

113TH CONGRESS  
1ST SESSION

# H. R. 1801

To amend the Employee Retirement Income Security Act of 1974, the Public Health Service Act, and the Internal Revenue Code of 1986 to require group and individual health insurance coverage and group health plans to provide for coverage of oral anticancer drugs on terms no less favorable than the coverage provided for anticancer medications administered by a health care provider.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 26, 2013

Mr. HIGGINS (for himself, Ms. MOORE, Ms. PINGREE of Maine, Mr. CICILLINE, Mrs. CAPPES, Mr. GRIJALVA, Ms. WILSON of Florida, Mr. HASTINGS of Florida, Mr. KING of New York, Mr. RANGEL, Mr. LARSEN of Washington, Mr. MCGOVERN, Mr. PETERS of California, Mr. WOLF, Mr. MORAN, and Mr. FARR) 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

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## A BILL

To amend the Employee Retirement Income Security Act of 1974, the Public Health Service Act, and the Internal Revenue Code of 1986 to require group and individual health insurance coverage and group health plans to provide for coverage of oral anticancer drugs on terms no less favorable than the coverage provided for anticancer medications administered by a health care provider.

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 “Cancer Drug Coverage  
5 Parity Act of 2013”.

6 **SEC. 2. PARITY IN COVERAGE FOR ORAL ANTICANCER**  
7 **DRUGS.**

8 (a) EMPLOYEE RETIREMENT INCOME SECURITY ACT  
9 OF 1974 AMENDMENTS.—(1) Subpart B of part 7 of sub-  
10 title B of title I of the Employee Retirement Income Secu-  
11 rity Act of 1974 is amended by adding at the end the fol-  
12 lowing new section:

13 **“SEC. 716. PARITY IN COVERAGE FOR ORAL ANTICANCER**  
14 **DRUGS.**

15 “(a) IN GENERAL.—Subject to subsection (b), a  
16 group health plan, and a health insurance issuer providing  
17 health insurance coverage in connection with a group  
18 health plan, that provides benefits with respect to  
19 anticancer medications administered by a health care pro-  
20 vider shall provide for no less favorable coverage for pre-  
21 scribed, patient-administered anticancer medications that  
22 are used to kill, slow, or prevent the growth of cancerous  
23 cells and that have been approved by the Food and Drug  
24 Administration.

1       “(b) LIMITATION.—Subsection (a) shall only apply to  
2 an anticancer medication that is prescribed based on a  
3 finding by the treating physician that the medication—

4               “(1) is medically necessary for the purpose of  
5 killing, slowing, or preventing the growth of can-  
6 cerous cells; or

7               “(2) is clinically appropriate in terms of type,  
8 frequency, extent site, and duration.

9       “(c) APPLICATION OF COST-SHARING AND RESTRIC-  
10 TIONS.—

11               “(1) IN GENERAL.—The coverage of anticancer  
12 medication under subsection (a) may be subject to  
13 annual deductibles and coinsurance or copayments  
14 so long as such deductibles, coinsurance, and copay-  
15 ments do not exceed the deductibles, coinsurance,  
16 and copayments that are applicable to anticancer  
17 medications administered by a health care provider  
18 under the plan or coverage for the same purpose.

19               “(2) RESTRICTION.—A group health plan or  
20 health insurance issuer may not, in order to comply  
21 with the requirement of subsection (a)—

22                       “(A) impose an increase in out-of-pocket  
23 costs with respect to anticancer medications;

24                       “(B) reclassify benefits with respect to  
25 anticancer medications; or

1           “(C) apply more restrictive limitations on  
2           prescribed orally-administered anticancer medi-  
3           cations or intravenously administered or in-  
4           jected anticancer medications.

5           “(d) APPLICATION OF NOTICE, PROHIBITIONS,  
6 ETC.—The provisions of subsections (b), (c), (d), and  
7 (e)(2) of section 713 shall apply with respect to the cov-  
8 erage required by subsection (a) in the same manner as  
9 they apply with respect to the coverage required under  
10 such section, except that January 1, 2014, shall be sub-  
11 stituted for the date referred to in subsection (b)(3) of  
12 such section.

13           “(e) CONSTRUCTION.—Nothing in this section shall  
14 be construed—

15           “(1) to require the use of orally-administered  
16 anticancer medications as a replacement for other  
17 anticancer medications; or

18           “(2) to prohibit a group health plan or health  
19 insurance issuer from requiring prior authorization  
20 or imposing other appropriate utilization controls in  
21 approving coverage for any chemotherapy.”.

22           (2) Section 731(c) of such Act (29 U.S.C. 1191(e))  
23 is amended by striking “section 711” and inserting “sec-  
24 tions 711 and 716”.

1           (3) Section 732(a) of such Act (29 U.S.C. 1191a(a))  
2 is amended by striking “section 711” and inserting “sec-  
3 tions 711 and 716”.

4           (4) The table of contents in section 1 of such Act  
5 is amended by inserting after the item relating to section  
6 714 the following new items:

“Sec. 715. Additional market reforms.

“Sec. 716. Parity in coverage for oral anticancer drugs.”.

7           (b) PUBLIC HEALTH SERVICE ACT AMENDMENTS.—

8 (1) Title XXVII of the Public Health Service Act is  
9 amended by inserting after section 2728 (42 U.S.C.  
10 300gg–28), as redesignated by section 1001(2) of the Pa-  
11 tient Protection and Affordable Care Act (Public Law  
12 111–148), the following new section:

13 **“SEC. 2729. PARITY IN COVERAGE FOR ORAL ANTICANCER**  
14 **DRUGS.**

15           “(a) IN GENERAL.—Subject to subsection (b), a  
16 group health plan, and a health insurance issuer offering  
17 health insurance coverage, that provides benefits with re-  
18 spect to anticancer medications administered by a health  
19 care provider shall provide for no less favorable coverage  
20 for prescribed, patient-administered anticancer medica-  
21 tions that are used to kill, slow, or prevent the growth  
22 of cancerous cells and that have been approved by the  
23 Food and Drug Administration.

1       “(b) LIMITATION.—Subsection (a) shall only apply to  
2 an anticancer medication that is prescribed based on a  
3 finding by the treating physician that the medication—

4               “(1) is medically necessary for the purpose of  
5 killing, slowing, or preventing the growth of can-  
6 cerous cells; or

7               “(2) is clinically appropriate in terms of type,  
8 frequency, extent site, and duration.

9       “(c) APPLICATION OF COST-SHARING AND RESTRIC-  
10 TIONS.—

11               “(1) IN GENERAL.—The coverage of anticancer  
12 medication under subsection (a) may be subject to  
13 annual deductibles and coinsurance or copayments  
14 so long as such deductibles, coinsurance, and copay-  
15 ments do not exceed the deductibles, coinsurance,  
16 and copayments that are applicable to anticancer  
17 medications administered by a health care provider  
18 under the plan or coverage for the same purpose.

19               “(2) RESTRICTION.—A group health plan or  
20 health insurance issuer may not, in order to comply  
21 with the requirement of subsection (a)—

22                       “(A) impose an increase in out-of-pocket  
23 costs with respect to anticancer medications;

24                       “(B) reclassify benefits with respect to  
25 anticancer medications; or

1           “(C) apply more restrictive limitations on  
2           prescribed orally-administered anticancer medi-  
3           cations or intravenously administered or in-  
4           jected anticancer medications.

5           “(d) APPLICATION OF NOTICE, PROHIBITIONS,  
6 ETC.—The provisions of subsections (b), (c), (d), and  
7 (e)(2) of section 713 of the Employee Retirement and In-  
8 come Security Act of 1974 shall apply with respect to the  
9 coverage required by subsection (a) in the same manner  
10 as they apply with respect to the coverage required under  
11 such section, except that January 1, 2014, shall be sub-  
12 stituted for the date referred to in subsection (b)(3) of  
13 such section.

14           “(e) CONSTRUCTION.—Nothing in this section shall  
15 be construed—

16           “(1) to require the use of orally-administered  
17 anticancer medications as a replacement for other  
18 anticancer medications; or

19           “(2) to prohibit a group health plan or health  
20 insurance issuer from requiring prior authorization  
21 or imposing other appropriate utilization controls in  
22 approving coverage for any chemotherapy.”.

23           (2) Section 2724(c) of such Act (42 U.S.C. 300gg–  
24 23(c)), as redesignated by section 1001(4) and subsection  
25 (c)(14) of the section 1563 (relating to conforming amend-

1 ments) of Public Law 111–148, is amended by striking  
2 “section 2704” and inserting “sections 2725 and 2729”.

3 (3) Section 2762(b)(2) of such Act (42 U.S.C.  
4 300gg–62(b)(2)) is amended by striking “section 2751”  
5 and inserting “sections 2751 and 2729”.

6 (4) For purposes of applying section 2729 of the  
7 Public Health Service Act, as inserted by paragraph (1),  
8 to individual health insurance coverage before 2014, the  
9 provisions of such section shall be treated as also included  
10 under part B of title XXVII of the Public Health Service  
11 Act.

12 (c) INTERNAL REVENUE CODE AMENDMENTS.—

13 (1) IN GENERAL.—Subchapter B of chapter  
14 100 of the Internal Revenue Code of 1986, as  
15 amended by subsection (f) of the section 1563 (relat-  
16 ing to conforming amendments) of Public Law 111–  
17 148, is amended by adding at the end the following  
18 new section:

19 **“SEC. 9816. PARITY IN COVERAGE FOR ORAL ANTICANCER**  
20 **DRUGS.**

21 “(a) IN GENERAL.—Subject to subsection (b), a  
22 group health plan that provides benefits with respect to  
23 anticancer medications administered by a health care pro-  
24 vider shall provide for no less favorable coverage for pre-  
25 scribed, patient-administered anticancer medications that



1 are used to kill, slow, or prevent the growth of cancerous  
2 cells and that have been approved by the Food and Drug  
3 Administration.

4 “(b) LIMITATION.—Subsection (a) shall only apply to  
5 an anticancer medication that is prescribed based on a  
6 finding by the treating physician that the medication—

7 “(1) is medically necessary for the purpose of  
8 killing, slowing, or preventing the growth of can-  
9 cerous cells; or

10 “(2) is clinically appropriate in terms of type,  
11 frequency, extent site, and duration.

12 “(c) APPLICATION OF COST-SHARING AND RESTRIC-  
13 TIONS.—

14 “(1) IN GENERAL.—The coverage of anticancer  
15 medication under subsection (a) may be subject to  
16 annual deductibles and coinsurance or copayments  
17 so long as such deductibles, coinsurance, and copay-  
18 ments do not exceed the deductibles, coinsurance,  
19 and copayments that are applicable to anticancer  
20 medications administered by a health care provider  
21 under the plan for the same purpose.

22 “(2) RESTRICTION.—A group health plan may  
23 not, in order to comply with the requirement of sub-  
24 section (a)—

1           “(A) impose an increase in out-of-pocket  
2 costs with respect to anticancer medications;

3           “(B) reclassify benefits with respect to  
4 anticancer medications; or

5           “(C) apply more restrictive limitations on  
6 prescribed orally-administered anticancer medi-  
7 cations or intravenously administered or in-  
8 jected anticancer medications.

9           “(d) APPLICATION OF NOTICE, PROHIBITIONS,  
10 ETC.—The provisions of subsections (b), (c), (d), and  
11 (e)(2) of section 713 of the Employee Retirement and In-  
12 come Security Act of 1974 shall apply with respect to the  
13 coverage required by subsection (a) in the same manner  
14 as they apply with respect to the coverage required under  
15 such section, except that January 1, 2014, shall be sub-  
16 stituted for the date referred to in subsection (b)(3) of  
17 such section.

18           “(e) CONSTRUCTION.—Nothing in this section shall  
19 be construed—

20           “(1) to require the use of orally-administered  
21 anticancer medications as a replacement for other  
22 anticancer medications; or

23           “(2) to prohibit a group health plan or health  
24 insurance issuer from requiring prior authorization

1 or imposing other appropriate utilization controls in  
2 approving coverage for any chemotherapy.”.

3 (2) CLERICAL AMENDMENT.—The table of sec-  
4 tions for such subchapter is amended by adding at  
5 the end the following new items:

“Sec. 9815. Additional market reforms.

“Sec. 9816. Parity in coverage for oral anticancer drugs.”.

6 (d) CLARIFYING AMENDMENT REGARDING APPLICA-  
7 TION TO GRANDFATHERED PLANS.—Section  
8 1251(a)(4)(A) of the Patient Protection and Affordable  
9 Care Act (Public Law 111–148; 42 U.S.C.  
10 18011(a)(4)(A)), as added by section 2301(a) of Public  
11 Law 111–152, is amended by adding at the end the fol-  
12 lowing new clause:

13 “(v) Section 2729, as added by sec-  
14 tion 2(b) of the Cancer Drug Coverage  
15 Parity Act of 2013.”.

16 (e) EFFECTIVE DATE.—The amendments made by  
17 this section shall apply with respect to group health plans  
18 for plan years beginning on or after January 1, 2014, and  
19 with respect to health insurance coverage offered, sold,  
20 issued, renewed, in effect, or operated in the individual  
21 market on or after such date.

22 (f) STUDY.—Not later than 2 years after the date  
23 of the enactment of this Act—

1           (1) the Medicare Payment Advisory Commis-  
2           sion shall complete a study that assesses how closing  
3           the Medicare part D donut hole under the amend-  
4           ments made by section 3301 of the Patient Protec-  
5           tion and Affordable Care Act (Public Law 111–148),  
6           as amended by section 1101 of the Health Care and  
7           Education Reconciliation Act of 2010 (Public Law  
8           111–152), affects Medicare coverage for orally ad-  
9           ministered anticancer medications, with a particular  
10          focus on cost and accessibility; and

11          (2) submit a report to Congress on the results  
12          of such study.

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