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H. R. 5615

To provide parity under group health plans and group health insurance coverage in the provision of benefits for prosthetic devices and components and benefits for other medical and surgical services.

IN THE HOUSE OF REPRESENTATIVES

MARCH 13, 2008

Mr. ANDREWS (for himself, Mr. GEORGE MILLER of California, Mr. PLATTS, Mr. LINCOLN DIAZ-BALART of Florida, and Mr. MARIO DIAZ-BALART of Florida) introduced the following bill; which was referred to the Committee on Education and Labor

A BILL

To provide parity under group health plans and group health insurance coverage in the provision of benefits for prosthetic devices and components and benefits for other medical and surgical services.

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; TABLE OF CONTENTS.**

4 This Act may be cited as the “Group Health Plan
5 Prosthetics Parity Act of 2007”.

6 **SEC. 2. FINDINGS; PURPOSE.**

7 (a) FINDINGS.—Congress finds the following:

1 (1) There are more than 1,800,000 people in
2 the United States living with limb loss.

3 (2) Every year, there are more than 130,000
4 people in the United States who undergo amputa-
5 tion.

6 (3) In addition, United States military per-
7 sonnel serving in Iraq and Afghanistan and around
8 the world have sustained traumatic injuries resulting
9 in amputation.

10 (4) The number of amputations in the United
11 States is projected to increase in the years ahead
12 due to rising incidence of diabetes and other chronic
13 illness.

14 (5) Those suffering from limb loss can and
15 want to regain their lives as productive members of
16 society.

17 (6) Prosthetic devices enable amputees to con-
18 tinue working and living productive lives.

19 (7) Insurance companies have begun to limit re-
20 imbursement of prosthetic equipment costs at unre-
21 alistic levels or not at all and often restrict coverage
22 over a person's lifetime, which shifts costs onto the
23 Medicare and Medicaid programs.

24 (8) Eight States have addressed this problem
25 and have enacted prosthetic parity legislation.

1 (9) Prosthetic parity legislation has been intro-
2 duced and is being actively considered in 30 States.

3 (10) The States in which prosthetic parity laws
4 have been enacted have found there to be minimal
5 or no increases in insurance premiums and have re-
6 duced Medicare and Medicaid costs.

7 (11) Prosthetic parity legislation will not add to
8 the size of government or to the costs associated
9 with the Medicare or Medicaid programs.

10 (12) If coverage for prosthetic devices and com-
11 ponents are offered by a group health insurance pol-
12 icy, then providing such coverage of prosthetic de-
13 vices on par with other medical and surgical benefits
14 will not increase the incidence of amputations or the
15 number of individuals for which a prosthetic device
16 would be medically necessary and appropriate.

17 (13) In States where prosthetic parity legisla-
18 tion has been enacted, amputees are able to return
19 to a productive life, State funds have been saved,
20 and the health insurance industry has continued to
21 prosper.

22 (14) Prosthetic services allow people to return
23 more quickly to their preexisting work.

24 (b) PURPOSE.—The purpose of this Act is to require
25 that each group health plan that provides both coverage

1 for prosthetic devices and components and medical and
2 surgical benefits, provide such coverage under terms and
3 conditions that are no less favorable than the terms and
4 conditions under which such benefits are provided under
5 such plan.

6 **SEC. 3. PROSTHETICS PARITY UNDER ERISA.**

7 (a) IN GENERAL.—Subpart B of part 7 of subtitle
8 B of title I of the Employee Retirement Income Security
9 Act of 1974 is amended by inserting after section 713 (29
10 U.S.C. 1185b) the following new section:

11 **“SEC. 714. PROSTHETICS PARITY.**

12 “(a) IN GENERAL.—In the case of a group health
13 plan (or health insurance coverage offered in connection
14 with such a plan) that provides both medical and surgical
15 benefits and benefits for prosthetic devices and compo-
16 nents (as defined under subsection (d)(1))—

17 “(1) such benefits for prosthetic devices and
18 components under the plan (or coverage) shall be
19 provided under terms and conditions that are no less
20 favorable than the terms and conditions applicable
21 to substantially all medical and surgical benefits pro-
22 vided under the plan (or coverage);

23 “(2) such benefits for prosthetic devices and
24 components under the plan (or coverage) may not be
25 subject to separate financial requirements (as de-

1 fined in subsection (d)(2)) that are applicable only
2 with respect to such benefits, and any financial re-
3 quirements applicable to such benefits may be no
4 more restrictive than the financial requirements ap-
5 plicable to substantially all medical and surgical ben-
6 efits provided under the plan (or coverage); and

7 “(3) any treatment limitations (as defined in
8 subsection (d)(3)) applicable to such benefits for
9 prosthetic devices and components under the plan
10 (or coverage) may not be more restrictive than the
11 treatment limitations applicable to substantially all
12 medical and surgical benefits provided under the
13 plan (or coverage).

14 “(b) IN-NETWORK AND OUT-OF-NETWORK STAND-
15 ARDS.—

16 “(1) IN GENERAL.—In the case of a group
17 health plan (or health insurance coverage offered in
18 connection with such a plan) that provides both
19 medical and surgical benefits and benefits for pros-
20 thetic devices and components, and that provides
21 both in-network benefits for prosthetic devices and
22 components and out-of-network benefits for pros-
23 thetic devices and components, the requirements of
24 this section shall apply separately with respect to
25 benefits provided under the plan (or coverage) on an

1 in-network basis and benefits provided under the
2 plan (or coverage) on an out-of-network basis.

3 “(2) CLARIFICATION.—Nothing in paragraph
4 (1) shall be construed as requiring that a group
5 health plan (or health insurance coverage offered in
6 connection with such a plan) eliminate an out-of-net-
7 work provider option from such plan (or coverage)
8 pursuant to the terms of the plan (or coverage).

9 “(c) ADDITIONAL REQUIREMENTS.—

10 “(1) PRIOR AUTHORIZATION.—In the case of a
11 group health plan (or health insurance coverage of-
12 fered in connection with such a plan) that requires,
13 as a condition of coverage or payment for prosthetic
14 devices and components under the plan (or cov-
15 erage), prior authorization, such prior authorization
16 must be required in the same manner as prior au-
17 thorization is required by the plan (or coverage) as
18 a condition of coverage or payment for all similar
19 benefits provided under the plan (or coverage).

20 “(2) LIMITATION ON MANDATED BENEFITS.—
21 Required benefits for prosthetic devices and compo-
22 nents under this section are limited to the most ap-
23 propriate model that adequately meets the medical
24 requirements of the patient, as determined by the
25 treating physician of the patient.

1 “(3) COVERAGE FOR REPAIR OR REPLACE-
2 MENT.—Benefits for prosthetic devices and compo-
3 nents required under this section shall include cov-
4 erage for repair or replacement of prosthetic devices
5 and components, if the repair or replacement is de-
6 termined appropriate by the treating physician of
7 the patient involved.

8 “(4) ANNUAL OR LIFETIME DOLLAR LIMITA-
9 TIONS.—A group health plan (or health insurance
10 coverage offered in connection with such a plan)
11 may not impose any annual or lifetime dollar limita-
12 tion on benefits for prosthetic devices and compo-
13 nents unless such limitation applies in the aggregate
14 to all medical and surgical benefits provided under
15 the plan (or coverage) and benefits for prosthetic de-
16 vices and components.

17 “(d) DEFINITIONS.—For the purposes of this section:

18 “(1) PROSTHETIC DEVICES AND COMPO-
19 NENTS.—The term ‘prosthetic devices and compo-
20 nents’ means the items and services described in
21 paragraphs (9) and (12) of section 1861(s) of the
22 Social Security Act and includes external breast
23 prostheses incident to mastectomy resulting from
24 breast cancer.

1 “(2) FINANCIAL REQUIREMENTS.—The term
2 ‘financial requirements’ includes deductibles, coin-
3 surance, co-payments, other cost sharing, and limita-
4 tions on the total amount that may be paid by a
5 participant or beneficiary with respect to benefits
6 under the plan or health insurance coverage and also
7 includes the application of annual and lifetime lim-
8 its.

9 “(3) TREATMENT LIMITATIONS.—The term
10 ‘treatment limitations’ includes limits on the fre-
11 quency of treatment, number of visits, days of cov-
12 erage, or other similar limits on the scope or dura-
13 tion of treatment.”.

14 (b) CLERICAL AMENDMENT.—The table of contents
15 in section 1 of such Act is amended by inserting after the
16 item relating to section 713 the following new item:

 “Sec. 714. Prosthetics parity.”.

17 (c) EFFECTIVE DATE.—The amendments made by
18 this section shall apply with respect to group health plans
19 (and health insurance coverage offered in connection with
20 group health plans) for plan years beginning on or after
21 the date of the enactment of this Act.

22 **SEC. 4. FEDERAL ADMINISTRATIVE RESPONSIBILITIES.**

23 (a) ASSISTANCE TO PLAN PARTICIPANTS AND BENE-
24 FICIARIES.—The Secretary of Labor shall provide for as-
25 sistance to participants and beneficiaries under such plans

1 with any questions or problems regarding compliance with
2 the requirements of this section.

3 (b) AUDITS.—The Secretary of Labor shall provide
4 for the conduct of random audits of group health plans
5 (and health insurance coverage offered in connection with
6 such plans) to ensure that such plans are in compliance
7 with section 714 of the Employee Retirement Income Se-
8 curity Act of 1974, as added by section 3.

9 (c) GAO STUDY.—

10 (1) STUDY.—The Comptroller General of the
11 United States shall conduct a study that evaluates
12 the effect of the implementation of the amendments
13 made by this Act on the cost of health insurance
14 coverage, on access to health insurance coverage (in-
15 cluding the availability of in-network providers), on
16 the quality of health care, on benefits and coverage
17 for prosthetic devices and components, on any addi-
18 tional cost or savings to group health plans, on State
19 prosthetic devices and components benefit mandate
20 laws, on the business community and the Federal
21 Government, and on other issues as determined ap-
22 propriate by the Comptroller General.

23 (2) REPORT.—Not later than 2 years after the
24 date of the enactment of this Act, the Comptroller
25 General of the United States shall prepare and sub-

1 mit to the appropriate committees of Congress a re-
2 port containing the results of the study conducted
3 under paragraph (1).

4 (d) REGULATIONS.—Not later than 1 year after the
5 date of the enactment of this Act, the Secretary of Labor
6 shall promulgate final regulations to carry out this Act
7 and the amendments made by this Act.

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