

110TH CONGRESS
1ST SESSION

S. 2236

To amend title I of the Employee Retirement Income Security Act of 1974, title XXVII of the Public Health Service Act, and the Internal Revenue Code of 1986 to provide additional limitations on preexisting condition exclusions in group health plans and health insurance coverage in the group and individual markets.

IN THE SENATE OF THE UNITED STATES

OCTOBER 25, 2007

Mr. ROCKEFELLER introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To amend title I of the Employee Retirement Income Security Act of 1974, title XXVII of the Public Health Service Act, and the Internal Revenue Code of 1986 to provide additional limitations on preexisting condition exclusions in group health plans and health insurance coverage in the group and individual markets.

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 “Preexisting Condition
5 Exclusion Patient Protection Act of 2007”.

1 **SEC. 2. AMENDMENTS RELATING TO PREEXISTING CONDI-**
 2 **TION EXCLUSIONS UNDER GROUP HEALTH**
 3 **PLANS.**

4 (a) AMENDMENTS TO THE EMPLOYEE RETIREMENT
 5 INCOME SECURITY ACT OF 1974.—

6 (1) REDUCTION IN LOOK-BACK PERIOD.—Sec-
 7 tion 701(a)(1) of the Employee Retirement Income
 8 Security Act of 1974 (29 U.S.C. 1181(a)(1)) is
 9 amended by striking “6-month period” and inserting
 10 “30-day period”.

11 (2) REDUCTION IN PERMITTED PREEXISTING
 12 CONDITION LIMITATION PERIOD.—Section 701(a)(2)
 13 of such Act (29 U.S.C. 1181(a)(2)) is amended by
 14 striking “12 months” and inserting “3 months”,
 15 and by striking “18 months” and inserting “9
 16 months”.

17 (b) AMENDMENTS TO THE PUBLIC HEALTH SERVICE
 18 ACT.—

19 (1) REDUCTION IN LOOK-BACK PERIOD.—Sec-
 20 tion 2701(a)(1) of the Public Health Service Act (42
 21 U.S.C. 300gg(a)(1)) is amended by striking “6-
 22 month period” and inserting “30-day period”.

23 (2) REDUCTION IN PERMITTED PREEXISTING
 24 CONDITION LIMITATION PERIOD.—Section
 25 2701(a)(2) of such Act (42 U.S.C. 300gg(a)(2)) is
 26 amended by striking “12 months” and inserting “3

1 months”, and by striking “18 months” and inserting
 2 “9 months”.

3 (c) AMENDMENTS TO THE INTERNAL REVENUE
 4 CODE OF 1986.—

5 (1) REDUCTION IN LOOK-BACK PERIOD.—Para-
 6 graph (1) of section 9801(a) of the Internal Revenue
 7 Code of 1986 (relating to limitation on preexisting
 8 condition exclusion period and crediting for periods
 9 of previous coverage) is amended by striking “6-
 10 month period” and inserting “30-day period”.

11 (2) REDUCTION IN PERMITTED PREEXISTING
 12 CONDITION LIMITATION PERIOD.—Paragraph (2) of
 13 section 9801(a) of such Code is amended by striking
 14 “12 months” and inserting “3 months”, and by
 15 striking “18 months” and inserting “9 months”.

16 (d) EFFECTIVE DATE.—

17 (1) IN GENERAL.—Except as provided in para-
 18 graph (2), the amendments made by this section
 19 shall apply with respect to group health plans for
 20 plan years beginning after the end of the 12th cal-
 21 endar month following the date of the enactment of
 22 this Act.

23 (2) SPECIAL RULE FOR COLLECTIVE BAR-
 24 GAINING AGREEMENTS.—In the case of a group
 25 health plan maintained pursuant to one or more col-

lective bargaining agreements between employee representatives and one or more employers ratified before the date of the enactment of this Act, the amendments made by this section shall not apply to plan years beginning before the earlier of—

(A) the date on which the last of the collective bargaining agreements relating to the plan terminates (determined without regard to any extension thereof agreed to after the date of the enactment of this Act), or

(B) 3 years after the date of the enactment of this Act.

For purposes of subparagraph (A), any plan amendment made pursuant to a collective bargaining agreement relating to the plan which amends the plan solely to conform to any requirement added by the amendments made by this section shall not be treated as a termination of such collective bargaining agreement.

SEC. 3. AMENDMENTS RELATING TO PREEXISTING CONDITION EXCLUSIONS IN HEALTH INSURANCE COVERAGE IN THE INDIVIDUAL MARKET.

(a) APPLICABILITY OF GROUP HEALTH INSURANCE LIMITATIONS ON IMPOSITION OF PREEXISTING CONDITION EXCLUSIONS.—

1 (1) IN GENERAL.—Section 2741 of the Public
 2 Health Service Act (42 U.S.C. 300gg–41) is amend-
 3 ed—

4 (A) by redesignating the second subsection
 5 (e) (relating to market requirements) and sub-
 6 section (f) as subsections (f) and (g), respec-
 7 tively; and

8 (B) by adding at the end the following new
 9 subsection:

10 “(h) APPLICATION OF GROUP HEALTH INSURANCE
 11 LIMITATIONS ON IMPOSITION OF PREEXISTING CONDI-
 12 TION EXCLUSIONS.—

13 “(1) IN GENERAL.—Subject to paragraph (2), a
 14 health insurance issuer that provides individual
 15 health insurance coverage may not impose a pre-
 16 existing condition exclusion (as defined in subsection
 17 (b)(1)(A) of section 2701) with respect to such cov-
 18 erage except to the extent that such exclusion could
 19 be imposed consistent with such section if such cov-
 20 erage were group health insurance coverage.

21 “(2) LIMITATION.—In the case of an individual
 22 who—

23 “(A) is enrolled in individual health insur-
 24 ance coverage;

1 “(B) during the period of such enrollment
 2 has a condition for which no medical advice, di-
 3 agnosis, care, or treatment had been rec-
 4 ommended or received as of the enrollment
 5 date; and

6 “(C) seeks to enroll under other individual
 7 health insurance coverage which provides bene-
 8 fits different from those provided under the cov-
 9 erage referred to in subparagraph (A) with re-
 10 spect to such condition,
 11 the issuer of the individual health insurance cov-
 12 erage described in subparagraph (C) may impose a
 13 preexisting condition exclusion with respect to such
 14 condition and any benefits in addition to those pro-
 15 vided under the coverage referred to in subpara-
 16 graph (A), but such exclusion may not extend for a
 17 period of more than 3 months.”.

18 (2) ELIMINATION OF COBRA REQUIREMENT.—

19 Subsection (b) of such section is amended—

20 (A) by adding “and” at the end of para-
 21 graph (2);

22 (B) by striking the semicolon at the end of
 23 paragraph (3) and inserting a period; and

24 (C) by striking paragraphs (4) and (5).

1 (3) CONFORMING AMENDMENT.—Section
2 2744(a)(1) of such Act (42 U.S.C. 300gg–44(a)(1))
3 is amended by inserting “(other than subsection
4 (h))” after “section 2741”.

5 (b) EFFECTIVE DATE.—The amendments made by
6 this section shall apply with respect to health insurance
7 coverage offered, sold, issued, renewed, in effect, or oper-
8 ated in the individual market after the end of the 12th
9 calendar month following the date of the enactment of this
10 Act.

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