

111TH CONGRESS  
1ST SESSION

# H. R. 2402

To amend the Public Health Service Act to ensure fairness in the coverage of women in the individual health insurance market.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 13, 2009

Mr. NEAL of Massachusetts (for himself and Mrs. DAVIS of California) introduced the following bill; which was referred to the Committee on Energy and Commerce

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## A BILL

To amend the Public Health Service Act to ensure fairness in the coverage of women in the individual health insurance market.

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 “Woman’s Health In-  
5 surance Fairness Act of 2009”.

6 **SEC. 2. ELIMINATION OF GENDER RATING IN THE INDI-**  
7 **VIDUAL INSURANCE MARKET.**

8 (a) IN GENERAL.—Subpart 2 of part B of title  
9 XXVII of the Public Health Service Act (42 U.S.C. May

1 4, 2009 300gg–51 et seq.) is amended by adding at the  
2 end the following:

3 **“SEC. 2754. ELIMINATION OF GENDER RATING.**

4 “A health insurance issuer offering health insurance  
5 coverage in the individual market may not consider the  
6 gender of an enrollee when determining the amount of pre-  
7 miums to assess such enrollee for such coverage.”.

8 (b) EFFECTIVE DATE.—The amendment made by  
9 subsection (a) shall apply with respect to health insurance  
10 coverage in the individual market for plan years beginning  
11 on or after the date that is months after the date of enact-  
12 ment of this Act.

13 **SEC. 3. PREVENTING INSURERS FROM DENYING OR LIM-**  
14 **ITING COVERAGE BASED ON PREGNANCY**  
15 **AND COVERAGE OF MATERNITY CARE.**

16 (a) IN GENERAL.—Subpart 2 of part B of title  
17 XXVII of the Public Health Service Act (42 U.S.C. 18  
18 300gg–51 et seq.), as amended by section 2, is further  
19 amended by adding at the end the following:

20 **“SEC. 2755. STANDARDS RELATING TO PREGNANCY AND**  
21 **MATERNITY CARE.**

22 “(a) PREGNANCY, METHOD OF DELIVERY, AND OUT-  
23 COME.—A health insurance issuer offering health insur-  
24 ance coverage in the individual market may not impose  
25 any preexisting condition exclusion (as such term is de-

1 fined in section 2701(b)(1)(A)) relating to pregnancy as  
2 a preexisting condition, impose any waiting period, deny,  
3 refuse to issue, renew, or reissue, substandard rate, re-  
4 underwrite, cancel or otherwise terminate a policy, add  
5 any surcharge or rating factor to the premium, exclude,  
6 limit, or cap benefits relating to a condition, or otherwise  
7 discriminate in the provision of coverage, or in assessing  
8 premiums for such coverage, against women on the basis  
9 of a current or past pregnancy, or past or future method  
10 of delivery, and past pregnancy outcome.

11 “(b) MATERNITY CARE.—

12 “(1) IN GENERAL.—The Secretary shall—

13 “(A) propose a rule to develop a minimum  
14 benefit standard for the provision of com-  
15 prehensive maternity coverage under an indi-  
16 vidual health plan, which standard shall require  
17 coverage for the full scope of maternity services  
18 from preconception through postpartum, as de-  
19 termined by the Secretary; and

20 “(B) periodically review the minimum ben-  
21 efit standard for the provision of comprehensive  
22 maternity coverage under an individual health  
23 plan to ensure the minimum benefit standard  
24 reflects current standards of care.

1           “(2) REQUIREMENT.—A health insurance  
2 issuer offering health insurance coverage in the indi-  
3 vidual market shall ensure that the minimum benefit  
4 standard developed under paragraph (1) is included  
5 in any such coverage.”.

6           (b) EFFECTIVE DATE.—The amendment made by  
7 subsection (a) shall apply with respect to health insurance  
8 coverage in the individual market for plan years beginning  
9 on or after the date that is 6 months after the date of  
10 enactment of this Act.

11 **SEC. 4. ENFORCEMENT AND COMPLIANCE.**

12           (a) PROVISION OF DATA.—The Secretary of Health  
13 and Human Services shall promulgate regulations to re-  
14 quire health insurance issuers that offer health insurance  
15 coverage in the individual market provide data to the Sec-  
16 retary to enable the Secretary to monitor the compliance  
17 of such issuers with the requirements of the amendment  
18 made by this Act.

19           (b) FAILURE TO COMPLY.—Any health insurance  
20 issuer that fails to submit the data required under the reg-  
21 ulations promulgated under subsection (a) shall be subject  
22 to a civil monetary penalty in an amount that is not less  
23 than \$10,000 (as determined by the Secretary).

1 (c) DEFINITIONS.—The definitions contained in sec-  
2 tion 2791 of the Public Health Service Act (42 U.S.C.  
3 3300gg-91) shall apply for purposes of this section.

4 **SEC. 5. STUDY OF THE INDIVIDUAL MARKET.**

5 Not later than December 31, 2010, the Comptroller  
6 General of the United States shall submit to the appro-  
7 priate committees of Congress, a report concerning health  
8 insurance coverage offered on the individual insurance  
9 market in all 50 States and the District of Columbia, on  
10 problems remaining for women after the enactment of this  
11 Act.

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