

104TH CONGRESS
1ST SESSION

H. R. 1084

To amend title 5, United States Code, to make the Federal Employees Health Benefits Program available to the general public, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 28, 1995

Mrs. SCHROEDER introduced the following bill; which was referred to the Committee on Government Reform and Oversight and, in addition, to the Committee on 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 title 5, United States Code, to make the Federal Employees Health Benefits Program available to the general public, and for other purposes.

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 “Federal Employees
5 Health Benefits Access Act”.

1 **SEC. 2. PROVISIONS TO MAKE FEHBP AVAILABLE TO THE**
2 **GENERAL PUBLIC.**

3 (a) IN GENERAL.—Chapter 89 of title 5, United
4 States Code, is amended by adding at the end the follow-
5 ing:

6 **“§8915. Provisions to require that benefits be ex-**
7 **tended to the general public**

8 “(a) A contract may not be made or a plan approved
9 unless the carrier agrees to offer to the general public,
10 throughout each term for which the contract or approval
11 remains effective, the same benefits (subject to the same
12 maximums, limitations, exclusions, and other similar
13 terms or conditions) as would be offered under such con-
14 tract or plan to employees and annuitants and their family
15 members.

16 “(b)(1) Premiums for coverage under this section
17 shall be established in conformance with such require-
18 ments as the Office of Personnel Management shall by
19 regulation prescribe, including provisions to ensure con-
20 formance with generally accepted standards and practices
21 associated with community rating.

22 “(2) In no event shall the enactment of this section
23 result in—

24 “(A) any increase in the level of individual or
25 Government contributions required under section

1 8906 or any other provision of this chapter, includ-
2 ing copayments or deductibles;

3 “(B) any decrease in the types of benefits of-
4 fered under this chapter; or

5 “(C) any other change that would adversely af-
6 fect the coverage afforded under this chapter to em-
7 ployees and annuitants and their family members.

8 “(c) Benefits under this section shall, with respect
9 to an individual who is entitled to benefits under part A
10 of title XVIII of the Social Security Act, be offered (for
11 use in coordination with those Social Security benefits) to
12 the same extent and in the same manner as if coverage
13 were under the preceding provisions of this chapter, rather
14 than under this section.

15 “(d)(1) A carrier may file an application with the Of-
16 fice setting forth reasons why it, or a plan provided by
17 such carrier, should be excluded from the requirements of
18 this section.

19 “(2) In reviewing any such application, the Office
20 may consider such factors as—

21 “(A) any bona fide enrollment restrictions
22 which would make the application of this section in-
23 appropriate, including those common to plans which
24 are limited to individuals having a past or current

1 employment relationship with a particular agency or
2 other authority of the Government;

3 “(B) whether compliance with this section
4 would jeopardize the financial solvency of the plan or
5 carrier, or otherwise compromise its ability to offer
6 health benefits under the preceding provisions of this
7 chapter; and

8 “(C) the anticipated duration of the requested
9 exclusion, and what efforts the plan or carrier pro-
10 poses to take in order to be able to comply with this
11 section.

12 “(e) Except as the Office may by regulation pre-
13 scribe, any reference to this chapter (or any requirement
14 of this chapter), made in any provision of law, shall not
15 be considered to include this section (or any requirement
16 of this section).”.

17 (b) CONFORMING AMENDMENT.—The table of sec-
18 tions for chapter 89 of title 5, United States Code, is
19 amended by adding at the end the following:

“8915. Provisions to require that benefits be extended to the general public.”.

20 **SEC. 3. STANDARDIZED CLAIMS PROCESSING.**

21 Section 8902 of title 5, United States Code, is
22 amended by adding at the end the following:

23 “(o) A claim for payment or reimbursement under
24 this chapter (whether electronic or otherwise) shall be sub-
25 mitted on such a standard form or in such a standard

1 manner as may be required by the Office in relation to
2 health benefit plans. Each contract under this chapter
3 shall include appropriate provisions to carry out the pre-
4 ceding sentence.”.

5 **SEC. 4. ADVANCE DIRECTIVES.**

6 Section 8907 of title 5, United States Code, is
7 amended by adding at the end the following:

8 “(c) The Office shall—

9 “(1) prepare information relating to the use of
10 advance directives regarding the type or intensity of
11 care which an individual desires in the event that
12 such individual becomes unable to communicate by
13 reason of incapacity due to illness or injury; and

14 “(2) require, as a condition for approval of any
15 contract under section 8902, that appropriate provi-
16 sions be included so that such information may be
17 made available to enrollees of the plan involved.”.

18 **SEC. 5. DEMONSTRATION PROJECT TO EXAMINE THE FEA-**
19 **SIBILITY OF OFFERING FEHBP ENROLLEES**
20 **THE OPTION OF USING ARBITRATION IN-**
21 **STEAD OF LITIGATION TO RESOLVE MEDICAL**
22 **MALPRACTICE CLAIMS.**

23 (a) IN GENERAL.—The Office of Personnel Manage-
24 ment shall conduct a demonstration project to assess the
25 feasibility and desirability of offering the use of arbitra-

1 tion, instead of litigation, to resolve medical malpractice
2 claims arising out of covered health care services.

3 (b) DEFINITION.—For the purpose of this section,
4 the term “covered health care services” means any care,
5 treatment, or other service for which the individual who
6 receives such service has coverage under chapter 89 of title
7 5, United States Code.

8 (c) PROJECT REQUIREMENTS.—

9 (1) IN GENERAL.—The demonstration project
10 shall be conducted as a demonstration project under
11 section 4703 of title 5, United States Code.

12 (2) PLAN DESIGN.—In developing a plan for
13 such project under section 4703 of title 5, United
14 States Code, the Office shall include (in addition to
15 any information otherwise required)—

16 (A) suggestions for incentives that may be
17 offered in order to obtain the voluntary partici-
18 pation of enrollees, such as reductions in pre-
19 miums, copayments, or deductibles;

20 (B) the criteria for identifying the types of
21 health benefit plans which are appropriate for
22 inclusion, and the procedures and conditions in
23 accordance with which any such plan may par-
24 ticipate;

1 (C) the general framework for arbitration,
2 including (to the extent the Office considers ap-
3 propriate) methods for the selection of arbitra-
4 tors, length of hearings, and limitations on
5 damages; and

6 (D) the effect of an award resulting from
7 the arbitration process, and the extent to which
8 review of such an award may be obtained.

9 (d) EVALUATION.—The evaluation required under
10 section 4703(h) of title 5, United States Code, with re-
11 spect to the demonstration project shall include data and
12 analysis relating to matters such as—

13 (1) the number of claims brought for arbitra-
14 tion;

15 (2) how those claims were disposed of (whether
16 by settlement, hearing, or otherwise), and the per-
17 centage of the total number of claims represented by
18 each;

19 (3) the average dollar amount of those awards
20 or settlements;

21 (4) the various costs involved in connection with
22 those claims; and

23 (5) the advantages and disadvantages of arbi-
24 tration, relative to other methods of dispute resolu-

1 tion, and the extent to which arbitration should con-
2 tinue to be used under chapter 89 of such title.

3 **SEC. 6. APPLICABILITY.**

4 The amendments made by this Act shall apply with
5 respect to contract terms beginning after the end of the
6 6-month period beginning on the date of the enactment
7 of this Act.

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