

118TH CONGRESS
2D SESSION

H. R. 7641

To prohibit the inclusion of mandatory predispute arbitration clauses and clauses limiting class action lawsuits in health insurance contracts.

IN THE HOUSE OF REPRESENTATIVES

MARCH 12, 2024

Ms. PORTER (for herself, Mr. DOGGETT, Ms. SCHAKOWSKY, and Ms. DELAURO) 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 prohibit the inclusion of mandatory predispute arbitration clauses and clauses limiting class action lawsuits in health insurance contracts.

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 “Justice for Patients
5 Act”.

1 **SEC. 2. PROHIBITION ON MANDATORY PREDISPUTE ARBI-**
2 **TRATION AND LIMITATIONS ON CLASS AC-**
3 **TION LAWSUITS.**

4 (a) PHSA.—Part D of title XXVII of the Public
5 Health Service Act (42 U.S.C. 300gg–111 et seq.) is
6 amended by adding at the end the following new section:

7 **“SEC. 2799A–11. PROHIBITION ON INCLUSION OF CERTAIN**
8 **REQUIREMENTS IN HEALTH INSURANCE**
9 **CONTRACTS.**

10 “(a) PROHIBITION ON MANDATORY PREDISPUTE AR-
11 BITRATION.—A group health plan or a health insurance
12 issuer offering group or individual health insurance cov-
13 erage may not include in any plan provision, agreement,
14 or arrangement, any predispute arbitration clause that re-
15 quires the arbitration of any claim relating to such plan
16 or coverage that otherwise may be brought by a partici-
17 pant or beneficiary under State or Federal law. Any such
18 provisions requiring predispute arbitration shall have no
19 force or effect.

20 “(b) PROHIBITION ON LIMITATION OF CLASS AC-
21 TIONS.—A group health plan or issuer offering group or
22 individual health insurance coverage may not include in
23 any plan provision, agreement, or arrangement, any limi-
24 tation on the ability of a participant or beneficiary of such
25 plan or coverage to engage in a class action lawsuit relat-
26 ing to the administration of such plan or coverage that

1 otherwise may be brought by a participant or beneficiary
 2 under State or Federal law..

3 “(c) APPLICABILITY.—An issue as to whether this
 4 section applies with respect to a dispute shall be deter-
 5 mined under Federal law. The applicability of this section
 6 to an agreement to arbitrate and the validity and enforce-
 7 ability of an agreement to which this section applies shall
 8 be determined by a court, rather than an arbitrator, irre-
 9 spective of whether the party resisting arbitration chal-
 10 lenges the arbitration agreement specifically or in conjunc-
 11 tion with other terms of the contract containing such
 12 agreement, and irrespective of whether the agreement pur-
 13 ports to delegate such determinations to an arbitrator.”.

14 (b) ERISA.—

15 (1) IN GENERAL.—Subpart B of part 7 of sub-
 16 title B of title I of the Employee Retirement Income
 17 Security Act of 1974 (29 U.S.C. 1185 et seq.) is
 18 amended by adding at the end the following new sec-
 19 tion:

20 **“SEC. 726. PROHIBITION ON INCLUSION OF CERTAIN RE-**
 21 **QUIREMENTS IN HEALTH INSURANCE CON-**
 22 **TRACTS.**

23 “(a) PROHIBITION ON MANDATORY PREDISPUTE AR-
 24 BITRATION.—A group health plan or a health insurance
 25 issuer offering group or individual health insurance cov-

1 erage may not include in any plan provision, agreement,
2 or arrangement, any predispute arbitration clause that re-
3 quires the arbitration of any claim relating to such plan
4 or coverage that otherwise may be brought by a partici-
5 pant or beneficiary under State or Federal law. Any such
6 provisions requiring predispute arbitration shall have no
7 force or effect.

8 “(b) PROHIBITION ON LIMITATION OF CLASS AC-
9 TIONS.—A group or individual health plan or a health in-
10 surance issuer offering group health insurance coverage
11 may not include any limitation on the ability of a partici-
12 pant or beneficiary of such plan or coverage to engage in
13 a class action lawsuit relating to the administration of
14 such plan or coverage that otherwise may be brought by
15 a participant or beneficiary under State or Federal law.

16 “(c) APPLICABILITY.—An issue as to whether this
17 section applies with respect to a dispute shall be deter-
18 mined under Federal law. The applicability of this section
19 to an agreement to arbitrate and the validity and enforce-
20 ability of an agreement to which this section applies shall
21 be determined by a court, rather than an arbitrator, irre-
22 spective of whether the party resisting arbitration chal-
23 lenges the arbitration agreement specifically or in conjunc-
24 tion with other terms of the contract containing such

1 agreement, and irrespective of whether the agreement pur-
 2 ports to delegate such determinations to an arbitrator.”.

3 (2) CLERICAL AMENDMENT.—The table of con-
 4 tents in section 1 of such Act is amended by adding
 5 at the end the following new item:

“Sec. 726. Prohibition on inclusion of certain requirements in health insurance
 contracts.”.

6 (c) IRC.—

7 (1) IN GENERAL.—Subchapter B of chapter
 8 100 of the Internal Revenue Code of 1986 is amend-
 9 ed by adding at the end the following new section:

10 **“SEC. 9826. PROHIBITION ON INCLUSION OF CERTAIN RE-**
 11 **QUIREMENTS IN HEALTH INSURANCE CON-**
 12 **TRACTS.**

13 “(a) PROHIBITION ON MANDATORY PREDISPUTE AR-
 14 BITRATION.—A group health plan or health insurance
 15 issuer offering group or individual health insurance cov-
 16 erage may not include in any plan provision, agreement,
 17 or arrangement, any predispute arbitration clause that re-
 18 quires the arbitration of any claim relating to such plan
 19 or coverage that otherwise may be brought by a partici-
 20 pant or beneficiary under State or Federal law. Any such
 21 provisions requiring predispute arbitration shall have no
 22 force or effect.

23 “(b) PROHIBITION ON LIMITATION OF CLASS AC-
 24 TIONS.—A group health plan or a health insurance issuer

1 offering group or individual health insurance coverage
 2 may not include any limitation on the ability of a partici-
 3 pant or beneficiary of such plan or coverage to engage in
 4 a class action lawsuit relating to the administration of
 5 such plan or coverage that otherwise may be brought by
 6 a participant or beneficiary under State or Federal law.

7 “(c) APPLICABILITY.—An issue as to whether this
 8 section applies with respect to a dispute shall be deter-
 9 mined under Federal law. The applicability of this section
 10 to an agreement to arbitrate and the validity and enforce-
 11 ability of an agreement to which this section applies shall
 12 be determined by a court, rather than an arbitrator, irre-
 13 spective of whether the party resisting arbitration chal-
 14 lenges the arbitration agreement specifically or in conjunc-
 15 tion with other terms of the contract containing such
 16 agreement, and irrespective of whether the agreement pur-
 17 ports to delegate such determinations to an arbitrator.”.

18 (2) CLERICAL AMENDMENT.—The table of sec-
 19 tions for such subchapter is amended by adding at
 20 the end the following new item:

“Sec. 9826. Prohibition on inclusion of certain requirements in health insur-
 ance contracts.”.

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