

104TH CONGRESS  
2D SESSION

# S. 2167

To require that health plans provide coverage for medically necessary health care and related services for children who are age 3 or younger, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

SEPTEMBER 30, 1996

Mr. KERREY introduced the following bill; which was read twice and referred to the Committee on Labor and Human Resources

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## A BILL

To require that health plans provide coverage for medically necessary health care and related services for children who are age 3 or younger, 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 “Children’s Health In-  
5 surance for Long-Term Development Act of 1996”.

6 **SEC. 2. PURPOSE.**

7 The purpose of this act is to provide health insurance  
8 coverage for children during the Infant Neurological Risk  
9 Exposure Period (INREP). The INREP extends through

1 age 3 and encompasses the period of most rapid neuro-  
2 logical changes in young children. Health coverage will im-  
3 prove children’s health and, through routine health super-  
4 vision, promote parents’ caregiving skills through these  
5 critical years.

6 **SEC. 3. FINDINGS.**

7 Congress finds that—

8 (1) 86 percent of children with private health  
9 insurance are under-insured with respect to well-  
10 child care;

11 (2) because the human brain develops rapidly  
12 until the age of 3, children need regular screenings  
13 and follow-up care to detect neurological abnormali-  
14 ties and ensure normal development;

15 (3) regular pediatric visits enable physicians to  
16 provide guidance on parental activities, such as read-  
17 ing, that stimulate the brain development of infants;  
18 and

19 (4) children deserve health care coverage that  
20 promotes normal brain and nervous system develop-  
21 ment.

22 **SEC. 4. DEFINITIONS.**

23 As used in this Act:

24 (1) **BENEFICIARY.**—The term “beneficiary” has  
25 the meaning given such term under section 3(8) of

1 the Employee Retirement Income Security Act of  
2 1974 (29 U.S.C. 1002(8)).

3 (2) CHILD.—The term “child” means an indi-  
4 vidual who is age 3 or younger.

5 (3) EMPLOYEE HEALTH BENEFIT PLAN.—

6 (A) IN GENERAL.—The term “employee  
7 health benefit plan” means any employee wel-  
8 fare benefit plan, governmental plan, or church  
9 plan (as defined under paragraphs (1), (32),  
10 and (33) of section 3 of the Employee Retire-  
11 ment Income Security Act of 1974 (29 U.S.C.  
12 1002 (1), (32), and (33))) that provides or pays  
13 for health benefits (such as provider and hos-  
14 pital benefits) for participants and beneficiaries  
15 whether—

16 (i) directly;

17 (ii) through a health plan offered by  
18 a health plan issuer as defined in para-  
19 graph (6); or

20 (iii) otherwise.

21 (B) RULE OF CONSTRUCTION.—An em-  
22 ployee health benefit plan shall not be con-  
23 strued to be a health plan or a health plan is-  
24 suer.

1 (C) ARRANGEMENTS NOT INCLUDED.—

2 Such term does not include the following, or  
3 any combination thereof:

4 (i) Coverage only for accident, or dis-  
5 ability income insurance, or any combina-  
6 tion thereof.

7 (ii) Medicare supplemental health in-  
8 surance (as defined under section  
9 1882(g)(1) of the Social Security Act (42  
10 U.S.C. 1395ss(g)(1))).

11 (iii) Coverage issued as a supplement  
12 to liability insurance.

13 (iv) Liability insurance, including gen-  
14 eral liability insurance and automobile li-  
15 ability insurance.

16 (v) Workers' compensation or similar  
17 insurance.

18 (vi) Automobile medical payment in-  
19 surance.

20 (vii) Coverage for a specified disease  
21 or illness.

22 (viii) Hospital or fixed indemnity in-  
23 surance.

24 (ix) Short-term limited duration in-  
25 surance.

1 (x) Credit-only, dental-only, or vision-  
2 only insurance.

3 (xi) A health insurance policy provid-  
4 ing benefits only for long-term care, nurs-  
5 ing home care, home health care, commu-  
6 nity-based care, or any combination there-  
7 of.

8 (4) GROUP PURCHASER.—The term “group  
9 purchaser” means any person (as defined in section  
10 3(9) of the Employee Retirement Income Security  
11 Act of 1974 (29 U.S.C. 1002(9))) or entity that  
12 purchases or pays for health benefits (such as pro-  
13 vider or hospital benefits) on behalf of participants  
14 or beneficiaries in connection with an employee  
15 health benefit plan.

16 (5) HEALTH PLAN.—

17 (A) IN GENERAL.—The term “health plan”  
18 means any group health plan or individual  
19 health plan.

20 (B) GROUP HEALTH PLAN.—The term  
21 “group health plan” means any contract, policy,  
22 certificate, or other arrangement offered by a  
23 health plan issuer to a group purchaser that  
24 provides or pays for health benefits (such as

1 provider and hospital benefits) in connection  
2 with an employee health benefit plan.

3 (C) INDIVIDUAL HEALTH PLAN.—The term  
4 “individual health plan” means any contract,  
5 policy, certificate, or other arrangement offered  
6 by a health plan issuer to individuals that pro-  
7 vides or pays for health benefits (such as pro-  
8 vider and hospital benefits) and that is not a  
9 group health plan.

10 (D) ARRANGEMENTS NOT INCLUDED.—  
11 Such term does not include the following, or  
12 any combination thereof:

13 (i) Coverage only for accident, or dis-  
14 ability income insurance, or any combina-  
15 tion thereof.

16 (ii) Medicare supplemental health in-  
17 surance (as defined under section  
18 1882(g)(1) of the Social Security Act).

19 (iii) Coverage issued as a supplement  
20 to liability insurance.

21 (iv) Liability insurance, including gen-  
22 eral liability insurance and automobile li-  
23 ability insurance.

24 (v) Workers’ compensation or similar  
25 insurance.

1 (vi) Automobile medical payment in-  
2 surance.

3 (vii) Coverage for a specified disease  
4 or illness.

5 (viii) Hospital or fixed indemnity in-  
6 surance.

7 (ix) Short-term limited duration in-  
8 surance.

9 (x) Credit-only, dental-only, or vision-  
10 only insurance.

11 (xi) A health insurance policy provid-  
12 ing benefits only for long-term care, nurs-  
13 ing home care, home health care, commu-  
14 nity-based care, or any combination there-  
15 of.

16 (E) CERTAIN PLANS INCLUDED.—Such  
17 term includes any plan or arrangement not de-  
18 scribed in any clause of subparagraph (D) that  
19 provides for benefit payments, on a periodic  
20 basis, for—

21 (i) a specified disease or illness; or

22 (ii) a period of hospitalization;

23 without regard to the costs incurred or services  
24 rendered during the period to which the pay-  
25 ments relate.

1           (6) HEALTH PLAN ISSUER.—The term “health  
2           plan issuer” means any entity that is licensed (prior  
3           to or after the date of enactment of this Act) by a  
4           State to offer a health plan.

5           (7) PARTICIPANT.—The term “participant” has  
6           the meaning given such term under section 3(7) of  
7           the Employee Retirement Income Security Act of  
8           1974 (29 U.S.C. 1002(7)).

9           (8) SECRETARY.—The term “Secretary” unless  
10          otherwise specified means the Secretary of Labor.

11 **SEC. 5. REQUIRED HEALTH CARE COVERAGE FOR CHIL-**  
12 **DREN.**

13          (a) IN GENERAL.—Except as provided in subsection  
14 (b), a health plan or an employee health benefit plan shall  
15 ensure that coverage is provided with respect to a child  
16 who is a beneficiary under such plan for all medically nec-  
17 essary health care and related services, including—

18           (1) appropriate screening services at intervals  
19           that meet reasonable standards of medical and den-  
20           tal practice;

21           (2) all appropriate immunizations;

22           (3) necessary case management, transportation,  
23           and scheduling assistance; and

24           (4) such other necessary health care, diagnostic  
25           services, treatment, and other measures to correct or

1 ameliorate defects and physical and mental illnesses  
2 and conditions discovered by the screening services,  
3 whether or not such services are covered for partici-  
4 pants or policyholders under the plan.

5 (b) EXCEPTION.—Notwithstanding subsection (a), a  
6 health plan or an employee health benefit plan shall not  
7 be required to provide coverage for health care and related  
8 services that are not safe, are not effective, or are experi-  
9 mental.

10 **SEC. 6. PROHIBITIONS.**

11 In implementing the requirements of this Act, a  
12 health plan or an employee health benefit plan may not  
13 use a service limitation, including a lifetime benefit limit,  
14 of the plan to deny medically necessary health care and  
15 related services described in section 4 to a child.

16 **SEC. 7. NOTICE.**

17 (a) EMPLOYEE HEALTH BENEFIT PLAN.—An em-  
18 ployee health benefit plan shall provide conspicuous notice  
19 to each participant regarding coverage required under this  
20 Act not later than 120 days after the date of enactment  
21 of this Act, and as part of its summary plan description.

22 (b) HEALTH PLAN.—A health plan shall provide no-  
23 tice to each policyholder regarding coverage required  
24 under this Act. Such notice shall be in writing, promi-  
25 nently positioned, and be transmitted—

1 (1) in a mailing made within 120 days after the  
2 date of enactment of this Act by such plan to the  
3 policyholder; and

4 (2) as part of the annual informational packet  
5 sent to the policyholder.

6 **SEC. 8. APPLICABILITY.**

7 (a) CONSTRUCTION.—

8 (1) IN GENERAL.—A requirement or standard  
9 imposed under this Act on a health plan shall be  
10 deemed to be a requirement or standard imposed on  
11 the health plan issuer. Such requirements or stand-  
12 ards shall be enforced by the State insurance com-  
13 missioner for the State involved or the official or of-  
14 ficials designated by the State to enforce the re-  
15 quirements of this Act. In the case of a health plan  
16 offered by a health plan issuer in connection with an  
17 employee health benefit plan, the requirements or  
18 standards imposed under this Act shall be enforced  
19 with respect to the health plan issuer by the State  
20 insurance commissioner for the State involved or the  
21 official or officials designated by the State to enforce  
22 the requirements of this Act.

23 (2) LIMITATION.—Except as provided in section  
24 8(c), the Secretary shall not enforce the require-  
25 ments or standards of this Act as they relate to

1 health plan issuers or health plans. In no case shall  
2 a State enforce the requirements or standards of  
3 this Act as they relate to employee health benefit  
4 plans.

5 (b) **RULE OF CONSTRUCTION.**—Nothing in this Act  
6 shall be construed to affect or modify the provisions of  
7 section 514 of the Employee Retirement Income Security  
8 Act of 1974 (29 U.S.C. 1144).

9 **SEC. 9. ENFORCEMENT.**

10 (a) **HEALTH PLAN ISSUERS.**—Each State shall re-  
11 quire that each health plan issued, sold, renewed, offered  
12 for sale or operated in such State by a health plan issuer  
13 meet the standards established under this Act. A State  
14 shall submit such information as required by the Secretary  
15 demonstrating effective implementation of the require-  
16 ments of this Act.

17 (b) **EMPLOYEE HEALTH BENEFIT PLANS.**—With re-  
18 spect to employee health benefit plans, the standards es-  
19 tablished under this Act shall be enforced in the same  
20 manner as provided for under sections 502, 504, 506, and  
21 510 of the Employee Retirement Income Security Act of  
22 1974 (29 U.S.C. 1132, 1134, 1136, and 1140). The civil  
23 penalties contained in paragraphs (1) and (2) of section  
24 502(c) of such Act (29 U.S.C. 1132(c) (1) and (2)) shall

1 apply to any information required by the Secretary to be  
2 disclosed and reported under this section.

3 (c) FAILURE TO ENFORCE.—In the case of the fail-  
4 ure of a State to substantially enforce the standards and  
5 requirements set forth in this Act with respect to health  
6 plans, the Secretary, in consultation with the Secretary  
7 of Health and Human Services, shall enforce the stand-  
8 ards of this Act in such State. In the case of a State that  
9 fails to substantially enforce the standards set forth in this  
10 Act, each health plan issuer operating in such State shall  
11 be subject to civil enforcement as provided for under sec-  
12 tions 502, 504, 506, and 510 of the Employee Retirement  
13 Income Security Act of 1974 (29 U.S.C. 1132, 1134,  
14 1136, and 1140). The civil penalties contained in para-  
15 graphs (1) and (2) of section 502(c) of such Act (29  
16 U.S.C. 1132(c)(1) and (2)) shall apply to any information  
17 required by the Secretary to be disclosed and reported  
18 under this section.

19 (d) REGULATIONS.—The Secretary, in consultation  
20 with the Secretary of Health and Human Services, may  
21 promulgate such regulations as may be necessary or ap-  
22 propriate to carry out this Act.

23 **SEC. 10. PREEMPTION.**

24 (a) IN GENERAL.—The provisions of sections 4, 5,  
25 and 6 shall not preempt a State law or regulation—

1           (1) that provides greater protections to patients  
2           or policyholders than those required in this Act; or

3           (2) that requires health plans to provide cov-  
4           erage for pediatric care in accordance with guide-  
5           lines established by the American Academy of Pedi-  
6           atrics or other established professional medical asso-  
7           ciations.

8           (b) EMPLOYEE HEALTH BENEFIT PLANS.—Nothing  
9           in this section affects the application of this Act to em-  
10          ployee health benefit plans, as defined in section 2(3).

11 **SEC. 11. EFFECTIVE DATE.**

12          Except as otherwise provided for in this Act, the pro-  
13          visions of this Act shall apply as follows:

14           (1) With respect to health plans, such provi-  
15           sions shall apply to such plans on the first day of  
16           the contract year beginning on or after June 1,  
17           1997.

18           (2) With respect to employee health benefit  
19           plans, such provisions shall apply to such plans on  
20           the first day of the first plan year beginning on or  
21           after June 1, 1997.

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