111TH CONGRESS 1ST SESSION H.R. 2292

To amend the Employee Retirement Income Security Act of 1974, the Public Health Service Act, and the Internal Revenue Code of 1986 to require coverage of preventive care for children.

IN THE HOUSE OF REPRESENTATIVES

MAY 6, 2009

Mr. THOMPSON of California (for himself and Mr. BLUMENAUER) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committees on Education and Labor and Energy and Commerce, 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 amend the Employee Retirement Income Security Act of 1974, the Public Health Service Act, and the Internal Revenue Code of 1986 to require coverage of preventive care for children.
 - 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 "Healthy Kids for Healthy
- 5 Futures Act of 2009".

1	SEC. 2. COVERAGE OF PREVENTIVE CARE FOR CHILDREN.
2	(a) Amendments of ERISA.—
3	(1) IN GENERAL.—Subpart B of part 7 of title
4	I of the Employee Retirement Income Security Act
5	of 1974 (29 U.S.C. 1185 et seq.) is amended by
6	adding at the end the following:
7	"SEC. 714. COVERAGE OF PREVENTIVE CARE FOR CHIL-

8

DREN.

9 "(a) IN GENERAL.—A group health plan, and a 10 health insurance issuer providing health insurance cov-11 erage in connection with a group health plan, shall provide 12 coverage for appropriate preventive care for each qualified 13 dependent child of the participant.

"(b) APPROPRIATE PREVENTIVE CARE.—For pur-14 poses of this section, the term 'appropriate preventive 15 16 care' means medical care which, under regulations pre-17 scribed by the Secretary of Health and Human Services, in consultation with the Secretary and the Secretary of 18 19 the Treasury, meets the most recent Bright Futures 20 Guidelines for Health Supervision of Infants, Children, 21 and Adolescents.

22 "(c) QUALIFIED DEPENDENT CHILD.—For purposes
23 of this section, the term 'qualified dependent child' means
24 a child of the participant who—

25 "(1) is not more than 18 years of age, and

"(2) is a dependent child, under the terms of
 the plan or coverage, of the participant.

3 "(d) COST-SHARING PROHIBITED.—A group health 4 plan and health insurance coverage provided in connection 5 with a group health plan may not impose deductibles, co-6 payments, coinsurance, or other cost-sharing in relation 7 to services provided pursuant to the requirements of sub-8 section (a).

9 "(e) CERTAIN COVERAGE RESTRICTIONS PROHIB10 ITED.—A group health plan, and a health insurance issuer
11 providing coverage in connection with a group health plan,
12 may not—

"(1) deny to a participant or beneficiary eligibility, or continued eligibility, to enroll or to renew
coverage under the terms of the plan solely for the
purpose of avoiding the requirements of this section,
or

18 "(2) penalize, or otherwise reduce or limit the 19 reimbursement of, an attending provider, or provide 20 incentives (monetary or otherwise) to an attending 21 provider, so as to induce the provider to provide care 22 to a beneficiary in a manner inconsistent with this 23 section.

24 "(f) ALLOWANCE FOR LEVEL OR TYPE OF PROVIDER25 REIMBURSEMENT.—Nothing in this section shall be con-

strued to prevent a group health plan or a health insur ance issuer providing health insurance coverage in connec tion with a group health plan from negotiating the level
 and type of reimbursement with a provider for care pro vided in accordance with this section.

6 "(g) NOTICE.—A group health plan, and a health in-7 surance issuer providing health insurance coverage in con-8 nection with a group health plan, shall provide notice to 9 each participant and beneficiary under such plan regard-10 ing the coverage required by this section in accordance with regulations which shall be promulgated by the Sec-11 retary, in consultation with the Secretary of Health and 12 13 Human Services and the Secretary of the Treasury. Such notice shall be in writing and prominently positioned in 14 15 any literature or correspondence made available or distributed to participants and beneficiaries by the plan or issuer 16 on an annual or other more frequent periodic basis. 17

18 "(h) RELATION TO STATE LAWS.—Nothing in this 19 section shall be construed to preempt or otherwise limit 20 any State law with respect to health insurance coverage 21 that requires more extensive coverage than is otherwise 22 required under this section.".

(2) CONFORMING AMENDMENT.—The table ofcontents in section 1 of such Act is amended by in-

serting after the item relating to section 713 the fol lowing new item:
 "Sec. 714. Coverage of preventive care for children.".

3 (b) Amendments to the Public Health Service4 Act.—

5 (1) GROUP MARKETS.—Subpart 2 of part A of
6 title XXVII of the Public Health Service Act (42
7 U.S.C. 300gg-4 et seq.) is amended by adding at
8 the end the following new section:

9 "SEC. 2707. COVERAGE OF PREVENTIVE CARE FOR CHIL-10 DREN.

"(a) IN GENERAL.—A group health plan, and a
health insurance issuer providing health insurance coverage in connection with a group health plan, shall provide
coverage for appropriate preventive care for each qualified
dependent child of the participant.

16 "(b) APPROPRIATE PREVENTIVE CARE.—For pur-17 poses of this section, the term 'appropriate preventive 18 care' means medical care which, under regulations pre-19 scribed by the Secretary, in consultation with the Sec-20 retary of Labor and the Secretary of the Treasury, meets 21 the most recent Bright Futures Guidelines for Health Su-22 pervision of Infants, Children, and Adolescents.

23 "(c) QUALIFIED DEPENDENT CHILD.—For purposes
24 of this section, the term 'qualified dependent child' means
25 a child of the participant who—

"(1) is not more than 18 years of age, and
 "(2) is a dependent child, under the terms of
 the plan or coverage, of the participant.

4 "(d) COST-SHARING PROHIBITED.—A group health 5 plan and health insurance coverage provided in connection 6 with a group health plan may not impose deductibles, co-7 payments, coinsurance, or other cost-sharing in relation 8 to services provided pursuant to the requirements of sub-9 section (a).

"(e) CERTAIN COVERAGE RESTRICTIONS PROHIBITED.—A group health plan, and a health insurance issuer
providing coverage in connection with a group health plan,
may not—

"(1) deny to a participant or beneficiary eligibility, or continued eligibility, to enroll or to renew
coverage under the terms of the plan solely for the
purpose of avoiding the requirements of this section,
or

"(2) penalize, or otherwise reduce or limit the
reimbursement of, an attending provider, or provide
incentives (monetary or otherwise) to an attending
provider, so as to induce the provider to provide care
to a beneficiary in a manner inconsistent with this
section.

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"(f) ALLOWANCE FOR LEVEL OR TYPE OF PROVIDER
REIMBURSEMENT.—Nothing in this section shall be construed to prevent a group health plan or a health insurance issuer providing health insurance coverage in connection with a group health plan from negotiating the level
and type of reimbursement with a provider for care provided in accordance with this section.

"(g) NOTICE.—A group health plan, and a health in-8 9 surance issuer providing health insurance coverage in con-10 nection with a group health plan, shall provide notice to each participant and beneficiary under such plan regard-11 ing the coverage required by this section in accordance 12 13 with regulations which shall be promulgated by the Secretary of Labor, in consultation with the Secretary and 14 15 the Secretary of the Treasury. Such notice shall be in writing and prominently positioned in any literature or cor-16 respondence made available or distributed to participants 17 18 and beneficiaries by the plan or issuer on an annual or 19 other more frequent periodic basis.

"(h) RELATION TO STATE LAWS.—Nothing in this
section shall be construed to preempt or otherwise limit
any State law with respect to health insurance coverage
that requires more extensive coverage than is otherwise
required under this section.".

(2) INDIVIDUAL MARKET.—Subpart 3 of part B
 of title XXVII of such Act (42 U.S.C. 300gg-51 et
 seq.) is amended by adding at the end the following
 new section:

5 "SEC. 2753. COVERAGE OF PREVENTIVE CARE FOR CHIL6 DREN.

7 "The provisions of section 2707 shall apply to health
8 insurance coverage offered by a health insurance issuer
9 in the individual market in the same manner as they apply
10 to health insurance coverage offered by a health insurance
11 issuer in connection with a group health plan in the small
12 or large group market.".

13 (c) Amendments to the Internal Revenue14 Code.—

(1) IN GENERAL.—Subchapter B of chapter
100 of the Internal Revenue Code of 1986 (relating
to other group health plan requirements) is amended
by inserting after section 9812 the following new
section:

20 "SEC. 9813. COVERAGE OF PREVENTIVE CARE FOR CHIL-21DREN.

"(a) IN GENERAL.—A group health plan shall provide coverage for appropriate preventive care for each
qualified dependent child of the participant.

"(b) APPROPRIATE PREVENTIVE CARE.—For pur-1 2 poses of this section, the term 'appropriate preventive care' means medical care which, under regulations pre-3 4 scribed by the Secretary of Health and Human Services 5 in consultation with the Secretary and the Secretary of Labor, meets the most recent Bright Futures Guidelines 6 7 for Health Supervision of Infants, Children, and Adoles-8 cents.

9 "(c) QUALIFIED DEPENDENT CHILD.—For purposes
10 of this section, the term 'qualified dependent child' means
11 a child of the participant who—

"(1) is not more than 18 years of age, and
"(2) is a dependent child, under the terms of
the plan or coverage, of the participant.

15 "(d) COST-SHARING PROHIBITED.—A group health
16 plan may not impose deductibles, copayments, coinsur17 ance, or other cost-sharing in relation to services provided
18 pursuant to the requirements of subsection (a).

19 "(e) CERTAIN COVERAGE RESTRICTIONS PROHIB-20 ITED.—A group health plan may not—

"(1) deny to a participant or beneficiary eligibility, or continued eligibility, to enroll or to renew
coverage under the terms of the plan solely for the
purpose of avoiding the requirements of this section,
or

"(2) penalize, or otherwise reduce or limit the
reimbursement of, an attending provider, or provide
incentives (monetary or otherwise) to an attending
provider, so as to induce the provider to provide care
to a beneficiary in a manner inconsistent with this
section.

"(f) ALLOWANCE FOR LEVEL OR TYPE OF PROVIDER
8 REIMBURSEMENT.—Nothing in this section shall be con9 strued to prevent a group health plan or a health insur10 ance issuer providing health insurance coverage in connec11 tion with a group health plan from negotiating the level
12 and type of reimbursement with a provider for care pro13 vided in accordance with this section.

"(g) NOTICE.—A group health plan shall provide no-14 15 tice to each participant and beneficiary under such plan regarding the coverage required by this section in accord-16 17 ance with regulations which shall be promulgated by the 18 Secretary of Labor, in consultation with the Secretary and the Secretary of Health and Human Services. Such notice 19 20 shall be in writing and prominently positioned in any lit-21 erature or correspondence made available or distributed 22 to participants and beneficiaries by the plan or issuer on 23 an annual or other more frequent periodic basis.

24 "(h) RELATION TO STATE LAWS.—Nothing in this25 section shall be construed to preempt or otherwise limit

any State law with respect to health insurance coverage
 that requires more extensive coverage than is otherwise
 required under this section.".

4 (2) CONFORMING AMENDMENT.—The table of
5 sections for subchapter B of chapter 100 of such
6 Code is amended by inserting after the item relating
7 to section 9812 the following new item:

"Sec. 9813. Coverage of preventive care for children.".

8 (d) EFFECTIVE DATE.—The amendments made by
9 this Act shall apply with respect to plan years beginning
10 on or after January 1, 2010.

11 (e) INITIAL NOTICE.—Each group health plan and 12 health insurance issuer to which the notice requirements of section 714(g) of the Employee Retirement Income Se-13 curity Act of 1974, section 2707(g) of the Public Health 14 Service Act, or section 9813(g) of the Internal Revenue 15 Code of 1986 apply shall be deemed not in compliance 16 17 with such requirements with respect to the first plan year beginning on or after January 1, 2010, unless, not later 18 than January 1, 2010, the plan or issuer includes the in-19 20formation described in such section in a notice which is 21provided to each participant and beneficiary in writing.

22 SEC. 3. COVERAGE OF PREVENTATIVE CARE FOR CHIL-

23 DREN UNDER HEALTH SAVINGS ACCOUNTS.

24 (a) IN GENERAL.—Paragraph (2) of section 223(c)

25 of the Internal Revenue Code of 1986 (defining high de-•HR 2292 IH

1	ductible health plan) is amended by adding at the end the
2	following new subparagraph:
3	"(E) Special rule for preventative
4	CARE FOR CHILDREN.—
5	"(i) IN GENERAL.—A plan shall not
6	be treated as a high deductible health plan
7	unless such plan meets the requirements of
8	section 9813 (relating to coverage of pre-
9	ventative care for children).
10	"(ii) Plan treated as group
11	HEALTH PLAN.—For purposes of clause
12	(i), the plan shall be treated as a group
13	health plan.".
14	(b) EFFECTIVE DATE.—The amendment made by
15	this section shall apply to taxable years beginning after
16	December 31, 2009.

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