

110TH CONGRESS
2D SESSION

S. 3115

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 prohibit preexisting condition exclusions for children in group health plans and health insurance coverage in the group and individual markets.

IN THE SENATE OF THE UNITED STATES

JUNE 11, 2008

Mr. LAUTENBERG (for himself and Mr. BROWN) 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 prohibit preexisting condition exclusions for children 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 “Children’s Health Pro-
5 tection Act of 2008”.

1 **SEC. 2. PROHIBITION OF PREEXISTING CONDITION EXCLU-**
2 **SIONS FOR CHILDREN UNDER GROUP**
3 **HEALTH PLANS.**

4 (a) AMENDMENTS TO THE EMPLOYEE RETIREMENT
5 INCOME SECURITY ACT OF 1974.—Section 701(d) of the
6 Employee Retirement Income Security Act of 1974 (29
7 U.S.C. 1181(d)) is amended—

8 (1) by striking paragraph (1) and inserting the
9 following:

10 “(1) EXCLUSION NOT APPLICABLE TO CHIL-
11 DREN.—A group health plan, and a health insurance
12 issuer offering group health insurance coverage, may
13 not impose any preexisting condition exclusion in the
14 case of an individual who has not attained 19 years
15 of age.”;

16 (2) by striking paragraphs (2) and (4); and

17 (3) by redesignating paragraph (3) as para-
18 graph (2).

19 (b) AMENDMENTS TO THE PUBLIC HEALTH SERVICE
20 ACT.—Section 2701(d) of the Public Health Service Act
21 (42 U.S.C. 300gg(d)) is amended—

22 (1) by striking paragraph (1) and inserting the
23 following:

24 “(1) EXCLUSION NOT APPLICABLE TO CHIL-
25 DREN.—A group health plan, and a health insurance
26 issuer offering group health insurance coverage, may

1 not impose any preexisting condition exclusion in the
 2 case of an individual who has not attained 19 years
 3 of age.”;

4 (2) by striking paragraphs (2) and (4); and

5 (3) by redesignating paragraph (3) as para-
 6 graph (2).

7 (c) AMENDMENTS TO THE INTERNAL REVENUE
 8 CODE OF 1986.—Subsection (d) of section 9801 of the
 9 Internal Revenue Code of 1986 (relating to exceptions) is
 10 amended—

11 (1) by striking paragraph (1) and inserting the
 12 following:

13 “(1) EXCLUSION NOT APPLICABLE TO CHIL-
 14 DREN.—A group health plan may not impose any
 15 preexisting condition exclusion in the case of an indi-
 16 vidual who has not attained 19 years of age.”;

17 (2) by striking paragraphs (2) and (4); and

18 (3) by redesignating paragraph (3) as para-
 19 graph (2).

20 (d) EFFECTIVE DATE.—

21 (1) IN GENERAL.—Except as provided in para-
 22 graph (2), the amendments made by this section
 23 shall apply with respect to group health plans for
 24 plan years beginning after the end of the 12th cal-

1 endar month following the date of the enactment of
2 this Act.

3 (2) SPECIAL RULE FOR COLLECTIVE BAR-
4 GAINING AGREEMENTS.—In the case of a group
5 health plan maintained pursuant to one or more col-
6 lective bargaining agreements between employee rep-
7 resentatives and one or more employers ratified be-
8 fore the date of the enactment of this Act, the
9 amendments made by this section shall not apply to
10 plan years beginning before the earlier of—

11 (A) the date on which the last of the col-
12 lective bargaining agreements relating to the
13 plan terminates (determined without regard to
14 any extension thereof agreed to after the date
15 of the enactment of this Act), or

16 (B) 3 years after the date of the enact-
17 ment of this Act.

18 For purposes of subparagraph (A), any plan amend-
19 ment made pursuant to a collective bargaining
20 agreement relating to the plan which amends the
21 plan solely to conform to any requirement added by
22 the amendments made by this section shall not be
23 treated as a termination of such collective bar-
24 gaining agreement.

1 **SEC. 3. PROHIBITION OF PREEXISTING CONDITION EXCLU-**
 2 **SIONS FOR CHILDREN IN HEALTH INSUR-**
 3 **ANCE COVERAGE IN THE INDIVIDUAL MAR-**
 4 **KET.**

5 (a) IN GENERAL.—Section 2741 of the Public Health
 6 Service Act (42 U.S.C. 300gg–41) is amended—

7 (1) by redesignating the second subsection (e)
 8 (relating to market requirements) and subsection (f)
 9 as subsections (f) and (g), respectively; and

10 (2) by adding at the end the following new sub-
 11 section:

12 “(h) PROHIBITION OF PREEXISTING CONDITION EX-
 13 CLUSIONS FOR CHILDREN.—Each health insurance issuer
 14 that offers health insurance coverage in the individual
 15 market may not impose any preexisting condition exclu-
 16 sion (as defined in section 2701(b)(1)(A)) in the case of
 17 an individual who has not attained 19 years of age.”.

18 (b) CONFORMING AMENDMENT.—Section 2744(a)(1)
 19 of such Act (42 U.S.C. 300gg–44(a)(1)) is amended by
 20 inserting “(other than subsection (h))” after “section
 21 2741”.

22 (c) EFFECTIVE DATE.—The amendments made by
 23 this section shall apply with respect to health insurance
 24 coverage offered, sold, issued, renewed, in effect, or oper-
 25 ated in the individual market after the end of the 12th

- 1 calendar month following the date of the enactment of this
- 2 Act.

