

111TH CONGRESS
2D SESSION

H. R. 4794

To prohibit the use of any recommendation of the Preventive Services Task Force (or any successor task force) to deny or restrict coverage of an item or service under a Federal health care program, a group health plan, or a health insurance issuer, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 9, 2010

Mr. LANCE (for himself, Mrs. EMERSON, Mr. PAULSEN, and Mrs. MCMORRIS RODGERS) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committees on Ways and Means and Education and Labor, 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 prohibit the use of any recommendation of the Preventive Services Task Force (or any successor task force) to deny or restrict coverage of an item or service under a Federal health care program, a group health plan, or a health insurance issuer, and for other purposes.

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 “Safeguarding Access
5 to Preventative Services Act of 2010”.

1 **SEC. 2. NO DENIAL OR RESTRICTION OF COVERAGE BASED**
2 **ON TASK FORCE RECOMMENDATIONS.**

3 (a) FEDERAL HEALTH CARE PROGRAM.—

4 (1) IN GENERAL.—Notwithstanding any other
5 provision of law, the Secretary of Health and
6 Human Services shall not, directly or as a condition
7 on the receipt of Federal funds, use any rec-
8 ommendation of the Preventive Services Task Force
9 convened under section 915(a) of the Public Health
10 Service Act (42 U.S.C. 299b–4) (or any successor
11 task force) to deny or restrict coverage of an item
12 or service under a Federal health care program (in-
13 cluding the Medicare program under title XVIII of
14 the Social Security Act (42 U.S.C. 1395 et seq.), the
15 Medicaid program under title XIX of the Social Se-
16 curity Act (42 U.S.C. 1396–1 et seq.), and the Na-
17 tional Breast and Cervical Cancer Early Detection
18 Program under title XV of the Public Health Service
19 Act (42 U.S.C. 300k et seq.).

20 (2) DEFINITIONS.—In this subsection:

21 (A) The terms “group health plan”,
22 “health insurance coverage”, and “health insur-
23 ance issuer” have the meanings given to those
24 terms in section 2791 of the Public Health
25 Service Act (42 U.S.C. 300gg–91).

1 (B) The term “Federal health care pro-
 2 gram” has the meaning given to such term in
 3 section 1128B(f) of the Social Security Act (42
 4 U.S.C. 1320a–7b(f)).

5 (b) GROUP HEALTH PLANS AND HEALTH INSUR-
 6 ANCE.—

7 (1) AMENDMENTS TO PUBLIC HEALTH SERVICE
 8 ACT.—

9 (A) GROUP MARKET.—Subpart 2 of part A
 10 of title XXVII of the Public Health Service Act
 11 (42 U.S.C. 300gg et seq.) is amended by add-
 12 ing at the end the following:

13 **“SEC. 2708. NO DENIAL OR RESTRICTION OF COVERAGE**
 14 **BASED ON TASK FORCE RECOMMENDATIONS.**

15 “A group health plan, and a health insurance issuer
 16 offering group health insurance coverage, shall not use any
 17 recommendation of the Preventive Services Task Force
 18 convened under section 915(a) (or any successor task
 19 force) to deny or restrict coverage of an item or service.”.

20 (B) INDIVIDUAL MARKET.—Subpart 1 of
 21 part B of title XXVII of the Public Health
 22 Service Act (42 U.S.C. 300gg–41 et seq.) is
 23 amended by adding at the end the following:

1 **“SEC. 2746. NO DENIAL OR RESTRICTION OF COVERAGE**
 2 **BASED ON TASK FORCE RECOMMENDATIONS.**

3 “The provisions of section 2708 shall apply to health
 4 insurance coverage offered by a health insurance issuer
 5 in the individual market in the same manner as such pro-
 6 visions apply to health insurance coverage offered by a
 7 health insurance issuer in connection with a group health
 8 plan in the small or large group market.”.

9 (2) AMENDMENTS TO ERISA.—

10 (A) IN GENERAL.—Subpart B of part 7 of
 11 title I of the Employee Retirement Income Se-
 12 curity Act of 1974 (29 U.S.C. 1185 et seq.) is
 13 amended by adding at the end the following:

14 **“SEC. 715. NO DENIAL OR RESTRICTION OF COVERAGE**
 15 **BASED ON TASK FORCE RECOMMENDATIONS.**

16 “A group health plan, and a health insurance issuer
 17 offering group health insurance coverage, shall not use any
 18 recommendation of the Preventive Services Task Force
 19 convened under section 915(a) (or any successor task
 20 force) to deny or restrict coverage of an item or service.”.

21 (B) CLERICAL AMENDMENT.—The table of
 22 contents in section 1 of such Act is amended by
 23 inserting after the item relating to section 714
 24 the following new item:

“Sec. 715. No denial or restriction of coverage based on Task Force rec-
 ommendations.”.

1 (3) AMENDMENTS TO INTERNAL REVENUE
2 CODE.—

3 (A) IN GENERAL.—Subchapter B of chap-
4 ter 100 of the Internal Revenue Code of 1986
5 (relating to group health plan requirements) is
6 amended by adding at the end the following:

7 **“SEC. 9814. NO DENIAL OR RESTRICTION OF COVERAGE**
8 **BASED ON TASK FORCE RECOMMENDATIONS.**

9 “A group health plan shall not use any recommenda-
10 tion of the Preventive Services Task Force convened under
11 section 915(a) (or any successor task force) to deny or
12 restrict coverage of an item or service.”.

13 (B) CLERICAL AMENDMENT.—The table of
14 sections for subchapter B of chapter 100 of
15 such Code is amended by inserting after the
16 item relating to section 9813 the following new
17 item:

“Sec. 9814. No denial or restriction of coverage based on Task Force rec-
ommendations.”.

18 (4) EFFECTIVE DATE.—The amendments made
19 by paragraphs (1)(A), (2), and (3) of this subsection
20 shall apply with respect to plan years beginning on
21 or after the date of the enactment of this Act. The
22 amendment made by paragraph (1)(B) of this sub-
23 section applies with respect to health insurance cov-
24 erage offered, sold, issued, renewed, in effect, or op-

1 erated in the individual market on or after such
2 date.

3 **SEC. 3. DETERMINATIONS OF COVERAGE OF PREVENTIVE**
4 **ITEMS AND SERVICES.**

5 (a) AMENDMENTS TO PUBLIC HEALTH SERVICE
6 ACT.—

7 (1) GROUP MARKET.—Subpart 2 of part A of
8 title XXVII of the Public Health Service Act (42
9 U.S.C. 300gg et seq.), as amended by section 2 of
10 this Act, is amended by adding at the end the fol-
11 lowing:

12 **“SEC. 2709. DETERMINATIONS OF COVERAGE OF PREVEN-**
13 **TIVE ITEMS AND SERVICES.**

14 “The plan sponsor of a group health plan and a
15 health insurance issuer offering group health insurance
16 coverage shall, in determining which preventive items and
17 services to provide coverage for under the plan or cov-
18 erage, consult the medical guidelines and recommenda-
19 tions of relevant professional medical organizations of rel-
20 evant medical practice areas (such as the American Soci-
21 ety of Clinical Oncology, the American College of Sur-
22 geons, the American College of Radiology, the Society of
23 Breast Imaging, the American College of Radiation Oncol-
24 ogy, the American College of Obstetricians and Gyne-
25 cologists, and other similar organizations), including

1 guidelines and recommendations relating to the coverage
 2 of women’s preventive services (such as mammograms and
 3 cervical cancer screenings). The plan administrator shall
 4 disclose such guidelines and recommendations to enrollees
 5 as part of a summary of benefits and coverage provided
 6 to enrollees.”.

7 (2) INDIVIDUAL MARKET.—Subpart 1 of part B
 8 of title XXVII of the Public Health Service Act (42
 9 U.S.C. 300gg–41 et seq.) is amended by adding at
 10 the end the following:

11 **“SEC. 2747. DETERMINATIONS OF COVERAGE OF PREVEN-**
 12 **TIVE ITEMS AND SERVICES.**

13 “The provisions of section 2708 shall apply to health
 14 insurance coverage offered by a health insurance issuer
 15 in the individual market in the same manner as such pro-
 16 visions apply to health insurance coverage offered by a
 17 health insurance issuer in connection with a group health
 18 plan in the small or large group market.”.

19 (b) AMENDMENTS TO ERISA.—

20 (1) IN GENERAL.—Subpart B of part 7 of title
 21 I of the Employee Retirement Income Security Act
 22 of 1974 (as amended by section 2) is amended by
 23 adding at the end the following:

1 **“SEC. 716. DETERMINATIONS OF COVERAGE OF PREVEN-**
2 **TIVE ITEMS AND SERVICES.**

3 “The plan sponsor of a group health plan and a
4 health insurance issuer offering group health insurance
5 coverage shall, in determining which preventive items and
6 services to provide coverage for under the plan or cov-
7 erage, consult the medical guidelines and recommenda-
8 tions of relevant professional medical organizations of rel-
9 evant medical practice areas (such as the American Soci-
10 ety of Clinical Oncology, the American College of Sur-
11 geons, the American College of Radiology, the Society of
12 Breast Imaging, the American College of Radiation Oncol-
13 ogy, the American College of Obstetricians and Gyne-
14 cologists, and other similar organizations), including
15 guidelines and recommendations relating to the coverage
16 of women’s preventive services (such as mammograms and
17 cervical cancer screenings). The plan administrator of the
18 group health plan shall disclose such guidelines and rec-
19 ommendations to participants and beneficiaries as part of
20 the summary plan description required to be provided
21 under section 102, and any failure to so disclose such
22 guidelines and recommendations shall be treated as a vio-
23 lation of section 102.”.

24 (2) CLERICAL AMENDMENT.—The table of con-
25 tents in section 1 of such Act (as amended by sec-

1 tion 2) is amended by inserting after the item relat-
 2 ing to section 715 the following new item:

“Sec. 716. Determinations of coverage of preventive items and services.”.

3 (c) AMENDMENTS TO INTERNAL REVENUE CODE.—

4 (1) IN GENERAL.—Subchapter B of chapter
 5 100 of the Internal Revenue Code of 1986 (as
 6 amended by section 2) is amended by adding at the
 7 end the following:

8 **“SEC. 9814. DETERMINATIONS OF COVERAGE OF PREVEN-**
 9 **TIVE ITEMS AND SERVICES.**

10 “The plan sponsor of a group health plan shall, in
 11 determining which preventive items and services to provide
 12 coverage for under the plan, consult the medical guidelines
 13 and recommendations of relevant professional medical or-
 14 ganizations of relevant medical practice areas (such as the
 15 American Society of Clinical Oncology, the American Col-
 16 lege of Surgeons, the American College of Radiology, the
 17 Society of Breast Imaging, the American College of Radi-
 18 ation Oncology, the American College of Obstetricians and
 19 Gynecologists, and other similar organizations), including
 20 guidelines and recommendations relating to the coverage
 21 of women’s preventive services (such as mammograms and
 22 cervical cancer screenings). The plan administrator shall
 23 disclose such guidelines and recommendations to partici-
 24 pants and beneficiaries as part of a summary of benefits
 25 and coverage provided to participants and beneficiaries.”.

1 (2) CLERICAL AMENDMENT.—The table of sec-
2 tions for subchapter B of chapter 100 of such Code
3 is amended by inserting after the item relating to
4 section 9813 the following new item:

“Sec. 9814. Determinations of coverage of preventive items and services.”.

5 (d) EFFECTIVE DATE.—The amendments made by
6 subsections (a)(1), (b), and (c) of this section shall apply
7 with respect to plan years beginning on or after the date
8 of the enactment of this Act. The amendment made by
9 subsection (a)(2) of this section applies with respect to
10 health insurance coverage offered, sold, issued, renewed,
11 in effect, or operated in the individual market on or after
12 such date.

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