

104TH CONGRESS  
2D SESSION

# H. R. 4110

To amend the Internal Revenue Code of 1986 to require that group health plans and insurers offer access to coverage for children and to assist families in the purchase of such coverage.

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## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 18, 1996

Mr. STARK introduced the following bill; which was referred to the Committee on Ways and Means

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## A BILL

To amend the Internal Revenue Code of 1986 to require that group health plans and insurers offer access to coverage for children and to assist families in the purchase of such 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 “Children Health Insur-  
5 ance Act of 1996”.

6 **SEC. 2. HEALTH INSURANCE AVAILABILITY FOR CHILDREN.**

7 (a) IN GENERAL.—The Internal Revenue Code of  
8 1986 (as amended by the Health Insurance Portability

1 and Accountability Act of 1996) is amended by adding at  
2 the end the following:

3 **“Subtitle L—Health Insurance**  
4 **Availability for Children**  
5 **“CHAPTER 101—HEALTH INSURANCE**  
6 **AVAILABILITY FOR CHILDREN**

“Sec. 9901. Excise tax on failure to meet requirement of access  
to coverage.

“Sec. 9902. Requirement of access to coverage.

“Sec. 9903. Definitions.

7 **“SEC. 9901. EXCISE TAX ON FAILURE TO MEET REQUIRE-**  
8 **MENT OF ACCESS TO COVERAGE.**

9 “(a) IMPOSITION OF TAX.—There is hereby imposed  
10 a tax on the failure of—

11 “(1) a group health plan to meet the coverage  
12 requirements of section 9902(a); and

13 “(2) an insurer that offers health insurance  
14 coverage (other than to a group health plan subject  
15 to paragraph (1)) to meet the requirements of sec-  
16 tion 9902(b).

17 “(b) AMOUNT OF TAX.—

18 “(1) GROUP HEALTH PLAN.—

19 “(A) IN GENERAL.—The amount of tax  
20 imposed by subsection (a)(1) on any failure  
21 with respect to a participant or beneficiary of a  
22 group health plan shall be 25 percent of each

1 premium received by the group health plan for  
2 the plan year in which such failure occurs.

3 “(B) SELF-INSURED PLANS.—In the case  
4 that the group health plan is self-insured, the  
5 cost to the plan of the coverage of participants  
6 and beneficiaries shall be treated as the pre-  
7 mium received for the purposes of subpara-  
8 graph (A).

9 “(2) INSURER OFFERING INDIVIDUAL HEALTH  
10 INSURANCE COVERAGE.—The amount of tax im-  
11 posed by subsection (a)(2) on any failure of an in-  
12 surer with respect to an individual described in para-  
13 graph (1) or (2) of section 9902(b) shall be 25 per-  
14 cent of the total amount of the premiums paid to the  
15 insurer for such coverage for the plan year in which  
16 such failure occurs.

17 “(c) LIMITATIONS ON AMOUNT OF TAX.—

18 “(1) TAX NOT TO APPLY WHERE FAILURE NOT  
19 DISCOVERED EXERCISING REASONABLE DILI-  
20 GENCE.—No tax shall be imposed by subsection (a)  
21 on any failure during any period for which it is es-  
22 tablished to the satisfaction of the Secretary that  
23 none of the persons referred to in subsection (e)  
24 knew, or exercising reasonable diligence would have  
25 known, that such failure existed.

1           “(2) TAX NOT TO APPLY TO FAILURES COR-  
2           RECTED WITHIN 30 DAYS.—No tax shall be imposed  
3           by subsection (a) on any failure if—

4                   “(A) such failure was due to reasonable  
5                   cause and not to willful neglect, and

6                   “(B) such failure is corrected during the  
7                   30-day period beginning on the 1st date any of  
8                   the persons referred to in subsection (e) knew,  
9                   or exercising reasonable diligence would have  
10                  known, that such failure existed.

11           “(3) WAIVER.—In the case of a failure which is  
12           due to reasonable cause and not to willful neglect,  
13           the Secretary may waive part or all of the tax im-  
14           posed by subsection (a) to the extent that the pay-  
15           ment of such tax would be excessive relative to the  
16           failure involved.

17           “(d) TAX NOT TO APPLY TO CERTAIN PLANS.—This  
18           section shall not apply to—

19                   “(1) any governmental plan (within the mean-  
20                   ing of section 414(d)), or

21                   “(2) any church plan (within the meaning of  
22                   section 414(e)).

23           “(e) LIABILITY FOR TAX.—The following shall be re-  
24           sponsible for the tax imposed by subsection (a):

1           “(1) In the case of the tax imposed by sub-  
2           section (a)(1) on a group health plan, the plan.

3           “(2) In the case of the tax imposed by sub-  
4           section (a)(2) on an insurer offering health insur-  
5           ance coverage, the insurer.

6   **“SEC. 9902. REQUIREMENT OF ACCESS TO COVERAGE.**

7           “(a) GROUP HEALTH PLANS.—

8           “(1) IN GENERAL.—Each group health plan  
9           that provides coverage to any participant (or bene-  
10          ficiary) must offer qualifying coverage for each  
11          qualifying young dependent of an individual who is  
12          a participant or beneficiary under the plan.

13          “(2) TIMING OF OFFER.—The offer under para-  
14          graph (1) shall be made at the time a person first  
15          becomes a qualifying young dependent and at least  
16          annually thereafter.

17          “(b) HEALTH INSURANCE COVERAGE.—Each insurer  
18          that offers health insurance coverage in the individual  
19          market must offer qualifying coverage for each individual  
20          who is under 21 years of age, residing in the United  
21          States, and a citizen or national of the United States (or  
22          alien permanently residing in the United States under  
23          color of law).

24          “(c) QUALIFYING COVERAGE.—For purposes of this  
25          section—

1           “(1) IN GENERAL.—The term ‘qualifying cov-  
2           erage’ means coverage of health care benefits that  
3           provides for at least the following benefits, without  
4           any limitation based on a pre-existing condition with  
5           respect to such benefits and without any waiting pe-  
6           riod for coverage with respect to such benefits:

7                   “(A) MEDICARE BENEFITS.—Benefits pro-  
8                   vided under parts A and B of title XVIII of the  
9                   Social Security Act, or benefits determined to  
10                  be actuarially equivalent to (or greater than)  
11                  such benefits; except that in no case shall the  
12                  coinsurance attributable to benefits under part  
13                  B of such title exceed (with respect to provision  
14                  of an item or service) the lesser of \$10 or 10  
15                  percent of the recognized payment amount with  
16                  respect to such item or service (determined  
17                  without regard to cost-sharing).

18                  “(B) WELL CHILD CARE BENEFITS.—

19                         “(i) IN GENERAL.—Payment for the  
20                         following items and services, without the  
21                         application of deductibles, coinsurance, and  
22                         copayments:

23                                 “(I) Newborn and well-baby care,  
24                                 including normal newborn care and

1                   pediatrician services for high-risk de-  
2                   liveries.

3                   “(II) Well-child care, including  
4                   routine office visits, routine immuni-  
5                   zations (including the vaccine itself),  
6                   routine laboratory tests, and preven-  
7                   tive dental care.

8                   “(ii) PERIODICITY SCHEDULE.—The  
9                   Secretary, in consultation with the Amer-  
10                  ican Academy of Pediatrics, shall establish  
11                  a schedule of periodicity for services de-  
12                  scribed in clause (i) which reflects the gen-  
13                  eral, appropriate frequency with which  
14                  such services should be provided to health  
15                  children.

16                  “(2) MANAGED CARE PERMITTED.—Nothing in  
17                  this section shall be construed as limiting the provid-  
18                  ers through whom the benefits described in para-  
19                  graph (1) may be provided so long as there is rea-  
20                  sonable access to such benefits.

21                  “(d) QUALIFYING YOUNG DEPENDENT.—For pur-  
22                  poses of this section, the term ‘qualifying young depend-  
23                  ent’ means an individual who is under 21 years of age,  
24                  residing in the United States, is a citizen or national of  
25                  the United States (or alien permanently residing in the

1 United States under color of law), and a dependent (as  
2 defined in section 152) of the individual.

3 **“SEC. 9903. DEFINITIONS.**

4 “In this chapter—

5 “(1) GROUP HEALTH PLAN.—The term ‘group  
6 health plan’ has the meaning given such term in sec-  
7 tion 5000(b)(1), but does not include such a plan  
8 that has medical benefits that only consist of cov-  
9 erage described in paragraph (2)(B).

10 “(2) HEALTH INSURANCE COVERAGE.—

11 “(A) IN GENERAL.—Except as provided in  
12 subparagraph (B), the term ‘health insurance  
13 coverage’ means benefits consisting of medical  
14 care (provided directly, through insurance or re-  
15 imbursement, or otherwise) under any hospital  
16 or medical service policy or certificate, hospital  
17 or medical service plan contract, or health  
18 maintenance organization group contract of-  
19 fered by an insurer or a health maintenance or-  
20 ganization.

21 “(B) EXCEPTION.—Such term does not in-  
22 clude coverage under any separate policy, cer-  
23 tificate, or contract only for one or more of any  
24 of the following:

1           “(i) Coverage for accident, credit-only,  
2 vision, disability income, long-term care,  
3 nursing home care, community-based care  
4 dental, on-site medical clinics, or employee  
5 assistance programs, or any combination  
6 thereof.

7           “(ii) Medicare supplemental health in-  
8 surance (within the meaning of section  
9 1882(g)(1) of the Social Security Act (42  
10 U.S.C. 1395ss(g)(1))) and similar supple-  
11 mental coverage provided under a group  
12 health plan.

13           “(iii) Coverage issued as a supplement  
14 to liability insurance.

15           “(iv) Liability insurance, including  
16 general liability insurance and automobile  
17 liability insurance.

18           “(v) Workers’ compensation or similar  
19 insurance.

20           “(vi) Automobile medical-payment in-  
21 surance.

22           “(vii) Coverage for a specified disease  
23 or illness.

24           “(viii) Hospital or fixed indemnity in-  
25 surance.

1                   “(ix) Short-term limited duration in-  
2                   surance.

3                   “(x) Such other coverage, comparable  
4                   to that described in previous clauses, as  
5                   may be specified in regulations prescribed  
6                   under this title.

7                   “(3) HEALTH MAINTENANCE ORGANIZATION.—  
8                   The term ‘health maintenance organization’  
9                   means—

10                   “(A) a federally qualified health mainte-  
11                   nance organization (as defined in section  
12                   1301(a) of the Public Health Service Act (42  
13                   U.S.C. 300e(a))),

14                   “(B) an organization recognized under  
15                   State law as a health maintenance organization,  
16                   or

17                   “(C) a similar organization regulated  
18                   under State law for solvency in the same man-  
19                   ner and to the same extent as such a health  
20                   maintenance organization,

21                   if it is subject to State law which regulates insur-  
22                   ance (within the meaning of section 514(b)(2) of the  
23                   Employee Retirement Income Security Act of 1974).

24                   “(4) INSURER.—The term ‘insurer’ means an  
25                   insurance company, insurance service, or insurance

1 organization (including a health maintenance organi-  
2 zation) which is licensed to engage in the business  
3 of insurance in a State and which is subject to State  
4 law which regulates insurance (within the meaning  
5 of section 514(b)(2)(A) of the Employee Retirement  
6 Income Security Act of 1974).

7 “(5) INDIVIDUAL MARKET.—The term ‘individ-  
8 ual market’ means the market for health insurance  
9 coverage offered to individuals and not to employers  
10 or in connection with a group health plan and does  
11 not include the market for such coverage issued only  
12 by an insurer that makes such coverage available  
13 only on the basis of affiliation with an association.

14 “(6) INCORPORATION OF CERTAIN DEFINI-  
15 TIONS.—The terms ‘beneficiary’ and ‘participant’  
16 have the meanings given such terms in section 3 of  
17 the Employee Retirement Income Security Act of  
18 1974.”.

19 (b) CLERICAL AMENDMENT.—The table of contents  
20 for the Internal Revenue Code of 1986 is amended by add-  
21 ing after the item relating to subtitle K the following new  
22 item:

“Subtitle L. Health Insurance Availability for Children.”

23 (c) EFFECTIVE DATE.—The requirement of section  
24 9902 of the Internal Revenue Code of 1986 (as added by  
25 subsection (a) of this section) shall take effect on January

1 1, 1998, and shall apply to coverage offered on or after  
2 such date regardless of whether the plan year began before  
3 such date.

4 **SEC. 3. REFUNDABLE TAX CREDIT FOR PURCHASE OF**  
5 **HEALTH COVERAGE FOR CHILDREN.**

6 (a) GENERAL RULE.—Subpart C of part IV of sub-  
7 chapter A of chapter 1 of the Internal Revenue Code of  
8 1986 is amended by redesignating section 35 as section  
9 36 and by inserting after section 34 the following new sec-  
10 tion:

11 **“SEC. 35. PURCHASE OF HEALTH COVERAGE FOR CHIL-**  
12 **DREN.**

13 “(a) GENERAL RULE.—In the case of an individual,  
14 there shall be allowed as a credit against the tax imposed  
15 by this subtitle for the taxable year an amount equal to  
16 80 percent of the qualified health premiums paid in the  
17 taxable year by the taxpayer.

18 “(b) APPLICATION OF CREDIT AGAINST TAX LIABIL-  
19 ITY.—

20 “(1) IN GENERAL.—The credit allowable under  
21 subsection (a) shall be applied against tax liability at  
22 the rate of \$0.50 of credit for each \$1 of tax liabil-  
23 ity.

1           “(2) TAX LIABILITY.—For the purposes of  
2 paragraph (1), the term ‘tax liability’ means the ex-  
3 cess (if any) of—

4                   “(A) the sum of—

5                           “(i) the tax imposed by this chapter  
6 for the taxable year (reduced by the credits  
7 allowable against such tax other than the  
8 credits allowable under this subpart), and

9                           “(ii) the taxpayer’s social security  
10 taxes for such taxable year, over

11                   “(B) the credit allowed for the taxable year  
12 under section 32.

13           “(3) SOCIAL SECURITY TAXES.—For purposes  
14 of paragraph (2)—

15                   “(A) IN GENERAL.—The term ‘social secu-  
16 rity taxes’ means, with respect to any taxpayer  
17 for any taxable year—

18                           “(i) the amount of the taxes imposed  
19 by sections 3101 and 3201(a) on amounts  
20 received by the taxpayer during the cal-  
21 endar year in which the taxable year be-  
22 gins,

23                           “(ii) one-half of the amount of the  
24 taxes imposed by section 1401 on the self-

1 employment income of the taxpayer for the  
2 taxable year, and

3 “(iii) one-half of the amount of the  
4 taxes imposed by section 3211(a)(1) on  
5 amounts received by the taxpayer during  
6 the calendar year in which the taxable year  
7 begins.

8 “(B) COORDINATION WITH SPECIAL RE-  
9 FUND OF SOCIAL SECURITY TAXES.—The term  
10 ‘social security taxes’ shall not include any  
11 taxes to the extent the taxpayer is entitled to  
12 a special refund of such taxes under section  
13 6413(c).

14 “(C) SPECIAL RULE.—Any amounts paid  
15 pursuant to an agreement under section 3121(l)  
16 (relating to agreements entered into by Amer-  
17 ican employers with respect to foreign affiliates)  
18 which are equivalent to the taxes referred to in  
19 subparagraph (A)(i) shall be treated as taxes  
20 referred to in such subparagraph.

21 “(c) DEFINITIONS.—For the purposes of this sec-  
22 tion—

23 “(1) QUALIFIED HEALTH PREMIUM.—The term  
24 ‘qualified health premium’ means the amount paid  
25 for health coverage of a qualifying young dependent.

1           “(2) HEALTH COVERAGE.—The term ‘health  
2 coverage’ means health insurance coverage (as de-  
3 fined by section 9902(b)) that includes qualifying  
4 coverage (as defined by section 9902(c)).

5           “(3) QUALIFYING YOUNG DEPENDENT.—The  
6 term ‘qualifying young dependent’ has the meaning  
7 given such term by section 9902(d).”.

8           (b) CLERICAL AMENDMENT.—The table of sections  
9 for subpart C of part IV of subchapter A of chapter 1  
10 is amended by striking the item relating to section 35 and  
11 inserting the following new items:

                  “Sec. 35. Purchase of health coverage for children.  
                  “Sec. 36. Overpayments of tax.”

12           (c) EFFECTIVE DATE.—The amendments made by  
13 this section shall apply to taxable years beginning after  
14 December 31, 1997.

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