

108TH CONGRESS  
2D SESSION

# S. 2265

To require group and individual health plans to provide coverage for colorectal cancer screenings.

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IN THE SENATE OF THE UNITED STATES

MARCH 31, 2004

Mr. ROBERTS (for himself and Mr. KENNEDY) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

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## A BILL

To require group and individual health plans to provide coverage for colorectal cancer screenings.

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; FINDINGS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the  
5 “Eliminate Colorectal Cancer Act of 2004”.

6 (b) **FINDINGS.**—The Congress finds the following:

7 (1) Colorectal cancer is the second leading  
8 cause of cancer deaths in the United States for men  
9 and women combined.

1           (2) It is estimated that in 2004, 146,940 new  
2 cases of colorectal cancer will be diagnosed in men  
3 and women in the United States.

4           (3) Colorectal cancer is expected to kill 56,730  
5 individuals in the United States in 2004.

6           (4) When colorectal cancer is diagnosed early,  
7 at a localized stage, more than 90 percent of pa-  
8 tients survive for 5 years or more. Once the disease  
9 has metastasized, 92 percent of patients die within  
10 5 years. Yet, only 37 percent of colorectal cancer  
11 cases are diagnosed while the disease is still in the  
12 localized stage.

13           (5) If all men and women age 50 and over prac-  
14 ticed regular colorectal cancer screening, without  
15 any new scientific discoveries, the United States  
16 could see up to a 50 to 90 percent reduction in  
17 deaths from this disease.

18           (6) Currently, many private insurance health  
19 plans are not providing coverage for the full range  
20 of colorectal cancer screening tests. Lack of insur-  
21 ance coverage can act as a barrier to care.

22           (7) Assuring coverage for the full range of  
23 colorectal cancer tests is an important step in in-  
24 creasing screening rates for these life saving tests.

1 **SEC. 2. COVERAGE FOR COLORECTAL CANCER SCREENING.**

2 (a) GROUP HEALTH PLANS.—

3 (1) PUBLIC HEALTH SERVICE ACT AMEND-  
 4 MENTS.—The Public Health Service Act (42 U.S.C.  
 5 201 et seq.) is amended by adding at the end the  
 6 following:

7 **“TITLE XXIX—MISCELLANEOUS**  
 8 **HEALTH COVERAGE**

9 **“SEC. 2901. COVERAGE FOR COLORECTAL CANCER SCREEN-**  
 10 **ING.**

11 “(a) COVERAGE FOR COLORECTAL CANCER SCREEN-  
 12 ING.—

13 “(1) IN GENERAL.—A group health plan, and a  
 14 health insurance issuer offering group health insur-  
 15 ance coverage, shall provide coverage for colorectal  
 16 cancer screening consistent with this subsection to—

17 “(A) any participant or beneficiary age 50  
 18 or over; and

19 “(B) any participant or beneficiary under  
 20 the age of 50 who is at a high risk for  
 21 colorectal cancer.

22 “(2) DEFINITION OF HIGH RISK.—For purposes  
 23 of subsection (a)(1)(B), the term ‘high risk for  
 24 colorectal cancer’ has the meaning given such term  
 25 in section 1861(pp)(2) of the Social Security Act (42  
 26 U.S.C. 1395x(pp)(2)).

1           “(3) REQUIREMENT FOR SCREENING.—The  
2 group health plan or health insurance issuer shall  
3 cover methods of colorectal cancer screening that—

4           “(A) are deemed appropriate by a physi-  
5 cian (as defined in section 1861(r) of the Social  
6 Security Act (42 U.S.C. 1395x(r))) treating the  
7 participant or beneficiary, in consultation with  
8 the participant or beneficiary;

9           “(B) are—

10           “(i) described in section 1861(pp)(1)  
11 of the Social Security Act (42 U.S.C.  
12 1395x(pp)(1)) or section 410.37 of title  
13 42, Code of Federal Regulations; or

14           “(ii) specified by the Secretary, based  
15 upon the recommendations of appropriate  
16 organizations with special expertise in the  
17 field of colorectal cancer; and

18           “(C) are performed at a frequency not  
19 greater than that—

20           “(i) described for such method in sec-  
21 tion 1834(d) of the Social Security Act (42  
22 U.S.C. 1395m(d)) or section 410.37 of  
23 title 42, Code of Federal Regulations; or

24           “(ii) specified by the Secretary for  
25 such method, if the Secretary finds, based

1           upon new scientific knowledge and con-  
2           sistent with the recommendations of appro-  
3           priate organizations with special expertise  
4           in the field of colorectal cancer, that a dif-  
5           ferent frequency would not adversely affect  
6           the effectiveness of such screening.

7           “(b) NOTICE.—A group health plan under this sec-  
8           tion shall comply with the notice requirement under sec-  
9           tion 714(b) of the Employee Retirement Income Security  
10          Act of 1974 with respect to the requirements of this sec-  
11          tion as if such section applied to such plan.

12          “(c) NON-PREEMPTION OF MORE PROTECTIVE  
13          STATE LAW WITH RESPECT TO HEALTH INSURANCE  
14          ISSUERS.—This section shall not be construed to super-  
15          sede any provision of State law which establishes, imple-  
16          ments, or continues in effect any standard or requirement  
17          solely relating to health insurance issuers in connection  
18          with group health insurance coverage that provides great-  
19          er protections to participants and beneficiaries than the  
20          protections provided under this section.

21          “(d) DEFINITIONS AND ENFORCEMENT.—The defini-  
22          tions and enforcement provisions of title XXVII shall  
23          apply for purposes of this section.”.

24                 (2) ERISA AMENDMENTS.—

1           (A) IN GENERAL.—Subpart B of part 7 of  
2 subtitle B of title I of the Employee Retirement  
3 Income Security Act of 1974 (29 U.S.C. 1185  
4 et seq.) is amended by adding at the end the  
5 following new section:

6 **“SEC. 714. COVERAGE FOR COLORECTAL CANCER SCREEN-**  
7 **ING.**

8           “(a) COVERAGE FOR COLORECTAL CANCER SCREEN-  
9 ING.—

10           “(1) IN GENERAL.—A group health plan, and a  
11 health insurance issuer offering group health insur-  
12 ance coverage, shall provide coverage for colorectal  
13 cancer screening consistent with this subsection to—

14           “(A) any participant or beneficiary age 50  
15 or over; and

16           “(B) any participant or beneficiary under  
17 the age of 50 who is at a high risk for  
18 colorectal cancer.

19           “(2) DEFINITION OF HIGH RISK.—For purposes  
20 of subsection (a)(1)(B), the term ‘high risk for  
21 colorectal cancer’ has the meaning given such term  
22 in section 1861(pp)(2) of the Social Security Act (42  
23 U.S.C. 1395x(pp)(2)).

1           “(3) REQUIREMENT FOR SCREENING.—The  
2 group health plan or health insurance issuer shall  
3 cover methods of colorectal cancer screening that—

4           “(A) are deemed appropriate by a physi-  
5 cian (as defined in section 1861(r) of the Social  
6 Security Act (42 U.S.C. 1395x(r))) treating the  
7 participant or beneficiary, in consultation with  
8 the participant or beneficiary;

9           “(B) are—

10           “(i) described in section 1861(pp)(1)  
11 of the Social Security Act (42 U.S.C.  
12 1395x(pp)(1)) or section 410.37 of title  
13 42, Code of Federal Regulations; or

14           “(ii) specified by the Secretary, based  
15 upon the recommendations of appropriate  
16 organizations with special expertise in the  
17 field of colorectal cancer; and

18           “(C) are performed at a frequency not  
19 greater than that—

20           “(i) described for such method in sec-  
21 tion 1834(d) of the Social Security Act (42  
22 U.S.C. 1395m(d)) or section 410.37 of  
23 title 42, Code of Federal Regulations; or

24           “(ii) specified by the Secretary for  
25 such method, if the Secretary finds, based

1           upon new scientific knowledge and con-  
2           sistent with the recommendations of appro-  
3           priate organizations with special expertise  
4           in the field of colorectal cancer, that a dif-  
5           ferent frequency would not adversely affect  
6           the effectiveness of such screening.

7           “(b) NOTICE UNDER GROUP HEALTH PLAN.—The  
8           imposition of the requirements of this section shall be  
9           treated as a material modification in the terms of the plan  
10          described in section 102(a), for purposes of assuring no-  
11          tice of such requirements under the plan; except that the  
12          summary description required to be provided under the  
13          third to last sentence of section 104(b)(1) with respect to  
14          such modification shall be provided by not later than 60  
15          days after the first day of the first plan year in which  
16          such requirements apply.”.

17                           (B) TECHNICAL AND CONFORMING AMEND-  
18                           MENTS.—

19                           (i) Section 731(c) of the Employee  
20                           Retirement Income Security Act of 1974  
21                           (29 U.S.C. 1191(c)) is amended by strik-  
22                           ing “section 711” and inserting “sections  
23                           711 and 714”.

24                           (ii) Section 732(a) of the Employee  
25                           Retirement Income Security Act of 1974

1 (29 U.S.C. 1191a(a)) is amended by strik-  
 2 ing “section 711” and inserting “sections  
 3 711 and 714”.

4 (iii) The table of contents in section 1  
 5 of the Employee Retirement Income Secu-  
 6 rity Act of 1974 is amended by inserting  
 7 after the item relating to section 713 the  
 8 following new item:

“Sec. 714. Coverage for colorectal cancer screening.”.

9 (b) INDIVIDUAL HEALTH INSURANCE.—

10 (1) IN GENERAL.—Part B of title XXVII of the  
 11 Public Health Service Act (42 U.S.C. 300gg–41 et  
 12 seq.) is amended by inserting after section 2752 the  
 13 following new section:

14 **“SEC. 2753. COVERAGE FOR COLORECTAL CANCER SCREEN-**  
 15 **ING.**

16 “(a) IN GENERAL.—The provisions of section  
 17 2901(a) shall apply to health insurance coverage offered  
 18 by a health insurance issuer in the individual market in  
 19 the same manner as it applies to health insurance coverage  
 20 offered by a health insurance issuer in connection with a  
 21 group health plan in the small or large group market.

22 “(b) NOTICE.—A health insurance issuer under this  
 23 part shall comply with the notice requirement under sec-  
 24 tion 714(b) of the Employee Retirement Income Security  
 25 Act of 1974 with respect to the requirements referred to

1 in subsection (a) as if such section applied to such issuer  
2 and such issuer were a group health plan.”.

3           (2) TECHNICAL AMENDMENT.—Section  
4           2762(b)(2) of the Public Health Service Act (42  
5           U.S.C. 300gg–62(b)(2)) is amended by striking  
6           “section 2751” and inserting “sections 2751 and  
7           2753”.

8           (c) EFFECTIVE DATES.—

9           (1) GROUP HEALTH PLANS.—The amendments  
10           made by subsection (a) shall apply with respect to  
11           group health plans for plan years beginning on or  
12           after January 1, 2005.

13           (2) INDIVIDUAL HEALTH INSURANCE.—The  
14           amendments made by subsection (b) shall apply with  
15           respect to health insurance coverage offered, sold,  
16           issued, renewed, in effect, or operated in the indi-  
17           vidual market on or after January 1, 2005.

18           (d) COORDINATED REGULATIONS.—The Secretary of  
19           Labor and the Secretary of Health and Human Services  
20           shall ensure, through the execution of an interagency  
21           memorandum of understanding among such Secretaries,  
22           that—

23           (1) regulations, rulings, and interpretations  
24           issued by such Secretaries relating to the same mat-  
25           ter over which both Secretaries have responsibility

1 under the provisions of this section (and the amend-  
2 ments made thereby) are administered so as to have  
3 the same effect at all times; and

4 (2) coordination of policies relating to enforcing  
5 the same requirements through such Secretaries in  
6 order to have a coordinated enforcement strategy  
7 that avoids duplication of enforcement efforts and  
8 assigns priorities in enforcement.

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