

104TH CONGRESS
1ST SESSION

H. R. 2608

To require that health care practitioners determine medically necessary and appropriate treatment and to require that insurers notify their enrollees of the extent of their coverage.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 9, 1995

Mr. NADLER (for himself, Mr. DELLUMS, Mr. ENGEL, Ms. MCKINNEY, and Miss COLLINS of Michigan) introduced the following bill; which was referred to the Committee on Commerce

A BILL

To require that health care practitioners determine medically necessary and appropriate treatment and to require that insurers notify their enrollees of the extent of their coverage.

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 “Health Care Consumer
5 Protection Act of 1995”.

1 **SEC. 2. NOTIFICATION OF COVERAGE PROVIDED BY THE**
2 **INSURER.**

3 (a) NOTIFICATION TO CURRENT ENROLLEES.—An
4 insurer providing health insurance coverage under a health
5 plan shall provide annual notice to each current enrollee
6 under such plan regarding the extent of the coverage of
7 the plan. Such notice shall be in writing and shall include
8 a copy of the contract between the insurer and enrollee,
9 in addition to information regarding the terms and condi-
10 tions of the policy and the rights and obligations of the
11 parties including—

- 12 (1) covered and excluded services, equipment,
13 and devices;
- 14 (2) copayments, deductibles, and premiums;
- 15 (3) enrollee satisfaction statistics;
- 16 (4) financial responsibility of the enrollee;
- 17 (5) utilization review requirements;
- 18 (6) a list of the usual, customary, and reason-
19 able costs for procedures, tests, and examinations;
- 20 (7) physician credentialing standards; and
- 21 (8) the percentage of total annual premiums
22 used to reimburse practitioners for health care pro-
23 vided to enrollees and the percentage used for ad-
24 ministration and other costs incurred in administer-
25 ing the plan.

1 (b) NOTIFICATION TO POTENTIAL ENROLLEES.—An
2 insurer providing health insurance coverage under a health
3 plan shall, upon request, provide notice to each potential
4 enrollee under such plan regarding the extent of the cov-
5 erage of the plan. Such notice shall be in writing and shall
6 include a copy of the potential contract between the in-
7 surer and potential enrollee, in addition to information re-
8 garding the terms and conditions of the policy and the
9 rights and obligations of the parties information including
10 the items listed in paragraphs (1) through (8) of sub-
11 section (a).

12 (c) REGULATIONS FOR FAILURE TO PROVIDE NOTI-
13 FICATION.—The Secretary of Health and Human Services
14 shall promulgate regulations to ensure that an insurer
15 providing health insurance coverage under a health plan
16 provide notification to current and potential enrollees as
17 described in subsections (a) and (b).

18 **SEC. 3. DETERMINATION OF MEDICALLY NECESSARY AND**
19 **APPROPRIATE TREATMENT.**

20 (a) IN GENERAL.—Under a health plan, the deter-
21 mination of what is medically necessary and appropriate
22 for the health of a patient may be made only by a health
23 care practitioner who is—

1 (1) licensed and practicing within the scope of
2 the State practice act of the State in which the prac-
3 titioner practices; and

4 (2) directly involved in the care of such patient.

5 (b) INSURANCE COVERAGE.—An insurer must pay
6 for a service determined, as described in subsection (a),
7 to be medically necessary and appropriate if the service
8 is covered by the health plan.

9 (c) REGULATIONS TO DETER REWARDS, PENALTIES
10 OR INDUCEMENTS.—The Secretary of Health and Human
11 Services shall promulgate regulations to ensure that an
12 insurer not offer monetary rewards, penalties, or induce-
13 ments to a licensed health care practitioner, or condition
14 the continued participation of a licensed health care prac-
15 titioner in a plan on the basis of the health care practition-
16 er's decisions to limit the availability of appropriate medi-
17 cal tests, services, or treatments.

18 **SEC. 4. ENFORCEMENT AND PENALTIES.**

19 (a) PENALTIES.— Any entity that offers a health
20 plan that violates the provisions of this Act shall be subject
21 to a civil money penalty in an amount to be determined
22 by the Secretary of Health and Human Services.

23 (b) PROCESS.—The provisions of section 1128A of
24 the Social Security Act (42 U.S.C. 1320a-7a) (other than
25 subsections (a) and (b)) shall apply to civil money pen-

1 alties under this section in the same manner as they apply
2 to a penalty or proceeding under section 1128A(a) of such
3 Act.

4 **SEC. 5. PROHIBITION OF HOLD HARMLESS PROVISIONS.**

5 An insurer may not include provisions in a health
6 plan to hold itself harmless for any liability.

7 **SEC. 6. PREEMPTION.**

8 A State may not establish or enforce standards for
9 insurers or health insurance coverage with respect to the
10 subject matter of this Act that are weaker than the stand-
11 ards established under this Act.

12 **SEC. 7. DEFINITIONS.—**

13 For purposes of this Act:

14 (1) **INSURER.**—The term “insurer” means an
15 insurance company, insurance service, or insurance
16 organization licensed to engage in the business of in-
17 surance in a State, and a health maintenance orga-
18 nization.

19 (2) **HEALTH CARE PRACTITIONER.**—The term
20 “health care practitioner” has the meaning provided
21 by section 11151 of title 42, United States Code.

22 (3) **HEALTH INSURANCE COVERAGE.**—The term
23 “health insurance coverage” means any hospital or
24 medical service policy or certificate, hospital or medi-

1 cal service plan contract, or health maintenance or-
2 ganization contract offered by an insurer.

3 (4) HEALTH PLAN.—The term “health plan”
4 means a plan that provides health insurance cov-
5 erage.

6 (5) STATE.—The term “State” means any
7 State, the District of Columbia, Puerto Rico, the
8 Northern Mariana Islands, the Virgin Islands,
9 American Samoa, and Guam.

10 **SEC. 8. EFFECTIVE DATE.**

11 The provisions of this Act shall apply to all health
12 plans offered, sold, issued, or renewed after the date of
13 the enactment of this Act.

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