

111TH CONGRESS
1ST SESSION

H. R. 2366

To amend the Employee Retirement Income Security Act of 1974, the Public Health Service Act, and the Internal Revenue Code of 1986 to require group and individual health insurance coverage and group health plans to provide for coverage of oral cancer drugs on terms no less favorable than the coverage provided for intravenously administered anticancer medications.

IN THE HOUSE OF REPRESENTATIVES

MAY 12, 2009

Mr. HIGGINS introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committees on Education and Labor and 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 the Employee Retirement Income Security Act of 1974, the Public Health Service Act, and the Internal Revenue Code of 1986 to require group and individual health insurance coverage and group health plans to provide for coverage of oral cancer drugs on terms no less favorable than the coverage provided for intravenously administered anticancer medications.

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 “Cancer Drug Coverage
3 Parity Act of 2009”.

4 **SEC. 2. PARITY IN COVERAGE FOR ORAL CANCER DRUGS.**

5 (a) GROUP HEALTH PLANS.—

6 (1) ERISA.—

7 (A) The Employee Retirement Income Se-
8 curity Act of 1974 is amended by inserting
9 after section 714 the following new section:

10 **“SEC. 715. PARITY IN COVERAGE FOR ORAL CANCER**
11 **DRUGS.**

12 “(a) IN GENERAL.—A group health plan, and a
13 health insurance issuer providing health insurance cov-
14 erage in connection with a group health plan, that provides
15 benefits with respect to intravenously administered or in-
16 jected cancer medications shall provide for no less favor-
17 able coverage for prescribed, orally administered
18 anticancer medication used to kill or slow the growth of
19 cancerous cells. The coverage for such medication may be
20 subject to annual deductibles and coinsurance provisions
21 as may be applicable to intravenously administered or in-
22 jected cancer medications under the plan or coverage.
23 Written notice of the availability of such coverage shall
24 be delivered to participants upon enrollment and annually
25 thereafter.

1 “(b) APPLICATION OF NOTICE, PROHIBITIONS,
 2 ETC.—The provisions of subsections (b), (c), (d), and
 3 (e)(2) of section 713 shall apply with respect to the cov-
 4 erage required by subsection (a) in the same manner as
 5 they apply with respect to the coverage required under
 6 such section.”.

7 (B) The table of contents of such Act is
 8 amended by inserting after the item relating to
 9 section 714 the following new item:

“Sec. 715. Parity in coverage for oral cancer drugs.”.

10 (2) PHSA.—Title XXVII of the Public Health
 11 Service Act is amended by inserting after section
 12 2707 the following new section:

13 **“SEC. 2708. PARITY IN COVERAGE FOR ORAL CANCER**
 14 **DRUGS.**

15 “(a) IN GENERAL.—A group health plan, and a
 16 health insurance issuer providing health insurance cov-
 17 erage in connection with a group health plan, that provides
 18 benefits with respect to intravenously administered or in-
 19 jected cancer medications shall provide for no less favor-
 20 able coverage for prescribed, orally administered
 21 anticancer medication used to kill or slow the growth of
 22 cancerous cells. The coverage for such medication may be
 23 subject to annual deductibles and coinsurance provisions
 24 as may be applicable to intravenously administered or in-
 25 jected cancer medications under the plan or coverage.

1 Written notice of the availability of such coverage shall
 2 be delivered to participants upon enrollment and annually
 3 thereafter.

4 “(b) APPLICATION OF NOTICE, PROHIBITIONS,
 5 ETC.—The provisions of subsections (b), (c), (d), and
 6 (e)(2) of section 713 of the Employee Retirement Income
 7 Security Act of 1974 shall apply with respect to the cov-
 8 erage required by subsection (a) in the same manner as
 9 they apply with respect to the coverage required under
 10 such section.”.

11 (3) IRC.—

12 (A) Subchapter B of chapter 100 of the
 13 Internal Revenue Code of 1986 is amended by
 14 adding at the end the following new section:

15 **“SEC. 9813. PARITY IN COVERAGE FOR ORAL CANCER**
 16 **DRUGS.**

17 “(a) IN GENERAL.—A group health plan that pro-
 18 vides benefits with respect to intravenously administered
 19 or injected cancer medications shall provide for no less fa-
 20 vorable coverage for prescribed, orally administered
 21 anticancer medication used to kill or slow the growth of
 22 cancerous cells. The coverage for such medication may be
 23 subject to annual deductibles and coinsurance provisions
 24 as may be applicable to intravenously administered or in-
 25 jected cancer medications under the plan. Written notice

1 of the availability of such coverage shall be delivered to
 2 participants upon enrollment and annually thereafter.

3 “(b) APPLICATION OF NOTICE, PROHIBITIONS,
 4 ETC.—The provisions of subsections (b), (c), (d), and
 5 (e)(2) of section 713 of the Employee Retirement Income
 6 Security Act of 1974 shall apply with respect to the cov-
 7 erage required by subsection (a) in the same manner as
 8 they apply with respect to the coverage required under
 9 such section.”.

10 (B) The table of sections for such sub-
 11 chapter is amended by adding at the end the
 12 following new item:

“9813. Parity in coverage for oral cancer drugs.”.

13 (b) INDIVIDUAL HEALTH INSURANCE COVERAGE.—
 14 Title XXVII of the Public Health Service Act is amended
 15 by inserting after section 2753 the following new section:
 16 **“SEC. 2754. PARITY IN COVERAGE FOR ORAL CANCER**
 17 **DRUGS.**

18 “The provisions of section 2708 shall apply to health
 19 insurance coverage offered by a health insurance issuer
 20 in the individual market in the same manner as they apply
 21 to health insurance coverage offered by a health insurance
 22 issuer in connection with a group health plan in the small
 23 or large group market.”.

24 (c) EFFECTIVE DATE.—

1 (1) GROUP HEALTH PLANS.—The amendments
2 made by subsection (a) shall apply with respect to
3 group health plans for plan years beginning after the
4 date that is 1 year after the date of enactment of
5 this Act.

6 (2) INDIVIDUAL HEALTH INSURANCE COV-
7 ERAGE.—The amendment made by subsection (b)
8 shall apply with respect to health insurance coverage
9 offered, sold, issued, renewed, in effect, or operated
10 in the individual market after the date that is 1 year
11 after the date of enactment of this Act.

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