

105TH CONGRESS  
2D SESSION

# H. R. 4333

To amend the Public Health Service Act, the Employee Retirement Income Security Act of 1974, and the Internal Revenue Code of 1986 to require that group and individual health insurance coverage and group health plans provide coverage of annual mammograms and annual prostate cancer screening tests following the model established under the Medicare Program.

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## IN THE HOUSE OF REPRESENTATIVES

JULY 24, 1998

Mrs. MALONEY of New York introduced the following bill; which was referred to the Committee on Commerce, and in addition to the Committees on Education and the Workforce, and Ways and Means, 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

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## A BILL

To amend the Public Health Service Act, the Employee Retirement Income Security Act of 1974, and the Internal Revenue Code of 1986 to require that group and individual health insurance coverage and group health plans provide coverage of annual mammograms and annual prostate cancer screening tests following the model established under the Medicare Program.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Annual Mammogram  
3 and Prostate Cancer Screening Coverage Act of 1998”.

4 **SEC. 2. COVERAGE OF ANNUAL MAMMOGRAMS AND AN-**  
5 **NUAL PROSTATE CANCER SCREENING TESTS**

6 (a) GROUP HEALTH PLANS.—

7 (1) PUBLIC HEALTH SERVICE ACT AMEND-  
8 MENTS.—(A) Subpart 2 of part A of title XXVII of  
9 the Public Health Service Act is amended by adding  
10 at the end the following new section:

11 **“SEC. 2706. STANDARDS RELATING TO BENEFITS FOR AN-**  
12 **NUAL MAMMOGRAMS AND ANNUAL PROS-**  
13 **TATE CANCER SCREENING TESTS.**

14 “(a) REQUIREMENT.—

15 “(1) IN GENERAL.—A group health plan, and a  
16 health insurance issuer offering group health insur-  
17 ance coverage, shall provide coverage for—

18 “(A) annual screening mammograms for  
19 female participants and beneficiaries who are  
20 40 years of age or older; and

21 “(B) annual prostate cancer screening  
22 testing for male participants and beneficiaries  
23 who are 50 years of age or older.

24 “(2) REGULATIONS.—The Secretary shall pro-  
25 mulgate regulations to carry out this section. In pro-  
26 mulgating such regulations, the Secretary shall pro-

1       vide that the coverage required under paragraph (1)  
2       shall be comparable to the coverage of similar bene-  
3       fits under the medicare program under part B of  
4       title XVIII of the Social Security Act.

5       “(b) PROHIBITIONS.—A group health plan, and a  
6       health insurance issuer offering group health insurance  
7       coverage in connection with a group health plan, may  
8       not—

9               “(1) deny to an individual eligibility, or contin-  
10       ued eligibility, to enroll or to renew coverage under  
11       the terms of the plan, solely for the purpose of  
12       avoiding the requirements of this section;

13              “(2) provide monetary payments or rebates to  
14       individuals to encourage such individuals to accept  
15       less than the minimum protections available under  
16       this section;

17              “(3) penalize or otherwise reduce or limit the  
18       reimbursement of a provider because such provider  
19       provided care to an individual participant or bene-  
20       ficiary in accordance with this section; or

21              “(4) provide incentives (monetary or otherwise)  
22       to a provider to induce such provider to provide care  
23       to an individual participant or beneficiary in a man-  
24       ner inconsistent with this section.

25       “(c) RULES OF CONSTRUCTION.—

1           “(1) Nothing in this section shall be construed  
2           to require an individual who is a participant or bene-  
3           ficiary to undergo a screening mammogram or pros-  
4           tate cancer screening test.

5           “(2) Nothing in this section shall be construed  
6           as preventing a group health plan or issuer from im-  
7           posing deductibles, coinsurance, or other cost-shar-  
8           ing in relation to benefits described in subsection (a)  
9           consistent with such subsection, except that such co-  
10          insurance or other cost-sharing shall not discrimi-  
11          nate on any basis related to the coverage required  
12          under this section.

13          “(d) NOTICE.—A group health plan under this part  
14          shall comply with the notice requirement under section  
15          713(d) of the Employee Retirement Income Security Act  
16          of 1974 with respect to the requirements of this section  
17          as if such section applied to such plan.

18          “(e) LEVEL AND TYPE OF REIMBURSEMENTS.—  
19          Nothing in this section shall be construed to prevent a  
20          group health plan or a health insurance issuer offering  
21          group health insurance coverage from negotiating the level  
22          and type of reimbursement with a provider for care pro-  
23          vided in accordance with this section.”.

1 (B) Section 2723(c) of such Act (42 U.S.C.  
2 300gg-23(c)) is amended by striking “section 2704”  
3 and inserting “sections 2704 and 2706”.

4 (2) ERISA AMENDMENTS.—(A) Subpart B of  
5 part 7 of subtitle B of title I of the Employee Re-  
6 tirement Income Security Act of 1974 is amended by  
7 adding at the end the following new section:

8 **“SEC. 713. STANDARDS RELATING TO BENEFITS FOR AN-**  
9 **NUAL MAMMOGRAMS AND ANNUAL PROS-**  
10 **TATE CANCER SCREENING TESTS.**

11 “(a) REQUIREMENT.—

12 “(1) IN GENERAL.—A group health plan, and a  
13 health insurance issuer offering group health insur-  
14 ance coverage, shall provide coverage for—

15 “(A) annual screening mammograms for  
16 participants and beneficiaries who are 40 years  
17 of age or older; and

18 “(B) annual prostate cancer screening  
19 testing for male participants and beneficiaries  
20 who are 50 years of age or older.

21 “(2) REGULATIONS.—The Secretary shall pro-  
22 mulgate regulations to carry out this section. In pro-  
23 mulgating such regulations, the Secretary shall pro-  
24 vide that the coverage required under paragraph (1)  
25 shall be comparable to the coverage of similar bene-

1 fits under the medicare program under part B of  
2 title XVIII of the Social Security Act.

3 “(b) PROHIBITIONS.—A group health plan, and a  
4 health insurance issuer offering group health insurance  
5 coverage in connection with a group health plan, may  
6 not—

7 “(1) deny to an individual eligibility, or contin-  
8 ued eligibility, to enroll or to renew coverage under  
9 the terms of the plan, solely for the purpose of  
10 avoiding the requirements of this section;

11 “(2) provide monetary payments or rebates to  
12 individuals to encourage such individuals to accept  
13 less than the minimum protections available under  
14 this section;

15 “(3) penalize or otherwise reduce or limit the  
16 reimbursement of a provider because such provider  
17 provided care to an individual participant or bene-  
18 ficiary in accordance with this section; or

19 “(4) provide incentives (monetary or otherwise)  
20 to a provider to induce such provider to provide care  
21 to an individual participant or beneficiary in a man-  
22 ner inconsistent with this section.

23 “(c) RULES OF CONSTRUCTION.—

24 “(1) Nothing in this section shall be construed  
25 to require an individual who is a participant or bene-

1       ficiary to undergo a screening mammogram or pros-  
2       tate cancer screening test.

3           “(2) Nothing in this section shall be construed  
4       as preventing a group health plan or issuer from im-  
5       posing deductibles, coinsurance, or other cost-shar-  
6       ing in relation to benefits described in subsection (a)  
7       consistent with such subsection, except that such co-  
8       insurance or other cost-sharing shall not discrimi-  
9       nate on any basis related to the coverage required  
10      under this section.

11       “(d) NOTICE UNDER GROUP HEALTH PLAN.—The  
12      imposition of the requirement of this section shall be treat-  
13      ed as a material modification in the terms of the plan de-  
14      scribed in section 102(a)(1), for purposes of assuring no-  
15      tice of such requirements under the plan; except that the  
16      summary description required to be provided under the  
17      last sentence of section 104(b)(1) with respect to such  
18      modification shall be provided by not later than 60 days  
19      after the first day of the first plan year in which such  
20      requirement apply.

21       “(e) LEVEL AND TYPE OF REIMBURSEMENTS.—  
22      Nothing in this section shall be construed to prevent a  
23      group health plan or a health insurance issuer offering  
24      group health insurance coverage from negotiating the level

1 and type of reimbursement with a provider for care pro-  
 2 vided in accordance with this section.”.

3 (B) Section 731(e) of such Act (29 U.S.C.  
 4 1191(e)) is amended by striking “section 711” and  
 5 inserting “sections 711 and 713”.

6 (C) Section 732(a) of such Act (29 U.S.C.  
 7 1191a(a)) is amended by striking “section 711” and  
 8 inserting “sections 711 and 713”.

9 (D) The table of contents in section 1 of such  
 10 Act is amended by inserting after the item relating  
 11 to section 712 the following new item:

“Sec. 713. Standards relating to benefits for annual mammograms and annual  
 prostate cancer screening tests.”.

12 (3) INTERNAL REVENUE CODE AMEND-  
 13 MENTS.—Subchapter B of chapter 100 of the Inter-  
 14 nal Revenue Code of 1986 (as amended by section  
 15 1531(a) of the Taxpayer Relief Act of 1997) is  
 16 amended—

17 (A) in the table of sections, by inserting after  
 18 the item relating to section 9812 the following new  
 19 item:

“Sec. 9813. Standards relating to benefits for annual mammo-  
 grams and annual prostate cancer screening tests.”;  
 and

20 (B) by inserting after section 9812 the follow-  
 21 ing:

1 **“SEC. 9813. STANDARDS RELATING TO BENEFITS FOR AN-**  
2 **NUAL MAMMOGRAMS AND ANNUAL PROS-**  
3 **TATE CANCER SCREENING TESTS.**

4 “A group health plan shall comply with the require-  
5 ments of section 713(a) of the Employee Retirement In-  
6 come Security Act of 1974.”

7 (b) INDIVIDUAL HEALTH INSURANCE.—(1) Part B  
8 of title XXVII of the Public Health Service Act is amend-  
9 ed by inserting after section 2751 the following new sec-  
10 tion:

11 **“SEC. 2752. STANDARDS RELATING TO BENEFITS FOR AN-**  
12 **NUAL MAMMOGRAMS AND ANNUAL PROS-**  
13 **TATE CANCER SCREENING TESTS.**

14 “(a) IN GENERAL.—The provisions of section 2706  
15 (other than subsection (d)) shall apply to health insurance  
16 coverage offered by a health insurance issuer in the indi-  
17 vidual market in the same manner as it applies to health  
18 insurance coverage offered by a health insurance issuer  
19 in connection with a group health plan in the small or  
20 large group market.

21 “(b) NOTICE.—A health insurance issuer under this  
22 part shall comply with the notice requirement under sec-  
23 tion 713(d) of the Employee Retirement Income Security  
24 Act of 1974 with respect to the requirements referred to  
25 in subsection (a) as if such section applied to such issuer  
26 and such issuer were a group health plan.”.

1 (c) EFFECTIVE DATES.—(1) Subject to paragraph  
2 (3), the amendments made by subsection (a) shall apply  
3 with respect to group health plans for plan years begin-  
4 ning on or after January 1, 1999.

5 (2) The amendment made by subsection (b) shall  
6 apply with respect to health insurance coverage offered,  
7 sold, issued, renewed, in effect, or operated in the individ-  
8 ual market on or after such date.

9 (3) In the case of a group health plan maintained  
10 pursuant to 1 or more collective bargaining agreements  
11 between employee representatives and 1 or more employ-  
12 ers ratified before the date of enactment of this Act, the  
13 amendments made subsection (a) shall not apply to plan  
14 years beginning before the later of—

15 (A) the date on which the last collective bar-  
16 gaining agreements relating to the plan terminates  
17 (determined without regard to any extension thereof  
18 agreed to after the date of enactment of this Act),  
19 or

20 (B) January 1, 1999.

21 For purposes of subparagraph (A), any plan amendment  
22 made pursuant to a collective bargaining agreement relat-  
23 ing to the plan which amends the plan solely to conform  
24 to any requirement added by subsection (a) shall not be

1 treated as a termination of such collective bargaining  
2 agreement.

3 (d) COORDINATED REGULATIONS.—Section 104(1)  
4 of Health Insurance Portability and Accountability Act of  
5 1996 is amended by striking “this subtitle (and the  
6 amendments made by this subtitle and section 401)” and  
7 inserting “the provisions of part 7 of subtitle B of title  
8 I of the Employee Retirement Income Security Act of  
9 1974, the provisions of parts A and C of title XXVII of  
10 the Public Health Service Act, and chapter 100 of the In-  
11 ternal Revenue Code of 1986”.

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