

which, in the opinion of the treating physician, is medically necessary to approximate a normal appearance.

“(3) TREATMENT DEFINED.—

“(A) IN GENERAL.—In this section, the term ‘treatment’ includes reconstructive surgical procedures (procedures that are generally performed to improve function, but may also be performed to approximate a normal appearance) that are performed on abnormal structures of the body caused by congenital defects, developmental abnormalities, trauma, infection, tumors, or disease, including—

“(i) procedures that do not materially affect the function of the body part being treated; and

“(ii) procedures for secondary conditions and follow-up treatment.

“(B) EXCEPTION.—Such term does not include cosmetic surgery performed to reshape normal structures of the body to improve appearance or self-esteem.”.

(b) INDIVIDUAL HEALTH INSURANCE.—

(1) IN GENERAL.—Part B of title XXVII of the Public Health Service Act (42 U.S.C. 300gg-41 et seq.), as amended by section 203(b), is further amended by inserting after section 2753 the following new section:

“SEC. 2754. STANDARDS RELATING TO BENEFITS FOR MINOR CHILD'S CONGENITAL OR DEVELOPMENTAL DEFORMITY OR DISORDER.

“(a) REQUIREMENTS FOR RECONSTRUCTIVE SURGERY.—

“(1) IN GENERAL.—A group health plan, and a health insurance issuer offering group health insurance coverage, that provides coverage for surgical benefits shall provide coverage for outpatient and inpatient diagnosis and treatment of a minor child's congenital or developmental deformity, disease, or injury. A minor child shall include any individual through 21 years of age.

“(2) REQUIREMENTS.—Any coverage provided under paragraph (1) shall be subject to pre-authorization or pre-certification as required by the plan or issuer, and such coverage shall include any surgical treatment which, in the opinion of the treating physician, is medically necessary to approximate a normal appearance.

“(3) TREATMENT DEFINED.—

“(A) IN GENERAL.—In this section, the term ‘treatment’ includes reconstructive surgical procedures (procedures that are generally performed to improve function, but may also be performed to approximate a normal appearance) that are performed on abnormal structures of the body caused by congenital defects, developmental abnormalities, trauma, infection, tumors, or disease, including—

“(i) procedures that do not materially affect the function of the body part being treated; and

“(ii) procedures for secondary conditions and follow-up treatment.

“(B) EXCEPTION.—Such term does not include cosmetic surgery performed to reshape normal structures of the body to improve appearance or self-esteem.

“(b) NOTICE.—A health insurance issuer under this part shall comply with the notice requirement under section 713(b) of the Employee Retirement Income Security Act of 1974 with respect to the requirements referred to in subsection (a) as if such section applied to such issuer and such issuer were a group health plan.”.

(2) CONFORMING AMENDMENT.—Section 2762(b)(2) of the Public Health Service Act (42 U.S.C. 300gg-62(b)(2)) is amended by striking “section 2751” and inserting “sections 2751 and 2754”.

(c) EFFECTIVE DATES.—

(1) GROUP MARKET.—The amendments made by subsection (a) shall apply with respect to group health plans for plan years beginning on or after January 1, 2000.

(2) INDIVIDUAL MARKET.—The amendment made by subsection (b) shall apply with respect to health insurance coverage offered, sold, issued, renewed, in effect, or operated in the individual market on or after such date.

(d) COORDINATED REGULATIONS.—Section 104(1) of Health Insurance Portability and Accountability Act of 1996 is amended by striking “this subtitle (and the amendments made by this subtitle and section 401)” and inserting “the provisions of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974, the provisions of parts A and C of title XXVII of the Public Health Service Act, and chapter 100 of the Internal Revenue Code of 1986”.

AMENDMENT No. 1249

Strike section 302 of the bill and insert the following:

SEC. 302. PERMISSIBILITY OF CIVIL ACTIONS.

(a) IN GENERAL.—Section 514 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144) is amended by adding at the end the following subsection:

“(e) PREEMPTION NOT TO APPLY TO CERTAIN ACTIONS ARISING OUT OF PROVISION OF HEALTH BENEFITS.—

“(1) NON-PREEMPTION OF CERTAIN CAUSES OF ACTION.—

“(A) IN GENERAL.—Except as provided in this subsection, nothing in this title shall be construed to invalidate, impair, or supersede any cause of action under State law to recover damages resulting from personal injury or for wrongful death against any person—

“(i) in connection with the provision of insurance, administrative services, or medical services by such person to or for a group health plan; or

“(ii) that arises out of the arrangement by such person for the provision of such insurance, administrative services, or medical services by other persons.

“(B) REQUIREMENTS.—A participant or beneficiary may only commence a civil action under subparagraph (A) if the participant or beneficiary has participated in and completed an external appeal with respect to the decision involved.

“(C) DAMAGES.—In a civil action permitted under subparagraph (B), the participant or beneficiary may only seek compensatory damages.

“(D) LIMITATION ON DAMAGES.—A group health plan shall not be liable for any non-economic damages in the case of a cause of action brought under subparagraph (A) in excess of \$250,000.

“(2) EXCEPTION FOR EMPLOYERS AND MEDICAL PROVIDERS.—

“(A) EMPLOYERS.—

“(i) IN GENERAL.—Subject to clause (ii), paragraph (1) does not authorize—

“(I) any cause of action against an employer maintaining the group health plan or against an employee of such an employer acting within the scope of employment, or

“(II) a right of recovery or indemnity by a person against an employer (or such an employee) for damages assessed against the person pursuant to a cause of action under paragraph (1).

“(ii) SPECIAL RULE.—Clause (i) shall not preclude any cause of action described in paragraph (1) against an employer (or against an employee of such an employer acting within the scope of employment) if—

“(I) such action is based on the employer's (or employee's) exercise of discretionary authority to make a decision on a claim for benefits covered under the plan or health insurance coverage in the case at issue; and

“(II) the exercise by such employer (or employee of such authority) resulted in personal injury or wrongful death.

“(B) MEDICAL PROVIDERS.—Paragraph (1) does not authorize any cause of action against a health care provider for failure to provide a health care item or service where such provider acted in good faith in relying upon a determination by the group health plan involved to deny such item or service and such denial results in injury or death.

“(3) CONSTRUCTION.—Nothing in this subsection shall be construed as permitting a cause of action under State law for the failure to provide an item or service which is specifically excluded under the group health plan involved.

“(4) DEFINITION.—In this subsection, the term ‘medical provider’ means a physician or other health care professional providing health care services.”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to acts and omissions occurring on or after the date of the enactment of this Act from which a cause of action arises.

NOTICE OF HEARING

SUBCOMMITTEE ON WATER AND POWER

Mr. SMITH of Oregon. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Subcommittee on Water and Power.

The hearing will take place on Wednesday, July 28, 1999 at 2:30 p.m. in room SD-366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of this hearing is to receive testimony on S. 624, To authorize construction of the Fort Peck Reservation Rural Water System in the State of Montana, and for other purposes; S. 1211, to amend the Colorado River Basin Salinity Control Act to authorize additional measures to carry out the control of salinity upstream of Imperial Dam in a cost-effective manner; S. 1275, to authorize the Secretary of the Interior to produce and sell products and to sell publications relating to the Hoover Dam, and to deposit revenues generated from the sales in to the Colorado River Dam fund; and S. 1236, to extend the deadline under the Federal Power Act for commencement of the construction of the Arrowrock Dam Hydroelectric Project in the State of Idaho.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Subcommittee on Water and Power, Committee on Energy and Natural Resources, United States Senate, 364 Dirksen Senate Office Building, Washington, DC, 20510-6150.

For further information, please call Kristin Phillips, Staff Assistant or Colleen Deegan, Counsel, at (202) 224-8115.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be granted permission to meet

during the session of the Senate on Wednesday, July 14, for purposes of conducting a joint committee hearing with the Committee on Indian Affairs, which is scheduled to begin at 9:30 a.m. The purpose of this oversight hearing is to receive testimony on the Report of the General Accounting Office (GAO) on the Interior Department's Planned Trust Fund.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the full Committee on Environment and Public Works be granted permission to conduct a hearing on conformity under the Clean Air Act on Wednesday, July 14, 9:30 a.m., Hearing Room (SD-406).

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the Governmental Affairs Committee be permitted to meet on Wednesday, July 14, 1999 at 3:00 p.m. for a hearing on S. 1214, the Federalism Accountability Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON INDIAN AFFAIRS

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the Senate Committee on Indian Affairs and the Senate Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Wednesday, July 14, 1999 at 9:30 a.m. to conduct a joint oversight hearing on the Report of the General Accounting Office (GAO) on the Interior Department's Planned Trust Fund Reform. The hearing will be held in room 216 of the Hart Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet for a hearing re Broadband: Competition and Consumer Choice in High-Speed Internet Services and Technologies, during the session of the Senate on Wednesday, July 14, 1999, at 10:00 a.m., in SD226.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Wednesday, July 14, 1999 at 2:00 p.m. to hold a closed hearing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON CHILDREN AND FAMILIES

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions, Subcommittee on Children and Families, be authorized to

meet for a hearing on FMLA Oversight during the session of the Senate on Wednesday, July 14, 1999, at 9:30 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON INTERNATIONAL TRADE

Mr. JEFFORDS. Mr. President, the Finance Committee Subcommittee on International Trade requests unanimous consent to conduct a hearing on Wednesday, July 14, 1999 beginning at 3:00 p.m. in room 215 Dirksen.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

TRIBUTE TO EVERETT MCKENNEY, LEGION OF HONOR AWARD RECIPIENT

• Ms. SNOWE. Mr. President, I rise to congratulate a courageous World War I veteran from my home state of Maine who on Friday will be awarded the most prestigious honor that France bestows, the National Order of the Legion of Honor.

Everett McKenney who has lived in Augusta and Waterville will receive this distinguished honor for the tremendous sacrifices he made to safeguard freedom and democracy while serving in France during the first World War.

In 1998, the French Government announced Project 1918-1998. The purpose of Project 1918-1998 is to honor the 80th anniversary of the armistice of World War I, and as part of this undertaking, France announced that it would award the Legion of Honor designation to surviving American veterans who, like Mr. McKenney, served in France between 1914 and 1918. This step is taken in recognition of the decisive support Americans gave to French soldiers as they fought to defend French soil.

Up to 1,000 American veterans who served in France during World War I may still be alive today, and there is a search underway to locate as many of these men and women as possible.

Private Everett McKenney, who is 104 and a longtime resident of Waterville and Augusta, has two daughters, five grandchildren, four great grandchildren, and one great, great grandchild. He was the youngest of four children and was born in Freedom, Maine in 1895. He enlisted in July 1918 at 23, in Waterville. He was stationed in Fort Devens, Massachusetts and received special training in New Jersey. He was assigned to the 41st Rainbow Division and later was assigned to the 101st Field Artillery unit. In New Jersey, he was notified to pack his gear and prepare for an overseas assignment. During a 12-day Atlantic crossing, a flu epidemic broke out and many of his comrades were buried at sea. This would be the first of many trials he would face.

I have nothing but the utmost respect for those who have served with courage, honor and distinction when

their country—and the world—needed them so desperately. Indeed, I am truly honored to represent these men and women as Maine's senior Senator.

On November 11, 1918, almost 81 years ago, at the eleventh hour, the Armistice was signed in France that silenced the guns and ended the carnage of World War I. From the War for Independence, to World War I, through the Persian Gulf War and the Balkans more than two hundred years later, Americans like Everett have answered the call to duty—not for the glory or conquest or empire, but to ensure that the flame of liberty burns ever brightly.

The debt of gratitude owed to our veterans can never be fully repaid. What we can and must do for those who, like Mr. McKenney, answered the call to duty is keep alive the values of freedom and democracy they have defended, and honor them as the guardians of those ideals.

Elmer Runyon once wrote that: "We will remain the home of the free only as long as we are also the home of the brave." Today, America and the world is basking in the shine of freedom because of yesterday's and today's service men and women—who offer nobly to sacrifice in war so that others may live in peace. These are America's true heroes.

This occasion reminds us that winning freedom is not the same as keeping it. The cost of safeguarding freedom is high. It requires vigilance and sacrifice. Time and again when freedom has been threatened, men like Everett McKenney emerged as heroes. America's veterans have served our country and the world ably in times of need, and know well the personal sacrifices which the defense of freedom demands. It is a true honor to congratulate Mr. McKenney on a well-deserved recognition.●

RAE LIU

• Mr. MOYNIHAN. Mr. President, today I rise to thank Rae Liu, a brilliant young intern from Columbia University where she is a National Merit Scholar and a debater. Rae came to my office this May. When an opening appeared on my personal staff in June, Rae was our unanimous choice to fill it until we could hire someone permanently. At 18, she took on the task of being a full-fledged member of my staff.

From the outset, Rae displayed judgment, maturity, initiative, and a work ethic way beyond her years. She worked tirelessly overhauling and drafting legislation, attending policy reviews, and meeting with constituents. She quickly made herself indispensable to my foreign policy, intelligence, and defense legislative assistant, and distinguished herself with her quick mind, sharp wit and devastating competence. It is rare to see so much ability and professionalism in one so young.