisions of sec-  
16 tion 514 with respect to group health plans.”.

17           (B) Section 732(a) of such Act (29 U.S.C.  
18 1191a(a)) is amended by striking “section 711” and  
19 inserting “sections 711 and 714”.

20           (C) The table of contents in section 1 of such  
21 Act is amended by inserting after the item relating  
22 to section 713 the following new item:

“Sec. 714. Coverage for routine HIV/AIDS screening.”.

23           (3) INTERNAL REVENUE CODE AMEND-  
24 MENTS.—(A) Subchapter B of chapter 100 of the

1 Internal Revenue Code of 1986 is amended by in-  
2 sserting after section 9812 the following:

3 **“SEC. 9813. COVERAGE FOR ROUTINE HIV/AIDS SCREENING.**

4 “(a) COVERAGE.—A group health plan shall provide  
5 coverage for routine HIV/AIDS screening under terms  
6 and conditions that are no less favorable than the terms  
7 and conditions applicable to other routine health  
8 screenings.

9 “(b) PROHIBITIONS.—A group health plan shall  
10 not—

11 “(1) deny to an individual eligibility, or contin-  
12 ued eligibility, to enroll or to renew coverage under  
13 the terms of the plan, solely for the purpose of  
14 avoiding the requirements of this section;

15 “(2) deny coverage for routine HIV/AIDS  
16 screening on the basis that there are no known risk  
17 factors present, or the screening is not clinically in-  
18 dicated, medically necessary, or pursuant to a refer-  
19 ral, consent, or recommendation by any health care  
20 provider;

21 “(3) provide monetary payments, rebates, or  
22 other benefits to individuals to encourage such indi-  
23 viduals to accept less than the minimum protections  
24 available under this section;

1           “(4) penalize or otherwise reduce or limit the  
2 reimbursement of a provider because such provider  
3 provided care to an individual participant or bene-  
4 ficiary in accordance with this section;

5           “(5) provide incentives (monetary or otherwise)  
6 to a provider to induce such provider to provide care  
7 to an individual participant or beneficiary in a man-  
8 ner inconsistent with this section; or

9           “(6) deny to an individual participant or bene-  
10 ficiary continued eligibility to enroll or to renew cov-  
11 erage under the terms of the plan, solely because of  
12 the results of an HIV/AIDS test or other HIV/AIDS  
13 screening procedure for the individual or any other  
14 individual.

15           “(c) RULES OF CONSTRUCTION.—Nothing in this  
16 section shall be construed—

17           “(1) to require an individual who is a partici-  
18 pant or beneficiary to undergo HIV/AIDS screening;  
19 or

20           “(2) as preventing a group health plan or issuer  
21 from imposing deductibles, coinsurance, or other  
22 cost-sharing in relation to HIV/AIDS screening, ex-  
23 cept that such deductibles, coinsurance or other  
24 cost-sharing may not be greater than the

1 deductibles, coinsurance, or other cost-sharing im-  
2 posed on other routine health screenings.”.

3 (B) The table of sections of such subchapter is  
4 amended by inserting after the item relating to sec-  
5 tion 9812 the following new item:

“Sec. 9813. Coverage for routine HIV/AIDS screening.”.

6 (C) Section 4980D(d)(1) of such Code is  
7 amended by striking “section 9811” and inserting  
8 “sections 9811 and 9813”.

9 (b) APPLICATION TO INDIVIDUAL HEALTH INSUR-  
10 ANCE COVERAGE.—(1) Part B of title XXVII of the Pub-  
11 lic Health Service Act is amended by inserting after sec-  
12 tion 2752 the following new section:

13 **“SEC. 2753. COVERAGE FOR ROUTINE HIV/AIDS SCREENING.**

14 “(a) IN GENERAL.—The provisions of section 2707  
15 (other than subsection (d)) shall apply to health insurance  
16 coverage offered by a health insurance issuer in the indi-  
17 vidual market in the same manner as it applies to health  
18 insurance coverage offered by a health insurance issuer  
19 in connection with a group health plan in the small or  
20 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(d) 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) APPLICATION UNDER FEDERAL EMPLOYEES  
7 HEALTH BENEFITS PROGRAM (FEHBP).—Section 8902  
8 of title 5, United States Code, is amended by adding at  
9 the end the following new subsection:

10 “(p) A contract may not be made or a plan approved  
11 which does not comply with the requirements of section  
12 2707 of the Public Health Service Act.”.

13 (d) EFFECTIVE DATES.—(1) The amendments made  
14 by subsections (a) and (c) apply with respect to group  
15 health plans and health benefit plans for plan years begin-  
16 ning on or after January 1, 2008.

17 (2) The amendments made by subsection (b) shall  
18 apply with respect to health insurance coverage offered,  
19 sold, issued, renewed, in effect, or operated in the indi-  
20 vidual market on or after January 1, 2008.

21 (e) COORDINATION OF ADMINISTRATION.—The Sec-  
22 retary of Labor, the Secretary of Health and Human Serv-  
23 ices, and the Secretary of the Treasury shall ensure,  
24 through the execution of an interagency memorandum of  
25 understanding among such Secretaries, that—

- 1           (1) regulations, rulings, and interpretations  
2 issued by such Secretaries relating to the same mat-  
3 ter over which two or more such Secretaries have re-  
4 sponsibility under the provisions of this section (and  
5 the amendments made thereby) are administered so  
6 as to have the same effect at all times; and
- 7           (2) coordination of policies relating to enforcing  
8 the same requirements through such Secretaries in  
9 order to have a coordinated enforcement strategy  
10 that avoids duplication of enforcement efforts and  
11 assigns priorities in enforcement.

○