

111TH CONGRESS
1ST SESSION

S. 969

To amend the Public Health Service Act to ensure fairness in the coverage of women in the individual health insurance market.

IN THE SENATE OF THE UNITED STATES

MAY 5, 2009

Mr. KERRY introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To amend the Public Health Service Act to ensure fairness in the coverage of women in the individual health insurance market.

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 “Women’s Health In-
5 surance Fairness Act of 2009”.

6 **SEC. 2. ELIMINATION OF GENDER RATING IN THE INDI-**
7 **VIDUAL INSURANCE MARKET.**

8 (a) IN GENERAL.—Subpart 2 of part B of title
9 XXVII of the Public Health Service Act (42 U.S.C.

1 300gg–51 et seq.) is amended by adding at the end the
 2 following:

3 **“SEC. 2754. ELIMINATION OF GENDER RATING.**

4 “A health insurance issuer offering health insurance
 5 coverage in the individual market may not consider the
 6 gender of an enrollee when determining the amount of pre-
 7 miums to assess such enrollee for such coverage.”.

8 (b) **EFFECTIVE DATE.**—The amendment made by
 9 subsection (a) shall apply with respect to health insurance
 10 coverage in the individual market for plan years beginning
 11 on or after the date that is 6 months after the date of
 12 enactment of this Act.

13 **SEC. 3. PREVENTING INSURERS FROM DENYING OR LIM-**
 14 **ITING COVERAGE BASED ON PREGNANCY**
 15 **AND COVERAGE OF MATERNITY CARE.**

16 (a) **IN GENERAL.**—Subpart 2 of part B of title
 17 XXVII of the Public Health Service Act (42 U.S.C.
 18 300gg–51 et seq.), as amended by section 2, is further
 19 amended by adding at the end the following:

20 **“SEC. 2755. STANDARDS RELATING TO PREGNANCY AND**
 21 **MATERNITY CARE.**

22 “(a) **PREGNANCY, METHOD OF DELIVERY, AND OUT-**
 23 **COME.**—A health insurance issuer offering health insur-
 24 ance coverage in the individual market may not impose
 25 any preexisting condition exclusion (as such term is de-

1 fined in section 2701(b)(1)(A)) relating to pregnancy as
2 a pre-existing condition, impose any waiting period, deny,
3 refuse to issue, renew, or reissue, substandard rate, re-
4 underwrite, cancel or otherwise terminate a policy, add
5 any surcharge or rating factor to the premium, exclude,
6 limit, or cap benefits relating to a condition, or otherwise
7 discriminate in the provision of coverage, or in assessing
8 premiums for such coverage, against women on the basis
9 of a current or past pregnancy, or past or future method
10 of delivery, and past pregnancy outcome.

11 “(b) MATERNITY CARE.—

12 “(1) IN GENERAL.—The Secretary shall—

13 “(A) propose a rule to develop a minimum
14 benefit standard for the provision of com-
15 prehensive maternity coverage under an indi-
16 vidual health plan, which standard shall require
17 coverage for the full scope of maternity services
18 from preconception through postpartum, as de-
19 termined by the Secretary; and

20 “(B) periodically review the minimum ben-
21 efit standard for the provision of comprehensive
22 maternity coverage under an individual health
23 plan to ensure the minimum benefit standard
24 reflects current standards of care.

1 “(2) REQUIREMENT.—A health insurance
2 issuer offering health insurance coverage in the indi-
3 vidual market shall ensure that the minimum benefit
4 standard developed under paragraph (1) is included
5 in any such coverage.”.

6 (b) EFFECTIVE DATE.—The amendment made by
7 subsection (a) shall apply with respect to health insurance
8 coverage in the individual market for plan years beginning
9 on or after the date that is 6 months after the date of
10 enactment of this Act.

11 **SEC. 4. ENFORCEMENT AND COMPLIANCE.**

12 (a) PROVISION OF DATA.—The Secretary of Health
13 and Human Services shall promulgate regulations to re-
14 quire health insurance issuers that offer health insurance
15 coverage in the individual market provide data to the Sec-
16 retary to enable the Secretary to monitor the compliance
17 of such issuers with the requirements of the amendment
18 made by this Act.

19 (b) FAILURE TO COMPLY.—Any health insurance
20 issuer that fails to submit the data required under the reg-
21 ulations promulgated under subsection (a) shall be subject
22 to a civil monetary penalty in an amount that is not less
23 than \$10,000 (as determined by the Secretary).

1 (c) DEFINITIONS.—The definitions contained in sec-
2 tion 2791 of the Public Health Service Act (42 U.S.C.
3 300gg–91) shall apply for purposes of this section.

4 **SEC. 5. STUDY OF THE INDIVIDUAL MARKET.**

5 Not later than December 31, 2010, the Comptroller
6 General of the United States shall submit to the appro-
7 priate committees of Congress, a report concerning health
8 insurance coverage offered on the individual insurance
9 market in all 50 States and the District of Columbia, on
10 problems remaining for women after the enactment of this
11 Act.

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