110TH CONGRESS 1ST SESSION

S. 1588

To amend the Public Health Service Act, the Employee Retirement Income Security Act of 1974, and the Internal Revenue Code of 1986 to require that group and individual health insurance coverage and group health plans provide coverage for treatment of a minor child's congenital or developmental deformity or disorder due to trauma, infection, tumor, or disease.

IN THE SENATE OF THE UNITED STATES

June 11, 2007

Ms. Landrieu (for herself, Mr. Coleman, Ms. Snowe, Mr. Bayh, Ms. Stabenow, Mr. Lugar, and Mr. Cochran) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To amend the Public Health Service Act, the Employee Retirement Income Security Act of 1974, and the Internal Revenue Code of 1986 to require that group and individual health insurance coverage and group health plans provide coverage for treatment of a minor child's congenital or developmental deformity or disorder due to trauma, infection, tumor, or disease.

- 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 "Children's Access to
- 3 Reconstructive Evaluation and Surgery Act" or the
- 4 "CARES Act".
- 5 SEC. 2. COVERAGE OF MINOR CHILD'S CONGENITAL OR DE-
- 6 VELOPMENTAL DEFORMITY OR DISORDER.
- 7 (a) Group Health Plans.—
- 8 (1) Public Health Service act amend-
- 9 MENTS.—
- 10 (A) IN GENERAL.—Subpart 2 of part A of
- 11 title XXVII of the Public Health Service Act
- 12 (42 U.S.C. 300gg-4 et seq.) is amended by
- adding at the end the following:
- 14 "SEC. 2707. STANDARDS RELATING TO BENEFITS FOR
- 15 MINOR CHILD'S CONGENITAL OR DEVELOP-
- 16 MENTAL DEFORMITY OR DISORDER.
- 17 "(a) Requirements for Reconstructive Sur-
- 18 GERY.—
- 19 "(1) IN GENERAL.—A group health plan, and a
- 20 health insurance issuer offering group health insur-
- ance coverage, that provides coverage for surgical
- benefits shall provide coverage for outpatient and in-
- patient diagnosis and treatment of a minor child's
- congenital or developmental deformity, disease, or
- 25 injury. A minor child shall include any individual
- through 21 years of age.

1 "(2) REQUIREMENTS.—Any coverage provided 2 under paragraph (1) shall be subject to pre-author-3 ization or pre-certification as required by the plan or 4 issuer, and such coverage shall include any surgical 5 treatment which, in the opinion of the treating phy-6 sician, is medically necessary to approximate a nor-7 mal appearance. 8

"(3) Treatment defined.—

"(A) IN GENERAL.—In this section, the term 'treatment' includes reconstructive surgical procedures (procedures that are generally performed to improve function, but may also be performed to approximate a normal appearance) that are performed on abnormal structures of the body caused by congenital defects, developmental abnormalities, trauma, infection, tumors, or disease, including—

"(i) procedures that do not materially affect the function of the body part being treated; and

- "(ii) procedures for secondary conditions and follow-up treatment.
- "(B) Exception.—Such term does not include cosmetic surgery performed to reshape

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1	normal structures of the body to improve ap-
2	pearance or self-esteem.
3	"(b) Notice.—A group health plan under this part
4	shall comply with the notice requirement under section
5	714(b) of the Employee Retirement Income Security Act
6	of 1974 with respect to the requirements of this section
7	as if such section applied to such plan.".
8	(B) Conforming amendment.—Section
9	2723(c) of the Public Health Service Act (42
10	U.S.C. 300gg-23(c)) is amended by striking
11	"section 2704" and inserting "sections 2704
12	and 2707".
13	(2) ERISA AMENDMENTS.—
14	(A) In general.—Subpart B of part 7 of
15	subtitle B of title I of the Employee Retirement
16	Income Security Act of 1974 (29 U.S.C. 1185
17	et seq.) is amended by adding at the end the
18	following:
19	"SEC. 714. STANDARDS RELATING TO BENEFITS FOR MINOR
20	CHILD'S CONGENITAL OR DEVELOPMENTAL
21	DEFORMITY OR DISORDER.
22	"(a) Requirements for Reconstructive Sur-
23	GERY.—
24	"(1) IN GENERAL.—A group health plan, and a
25	health insurance issuer offering group health insur-

ance coverage, that provides coverage for surgical benefits shall provide coverage for outpatient and inpatient diagnosis and treatment of a minor child's congenital or developmental deformity, disease, or injury. A minor child shall include any individual through 21 years of age.

"(2) REQUIREMENTS.—Any coverage provided under paragraph (1) shall be subject to pre-authorization or pre-certification as required by the plan or issuer, and such coverage shall include any surgical treatment which, in the opinion of the treating physician, is medically necessary to approximate a normal appearance.

"(3) Treatment defined.—

"(A) In General.—In this section, the term 'treatment' includes reconstructive surgical procedures (procedures that are generally performed to improve function, but may also be performed to approximate a normal appearance) that are performed on abnormal structures of the body caused by congenital defects, developmental abnormalities, trauma, infection, tumors, or disease, including—

1	"(i) procedures that do not materially
2	affect the function of the body part being
3	treated; and
4	"(ii) procedures for secondary condi-
5	tions and follow-up treatment.
6	"(B) Exception.—Such term does not in-
7	clude cosmetic surgery performed to reshape
8	normal structures of the body to improve ap-
9	pearance or self-esteem.
10	"(b) NOTICE UNDER GROUP HEALTH PLAN.—The
11	imposition of the requirements of this section shall be
12	treated as a material modification in the terms of the plan
13	described in section 102(a)(1), for purposes of assuring
14	notice of such requirements under the plan; except that
15	the summary description required to be provided under the
16	last sentence of section 104(b)(1) with respect to such
17	modification shall be provided by not later than 60 days
18	after the first day of the first plan year in which such
19	requirements apply.".
20	(B) Conforming Amendments.—
21	(i) Section 731(c) of the Employee
22	Retirement Income Security Act of 1974
23	(29 U.S.C. 1191(c)) is amended by strik-
24	ing "section 711" and inserting "sections
25	711 and 714".

1	(ii) Section 732(a) of the Employee
2	Retirement Income Security Act of 1974
3	(29 U.S.C. 1191a(a)) is amended by strik-
4	ing "section 711" and inserting "sections
5	711 and 714".
6	(iii) The table of contents in section 1
7	of the Employee Retirement Income Secu-
8	rity Act of 1974 is amended by inserting
9	after the item relating to section 713 the
10	following:
	"Sec. 714. Standards relating to benefits for minor child's congenital or developmental deformity or disorder.".
11	(3) Internal revenue code amend-
12	MENTS.—Subchapter B of chapter 100 of the Inter-
13	nal Revenue Code of 1986 is amended—
14	(A) in the table of sections, by inserting
15	after the item relating to section 9812 the fol-
16	lowing:
	"Sec. 9813. Standards relating to benefits for minor child's congenital or developmental deformity or disorder.";
17	and
18	(B) by inserting after section 9812 the fol-
19	lowing:

1	"SEC. 9813. STANDARDS RELATING TO BENEFITS FOR
2	MINOR CHILD'S CONGENITAL OR DEVELOP-
3	MENTAL DEFORMITY OR DISORDER.
4	"(a) Requirements for Reconstructive Sur-
5	GERY.—
6	"(1) IN GENERAL.—A group health plan, and a
7	health insurance issuer offering group health insur-
8	ance coverage, that provides coverage for surgical
9	benefits shall provide coverage for outpatient and in-
10	patient diagnosis and treatment of a minor child's
11	congenital or developmental deformity, disease, or
12	injury. A minor child shall include any individual
13	through 21 years of age.
14	"(2) Requirements.—Any coverage provided
15	under paragraph (1) shall be subject to pre-author-
16	ization or pre-certification as required by the plan or
17	issuer, and such coverage shall include any surgical
18	treatment which, in the opinion of the treating phy-
19	sician, is medically necessary to approximate a nor-
20	mal appearance.
21	"(3) Treatment defined.—
22	"(A) In General.—In this section, the
23	term 'treatment' includes reconstructive sur-
24	gical procedures (procedures that are generally
25	performed to improve function, but may also be
26	performed to approximate a normal appear-

1	ance) that are performed on abnormal struc-
2	tures of the body caused by congenital defects,
3	developmental abnormalities, trauma, infection,
4	tumors, or disease, including—
5	"(i) procedures that do not materially
6	affect the function of the body part being
7	treated; and
8	"(ii) procedures for secondary condi-
9	tions and follow-up treatment.
10	"(B) Exception.—Such term does not in-
11	clude cosmetic surgery performed to reshape
12	normal structures of the body to improve ap-
13	pearance or self-esteem.".
14	(b) Individual Health Insurance.—
15	(1) In general.—Part B of title XXVII of the
16	Public Health Service Act is amended by inserting
17	after section 2752 the following:
18	"SEC. 2753. STANDARDS RELATING TO BENEFITS FOR
19	MINOR CHILD'S CONGENITAL OR DEVELOP-
20	MENTAL DEFORMITY OR DISORDER.
21	"(a) Requirements for Reconstructive Sur-
22	GERY.—
23	"(1) In general.—A group health plan, and a
24	health insurance issuer offering group health insur-
25	ance coverage, that provides coverage for surgical

benefits shall provide coverage for outpatient and inpatient diagnosis and treatment of a minor child's congenital or developmental deformity, disease, or injury. A minor child shall include any individual through 21 years of age.

"(2) REQUIREMENTS.—Any coverage provided under paragraph (1) shall be subject to pre-authorization or pre-certification as required by the plan or issuer, and such coverage shall include any surgical treatment which, in the opinion of the treating physician, is medically necessary to approximate a normal appearance.

"(3) Treatment defined.—

"(A) IN GENERAL.—In this section, the term 'treatment' includes reconstructive surgical procedures (procedures that are generally performed to improve function, but may also be performed to approximate a normal appearance) that are performed on abnormal structures of the body caused by congenital defects, developmental abnormalities, trauma, infection, tumors, or disease, including—

"(i) procedures that do not materially affect the function of the body part being treated; and

1	"(ii) procedures for secondary condi-
2	tions and follow-up treatment.
3	"(B) Exception.—Such term does not in-
4	clude cosmetic surgery performed to reshape
5	normal structures of the body to improve ap-
6	pearance or self-esteem.
7	"(b) Notice.—A health insurance issuer under this
8	part shall comply with the notice requirement under sec-
9	tion 714(b) of the Employee Retirement Income Security
10	Act of 1974 with respect to the requirements referred to
11	in subsection (a) as if such section applied to such issuer
12	and such issuer were a group health plan.".
13	(2) Conforming amendment.—Section
14	2762(b)(2) of the Public Health Service Act (42
15	U.S.C. 300gg-62(b)(2)) is amended by striking
16	"section 2751" and inserting "sections 2751 and
17	2753".
18	(c) Effective Dates.—
19	(1) Group Health Coverage.—The amend-
20	ments made by subsection (a) shall apply with re-
21	spect to group health plans for plan years beginning
22	on or after January 1, 2008.
23	(2) Individual Health Coverage.—The
24	amendment made by subsection (b) shall apply with
25	respect to health insurance coverage offered, sold,

- 1 issued, renewed, in effect, or operated in the indi-
- 2 vidual market on or after such date.
- 3 (d) Coordinated Regulations.—Section 104(1)
- 4 of Health Insurance Portability and Accountability Act of
- 5 1996 (42 U.S.C. 300gg-92 note) is amended by striking
- 6 "this subtitle (and the amendments made by this subtitle
- 7 and section 401)" and inserting "the provisions of part
- 8 7 of subtitle B of title I of the Employee Retirement In-
- 9 come Security Act of 1974, the provisions of parts A and
- 10 C of title XXVII of the Public Health Service Act, and
- 11 chapter 100 of the Internal Revenue Code of 1986".

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