

115TH CONGRESS
1ST SESSION

H. R. 3338

To require that health plans provide coverage for a minimum hospital stay for mastectomies, lumpectomies, and lymph node dissection for the treatment of breast cancer and coverage for secondary consultations.

IN THE HOUSE OF REPRESENTATIVES

JULY 20, 2017

Ms. DELAURO (for herself, Ms. WASSERMAN SCHULTZ, Ms. CLARKE of New York, Mr. COHEN, Mr. KHANNA, Mr. LARSEN of Washington, Mr. RUPPERSBERGER, Mrs. DINGELL, Mr. CONNOLLY, Mrs. CAROLYN B. MALONEY of New York, Ms. BORDALLO, Ms. KAPTUR, Mr. POCAN, Mr. TAKANO, Mr. YARMUTH, Mr. PAYNE, Mr. SERRANO, Mr. SCHIFF, Ms. TSONGAS, Mrs. NAPOLITANO, Mr. GRIJALVA, Ms. MICHELLE LUJAN GRISHAM of New Mexico, Mr. NADLER, Mr. ENGEL, Mr. RYAN of Ohio, Mr. HASTINGS, Mr. LANGEVIN, Mr. MCGOVERN, Mr. RUSH, Mr. CLYBURN, Mr. CARSON of Indiana, Ms. ROYBAL-ALLARD, Mr. CICILLINE, and Ms. JUDY CHU of California) 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 the Workforce, 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 require that health plans provide coverage for a minimum hospital stay for mastectomies, lumpectomies, and lymph node dissection for the treatment of breast cancer and coverage for secondary consultations.

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 “Breast Cancer Patient
3 Protection Act of 2017”.

4 **SEC. 2. FINDINGS.**

5 Congress finds the following:

6 (1) According to the National Cancer Institute,
7 excluding cancers of the skin, breast cancer is the
8 most frequently diagnosed cancer in women.

9 (2) According to the National Cancer Institute,
10 an estimated 40,610 women and 460 men will die
11 from breast cancer in 2017.

12 (3) According to the National Cancer Institute,
13 in 2017 an estimated 252,710 new cases of breast
14 cancer will be diagnosed in women and an estimated
15 2,470 cases will be diagnosed in men.

16 (4) According to the American Cancer Society,
17 most breast cancer patients undergo some type of
18 surgical treatment, which may involve lumpectomy
19 or mastectomy with removal of some of the axillary
20 lymph nodes.

21 (5) The offering and operation of health plans
22 affect commerce among the States.

23 (6) Health care providers located in a State
24 serve patients who reside in the State and patients
25 who reside in other States.

1 (7) In order to provide for uniform treatment
 2 of health care providers and patients among the
 3 States, it is necessary to cover health plans oper-
 4 ating in one State as well as health plans operating
 5 among the several States.

6 (8) Research has indicated that treatment for
 7 breast cancer varies according to type of insurance
 8 coverage and State of residence.

9 (9) Breast cancer patients have reported ad-
 10 verse outcomes, including infection and inadequately
 11 controlled pain, resulting from premature hospital
 12 discharge following breast cancer surgery.

13 **SEC. 3. AMENDMENTS TO THE EMPLOYEE RETIREMENT IN-**
 14 **COME SECURITY ACT OF 1974.**

15 (a) IN GENERAL.—Subpart B of part 7 of subtitle
 16 B of title I of the Employee Retirement Income Security
 17 Act of 1974 (29 U.S.C. 1185 et seq.) is amended by add-
 18 ing at the end the following:

19 **“SEC. 716. REQUIRED COVERAGE FOR MINIMUM HOSPITAL**
 20 **STAY FOR MASTECTOMIES, LUMPECTOMIES,**
 21 **AND LYMPH NODE DISSECTIONS FOR THE**
 22 **TREATMENT OF BREAST CANCER AND COV-**
 23 **ERAGE FOR SECONDARY CONSULTATIONS.**

24 “(a) INPATIENT CARE.—

1 “(1) IN GENERAL.—A group health plan, and a
2 health insurance issuer providing health insurance
3 coverage in connection with a group health plan,
4 that provides medical and surgical benefits shall en-
5 sure that inpatient (and in the case of a
6 lumpectomy, outpatient) coverage and radiation
7 therapy is provided for breast cancer treatment.
8 Such plan or coverage may not—

9 “(A) insofar as the attending physician, in
10 consultation with the patient, determines it to
11 be medically necessary—

12 “(i) restrict benefits for any hospital
13 length of stay in connection with a mastec-
14 tomy or breast conserving surgery (such as
15 a lumpectomy) for the treatment of breast
16 cancer to less than 48 hours; or

17 “(ii) restrict benefits for any hospital
18 length of stay in connection with a lymph
19 node dissection for the treatment of breast
20 cancer to less than 24 hours; or

21 “(B) require that a provider obtain author-
22 ization from the plan or the issuer for pre-
23 scribing any length of stay required under this
24 paragraph.

1 “(2) EXCEPTION.—Nothing in this section shall
2 be construed as requiring the provision of inpatient
3 coverage if the attending physician, in consultation
4 with the patient, determines that either a shorter pe-
5 riod of hospital stay, or outpatient treatment, is
6 medically appropriate.

7 “(b) PROHIBITION ON CERTAIN MODIFICATIONS.—
8 In implementing the requirements of this section, a group
9 health plan, and a health insurance issuer providing health
10 insurance coverage in connection with a group health plan,
11 may not modify the terms and conditions of coverage
12 based on the determination by a participant or beneficiary
13 to request less than the minimum coverage required under
14 subsection (a).

15 “(c) NOTICE.—A group health plan, and a health in-
16 surance issuer providing health insurance coverage in con-
17 nection with a group health plan, shall provide notice to
18 each participant and beneficiary under such plan regard-
19 ing the coverage required by this section in accordance
20 with regulations promulgated by the Secretary. Such no-
21 tice shall be in writing and prominently positioned in the
22 summary of the plan made available or distributed by the
23 plan or issuer and shall be transmitted—

24 “(1) in the next mailing made by the plan or
25 issuer to the participant or beneficiary; or

1 “(2) as part of any yearly informational packet
2 sent to the participant or beneficiary,
3 whichever is earlier.

4 “(d) SECONDARY CONSULTATIONS.—

5 “(1) IN GENERAL.—A group health plan, and a
6 health insurance issuer providing health insurance
7 coverage in connection with a group health plan,
8 that provides coverage with respect to medical and
9 surgical services provided in relation to the diagnosis
10 and treatment of cancer shall ensure that coverage
11 is provided for secondary consultations, on terms
12 and conditions that are no more restrictive than
13 those applicable to the initial consultations, by spe-
14 cialists in the appropriate medical fields (including
15 pathology, radiology, and oncology) to confirm or re-
16 fute such diagnosis. Such plan or issuer shall ensure
17 that coverage is provided for such secondary con-
18 sultation whether such consultation is based on a
19 positive or negative initial diagnosis. In any case in
20 which the attending physician certifies in writing
21 that services necessary for such a secondary con-
22 sultation are not sufficiently available from special-
23 ists operating under the plan with respect to whose
24 services coverage is otherwise provided under such
25 plan or by such issuer, such plan or issuer shall en-

1 sure that coverage is provided with respect to the
2 services necessary for the secondary consultation
3 with any other specialist selected by the attending
4 physician for such purpose at no additional cost to
5 the individual beyond that which the individual
6 would have paid if the specialist was participating in
7 the network of the plan.

8 “(2) EXCEPTION.—Nothing in paragraph (1)
9 shall be construed as requiring the provision of sec-
10 ondary consultations where the patient determines
11 not to seek such a consultation.

12 “(e) PROHIBITION ON PENALTIES OR INCENTIVES.—
13 A group health plan, and a health insurance issuer pro-
14 viding health insurance coverage in connection with a
15 group health plan, may not—

16 “(1) penalize or otherwise reduce or limit the
17 reimbursement of a provider or specialist because
18 the provider or specialist provided care to a partici-
19 pant or beneficiary in accordance with this section;

20 “(2) provide financial or other incentives to a
21 physician or specialist to induce the physician or
22 specialist to keep the length of inpatient stays of pa-
23 tients following a mastectomy, lumpectomy, or a
24 lymph node dissection for the treatment of breast

1 cancer below certain limits or to limit referrals for
 2 secondary consultations; or

3 “(3) provide financial or other incentives to a
 4 physician or specialist to induce the physician or
 5 specialist to refrain from referring a participant or
 6 beneficiary for a secondary consultation that would
 7 otherwise be covered by the plan or coverage in-
 8 volved under subsection (d).”.

9 (b) CLERICAL AMENDMENT.—The table of contents
 10 in section 1 of the Employee Retirement Income Security
 11 Act of 1974 is amended by inserting after the item relat-
 12 ing to section 714 the following:

“Sec. 715. Additional market reforms.

“Sec. 716. Required coverage for minimum hospital stay for mastectomies,
 lumpectomies, and lymph node dissections for the treatment of
 breast cancer and coverage for secondary consultations.”.

13 (c) EFFECTIVE DATES.—

14 (1) IN GENERAL.—The amendments made by
 15 this section shall apply with respect to plan years be-
 16 ginning on or after the date that is 90 days after
 17 the date of enactment of this Act.

18 (2) SPECIAL RULE FOR COLLECTIVE BAR-
 19 GAINING AGREEMENTS.—In the case of a group
 20 health plan maintained pursuant to 1 or more collec-
 21 tive bargaining agreements between employee rep-
 22 resentatives and 1 or more employers ratified before
 23 the date of enactment of this Act, the amendments

1 made by this section shall not apply to plan years
 2 beginning before the date on which the last collective
 3 bargaining agreements relating to the plan termi-
 4 nates (determined without regard to any extension
 5 thereof agreed to after the date of enactment of this
 6 Act). For purposes of this paragraph, any plan
 7 amendment made pursuant to a collective bargaining
 8 agreement relating to the plan which amends the
 9 plan solely to conform to any requirement added by
 10 this section shall not be treated as a termination of
 11 such collective bargaining agreement.

12 **SEC. 4. AMENDMENTS TO THE PUBLIC HEALTH SERVICE**
 13 **ACT.**

14 (a) IN GENERAL.—Title XXVII of the Public Health
 15 Service Act is amended by inserting after section 2728 of
 16 such Act (42 U.S.C. 300gg–28), as redesignated by sec-
 17 tion 1001(2) of the Patient Protection and Affordable
 18 Care Act (Public Law 111–148), the following:

19 **“SEC. 2729. REQUIRED COVERAGE FOR MINIMUM HOSPITAL**
 20 **STAY FOR MASTECTOMIES, LUMPECTOMIES,**
 21 **AND LYMPH NODE DISSECTIONS FOR THE**
 22 **TREATMENT OF BREAST CANCER AND COV-**
 23 **ERAGE FOR SECONDARY CONSULTATIONS.**

24 “(a) INPATIENT CARE.—

1 “(1) IN GENERAL.—A group health plan, and a
2 health insurance issuer providing group or individual
3 health insurance coverage, that provides medical and
4 surgical benefits shall ensure that inpatient (and in
5 the case of a lumpectomy, outpatient) coverage and
6 radiation therapy is provided for breast cancer treat-
7 ment. Such plan or coverage may not—

8 “(A) insofar as the attending physician, in
9 consultation with the patient, determines it to
10 be medically necessary—

11 “(i) restrict benefits for any hospital
12 length of stay in connection with a mastec-
13 tomy or breast conserving surgery (such as
14 a lumpectomy) for the treatment of breast
15 cancer to less than 48 hours; or

16 “(ii) restrict benefits for any hospital
17 length of stay in connection with a lymph
18 node dissection for the treatment of breast
19 cancer to less than 24 hours; or

20 “(B) require that a provider obtain author-
21 ization from the plan or the issuer for pre-
22 scribing any length of stay required under this
23 paragraph.

24 “(2) EXCEPTION.—Nothing in this section shall
25 be construed as requiring the provision of inpatient

1 coverage if the attending physician, in consultation
2 with the patient, determines that either a shorter pe-
3 riod of hospital stay, or outpatient treatment, is
4 medically appropriate.

5 “(b) PROHIBITION ON CERTAIN MODIFICATIONS.—

6 In implementing the requirements of this section, a group
7 health plan, and a health insurance issuer providing group
8 or individual health insurance coverage, may not modify
9 the terms and conditions of coverage based on the deter-
10 mination by a participant or beneficiary to request less
11 than the minimum coverage required under subsection (a).

12 “(c) NOTICE.—A group health plan, and a health in-
13 surance issuer providing group or individual health insur-
14 ance coverage, shall provide notice to each participant and
15 beneficiary under such plan or coverage regarding the cov-
16 erage required by this section in accordance with regula-
17 tions promulgated by the Secretary. Such notice shall be
18 in writing and prominently positioned in the summary of
19 the plan or coverage made available or distributed by the
20 plan or issuer and shall be transmitted—

21 “(1) in the next mailing made by the plan or
22 issuer to the participant or beneficiary; or

23 “(2) as part of any yearly informational packet
24 sent to the participant or beneficiary,
25 whichever is earlier.

1 “(d) SECONDARY CONSULTATIONS.—

2 “(1) IN GENERAL.—A group health plan, and a
3 health insurance issuer providing group or individual
4 health insurance coverage, that provides coverage
5 with respect to medical and surgical services pro-
6 vided in relation to the diagnosis and treatment of
7 cancer shall ensure that coverage is provided for sec-
8 ondary consultations, on terms and conditions that
9 are no more restrictive than those applicable to the
10 initial consultations, by specialists in the appropriate
11 medical fields (including pathology, radiology, and
12 oncology) to confirm or refute such diagnosis. Such
13 plan or issuer shall ensure that coverage is provided
14 for such secondary consultation whether such con-
15 sultation is based on a positive or negative initial di-
16 agnosis. In any case in which the attending physi-
17 cian certifies in writing that services necessary for
18 such a secondary consultation are not sufficiently
19 available from specialists operating under the plan
20 or coverage with respect to whose services coverage
21 is otherwise provided under such plan or by such
22 issuer, such plan or issuer shall ensure that coverage
23 is provided with respect to the services necessary for
24 the secondary consultation with any other specialist
25 selected by the attending physician for such purpose

1 at no additional cost to the individual beyond that
2 which the individual would have paid if the specialist
3 was participating in the network of the plan.

4 “(2) EXCEPTION.—Nothing in paragraph (1)
5 shall be construed as requiring the provision of sec-
6 ondary consultations where the patient determines
7 not to seek such a consultation.

8 “(e) PROHIBITION ON PENALTIES OR INCENTIVES.—
9 A group health plan, and a health insurance issuer pro-
10 viding group or individual health insurance coverage, may
11 not—

12 “(1) penalize or otherwise reduce or limit the
13 reimbursement of a provider or specialist because
14 the provider or specialist provided care to a partici-
15 pant or beneficiary in accordance with this section;

16 “(2) provide financial or other incentives to a
17 physician or specialist to induce the physician or
18 specialist to keep the length of inpatient stays of pa-
19 tients following a mastectomy, lumpectomy, or a
20 lymph node dissection for the treatment of breast
21 cancer below certain limits or to limit referrals for
22 secondary consultations; or

23 “(3) provide financial or other incentives to a
24 physician or specialist to induce the physician or
25 specialist to refrain from referring a participant or

1 beneficiary for a secondary consultation that would
2 otherwise be covered by the plan or coverage in-
3 volved under subsection (d).”.

4 (b) EFFECTIVE DATES.—

5 (1) IN GENERAL.—The amendments made by
6 this section shall apply with respect to plan years be-
7 ginning on or after 90 days after the date of enact-
8 ment of this Act.

9 (2) SPECIAL RULE FOR COLLECTIVE BAR-
10 GAINING AGREEMENTS.—In the case of a group
11 health plan maintained pursuant to 1 or more collec-
12 tive bargaining agreements between employee rep-
13 resentatives and 1 or more employers ratified before
14 the date of enactment of this Act, the amendments
15 made by this section shall not apply to plan years
16 beginning before the date on which the last collective
17 bargaining agreements relating to the plan termi-
18 nates (determined without regard to any extension
19 thereof agreed to after the date of enactment of this
20 Act). For purposes of this paragraph, any plan
21 amendment made pursuant to a collective bargaining
22 agreement relating to the plan which amends the
23 plan solely to conform to any requirement added by
24 this section shall not be treated as a termination of
25 such collective bargaining agreement.

1 **SEC. 5. AMENDMENTS TO THE INTERNAL REVENUE CODE**
 2 **OF 1986.**

3 (a) IN GENERAL.—Subchapter B of chapter 100 of
 4 the Internal Revenue Code of 1986 is amended—

5 (1) in the table of sections, by inserting after
 6 the item relating to section 9813 the following:

“Sec. 9814. Required coverage for minimum hospital stay for mastectomies,
 lumpectomies, and lymph node dissections for the treatment of
 breast cancer and coverage for secondary consultations.”;

7 and

8 (2) by inserting after section 9813 the fol-
 9 lowing:

10 **“SEC. 9814. REQUIRED COVERAGE FOR MINIMUM HOSPITAL**
 11 **STAY FOR MASTECTOMIES, LUMPECTOMIES,**
 12 **AND LYMPH NODE DISSECTIONS FOR THE**
 13 **TREATMENT OF BREAST CANCER AND COV-**
 14 **ERAGE FOR SECONDARY CONSULTATIONS.**

15 “(a) INPATIENT CARE.—

16 “(1) IN GENERAL.—A group health plan that
 17 provides medical and surgical benefits shall ensure
 18 that inpatient (and in the case of a lumpectomy,
 19 outpatient) coverage and radiation therapy is pro-
 20 vided for breast cancer treatment. Such plan may
 21 not—

22 “(A) insofar as the attending physician, in
 23 consultation with the patient, determines it to
 24 be medically necessary—

1 “(i) restrict benefits for any hospital
2 length of stay in connection with a mastec-
3 tomy or breast conserving surgery (such as
4 a lumpectomy) for the treatment of breast
5 cancer to less than 48 hours; or

6 “(ii) restrict benefits for any hospital
7 length of stay in connection with a lymph
8 node dissection for the treatment of breast
9 cancer to less than 24 hours; or

10 “(B) require that a provider obtain author-
11 ization from the plan for prescribing any length
12 of stay required under this paragraph.

13 “(2) EXCEPTION.—Nothing in this section shall
14 be construed as requiring the provision of inpatient
15 coverage if the attending physician, in consultation
16 with the patient, determines that either a shorter pe-
17 riod of hospital stay, or outpatient treatment, is
18 medically appropriate.

19 “(b) PROHIBITION ON CERTAIN MODIFICATIONS.—
20 In implementing the requirements of this section, a group
21 health plan may not modify the terms and conditions of
22 coverage based on the determination by a participant or
23 beneficiary to request less than the minimum coverage re-
24 quired under subsection (a).

1 “(c) NOTICE.—A group health plan shall provide no-
2 tice to each participant and beneficiary under such plan
3 regarding the coverage required by this section in accord-
4 ance with regulations promulgated by the Secretary. Such
5 notice shall be in writing and prominently positioned in
6 the summary of the plan made available or distributed by
7 the plan and shall be transmitted—

8 “(1) in the next mailing made by the plan to
9 the participant or beneficiary; or

10 “(2) as part of any yearly informational packet
11 sent to the participant or beneficiary,
12 whichever is earlier.

13 “(d) SECONDARY CONSULTATIONS.—

14 “(1) IN GENERAL.—A group health plan that
15 provides coverage with respect to medical and sur-
16 gical services provided in relation to the diagnosis
17 and treatment of cancer shall ensure that coverage
18 is provided for secondary consultations, on terms
19 and conditions that are no more restrictive than
20 those applicable to the initial consultations, by spe-
21 cialists in the appropriate medical fields (including
22 pathology, radiology, and oncology) to confirm or re-
23 fute such diagnosis. Such plan or issuer shall ensure
24 that coverage is provided for such secondary con-
25 sultation whether such consultation is based on a

1 positive or negative initial diagnosis. In any case in
2 which the attending physician certifies in writing
3 that services necessary for such a secondary con-
4 sultation are not sufficiently available from special-
5 ists operating under the plan with respect to whose
6 services coverage is otherwise provided under such
7 plan or by such issuer, such plan or issuer shall en-
8 sure that coverage is provided with respect to the
9 services necessary for the secondary consultation
10 with any other specialist selected by the attending
11 physician for such purpose at no additional cost to
12 the individual beyond that which the individual
13 would have paid if the specialist was participating in
14 the network of the plan.

15 “(2) EXCEPTION.—Nothing in paragraph (1)
16 shall be construed as requiring the provision of sec-
17 ondary consultations where the patient determines
18 not to seek such a consultation.

19 “(e) PROHIBITION ON PENALTIES.—A group health
20 plan may not—

21 “(1) penalize or otherwise reduce or limit the
22 reimbursement of a provider or specialist because
23 the provider or specialist provided care to a partici-
24 pant or beneficiary in accordance with this section;

1 “(2) provide financial or other incentives to a
 2 physician or specialist to induce the physician or
 3 specialist to keep the length of inpatient stays of pa-
 4 tients following a mastectomy, lumpectomy, or a
 5 lymph node dissection for the treatment of breast
 6 cancer below certain limits or to limit referrals for
 7 secondary consultations; or

8 “(3) provide financial or other incentives to a
 9 physician or specialist to induce the physician or
 10 specialist to refrain from referring a participant or
 11 beneficiary for a secondary consultation that would
 12 otherwise be covered by the plan involved under sub-
 13 section (d).”.

14 (b) EFFECTIVE DATES.—

15 (1) IN GENERAL.—The amendments made by
 16 this section shall apply with respect to plan years be-
 17 ginning on or after the date of enactment of this
 18 Act.

19 (2) SPECIAL RULE FOR COLLECTIVE BAR-
 20 GAINING AGREEMENTS.—In the case of a group
 21 health plan maintained pursuant to 1 or more collec-
 22 tive bargaining agreements between employee rep-
 23 resentatives and 1 or more employers ratified before
 24 the date of enactment of this Act, the amendments
 25 made by this section shall not apply to plan years

1 beginning before the date on which the last collective
 2 bargaining agreements relating to the plan termi-
 3 nates (determined without regard to any extension
 4 thereof agreed to after the date of enactment of this
 5 Act). For purposes of this paragraph, any plan
 6 amendment made pursuant to a collective bargaining
 7 agreement relating to the plan which amends the
 8 plan solely to conform to any requirement added by
 9 this section shall not be treated as a termination of
 10 such collective bargaining agreement.

11 **SEC. 6. OPPORTUNITY FOR INDEPENDENT, EXTERNAL**
 12 **THIRD PARTY REVIEWS OF CERTAIN NON-**
 13 **RENEWALS AND DISCONTINUATIONS, IN-**
 14 **CLUDING RESCISSIONS, OF INDIVIDUAL**
 15 **HEALTH INSURANCE COVERAGE.**

16 (a) CLARIFICATION REGARDING APPLICATION OF
 17 GUARANTEED RENEWABILITY OF INDIVIDUAL HEALTH
 18 INSURANCE COVERAGE.—Section 2742 of the Public
 19 Health Service Act (42 U.S.C. 300gg-42) is amended—

20 (1) in its heading, by inserting “**AND CON-**
 21 **TINUATION IN FORCE, INCLUDING PROHIBI-**
 22 **TION OF RESCISSION,”** after “**GUARANTEED RE-**
 23 **NEWABILITY”**;

24 (2) in subsection (a), by inserting “, including
 25 without rescission,” after “continue in force”; and

1 (3) in subsection (b)(2), by inserting before the
2 period at the end the following: “, including inten-
3 tional concealment of material facts regarding a
4 health condition related to the condition for which
5 coverage is being claimed”.

6 (b) OPPORTUNITY FOR INDEPENDENT, EXTERNAL
7 THIRD PARTY REVIEW IN CERTAIN CASES.—Subpart 1
8 of part B of title XXVII of the Public Health Service Act
9 is amended by adding at the end the following new section:
10 **“SEC. 2746. OPPORTUNITY FOR INDEPENDENT, EXTERNAL**
11 **THIRD PARTY REVIEW IN CERTAIN CASES.**

12 “(a) NOTICE AND REVIEW RIGHT.—If a health in-
13 surance issuer determines to nonrenew or not continue in
14 force, including rescind, health insurance coverage for an
15 individual in the individual market on the basis described
16 in section 2742(b)(2) before such nonrenewal, discontinu-
17 ation, or rescission, may take effect the issuer shall pro-
18 vide the individual with notice of such proposed non-
19 renewal, discontinuation, or rescission and an opportunity
20 for a review of such determination by an independent, ex-
21 ternal third party under procedures specified by the Sec-
22 retary.

23 “(b) INDEPENDENT DETERMINATION.—If the indi-
24 vidual requests such review by an independent, external
25 third party of a nonrenewal, discontinuation, or rescission

1 of health insurance coverage, the coverage shall remain in
2 effect until such third party determines that the coverage
3 may be nonrenewed, discontinued, or rescinded under sec-
4 tion 2742(b)(2).”.

5 (c) EFFECTIVE DATE.—The amendments made by
6 this section shall apply after the date of the enactment
7 of this Act with respect to health insurance coverage
8 issued before, on, or after such date.

○