

108TH CONGRESS  
2D SESSION

# S. 2837

To extend the period for COBRA coverage for victims of the terrorist attacks of September 11, 2001.

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## IN THE SENATE OF THE UNITED STATES

SEPTEMBER 23, 2004

Mr. KENNEDY (for himself, Mr. LAUTENBERG, Mrs. CLINTON, and Mr. SCHUMER) 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 extend the period for COBRA coverage for victims of the terrorist attacks of September 11, 2001.

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 “Continuing Care for  
5 Recovering Families Act”.

6 **SEC. 2. EXTENSION OF COBRA COVERAGE PERIOD FOR**  
7 **CERTAIN INDIVIDUALS.**

8 (a) ERISA AMENDMENT.—Section 605 of the Em-  
9 ployee Retirement Income Security Act of 1974 (29

1 U.S.C. 1165) is amended by adding at the end the fol-  
2 lowing:

3 “(c) TEMPORARY EXTENSION OF COBRA ELECTION  
4 AND COVERAGE PERIOD FOR VICTIMS OF TERRORIST AT-  
5 TACKS.—

6 “(1) IN GENERAL.—In the case of an eligible  
7 individual and notwithstanding subsection (a), such  
8 individual may elect continuation coverage under  
9 this part during the 120-day period that begins on  
10 the later of—

11 “(A) the date of enactment of the Con-  
12 tinuing Care for Recovering Families Act; or

13 “(B) the date on which the individual ex-  
14periences the terrorism-related loss of coverage.

15 “(2) COMMENCEMENT OF COVERAGE; NO  
16 REACH-BACK.—Any continuation coverage elected by  
17 an eligible individual under paragraph (1) shall com-  
18mence at the beginning of the 120-day election pe-  
19riod described in such paragraph and shall not in-  
20clude any period prior to such 120-day election pe-  
21riod. In no event shall the maximum period required  
22under section 602(2)(A) be less than the period dur-  
23ing which the individual is an eligible individual.

1           “(3) PREEXISTING CONDITIONS.—With respect  
2 to an individual who elects continuation coverage  
3 pursuant to paragraph (1), the period—

4                   “(A) beginning on the date of the ter-  
5 rorism-related loss of coverage, and

6                   “(B) ending on the first day of the 120-  
7 day election period described in paragraph (1),  
8 shall be disregarded for purposes of determining the  
9 63-day periods referred to in section 701(c)(2), sec-  
10 tion 2701(c)(2) of the Public Health Service Act,  
11 and section 9801(c)(2) of the Internal Revenue Code  
12 of 1986.

13           “(4) DEFINITIONS.—For purposes of this sub-  
14 section:

15                   “(A) ELIGIBLE INDIVIDUAL.—The term  
16 ‘eligible individual’ means an individual who—

17                           “(i)(I) is the child of an individual de-  
18 scribed in section 405(c)(2) of the Sep-  
19 tember 11th Victim Compensation Fund of  
20 2001; or

21                           “(II) was the spouse of an individual  
22 described in section 405(c)(2) of the Sep-  
23 tember 11th Victim Compensation Fund of  
24 2001, on September 11, 2001;

1                   “(ii) has experienced a terrorism-re-  
2                   lated loss of coverage; and

3                   “(iii) is not otherwise covered under a  
4                   health benefits plan or entitled to benefits,  
5                   or enrolled, under part A of title XVIII of  
6                   the Social Security Act or enrolled under  
7                   part B of such title.

8                   “(B) TERRORISM-RELATED LOSS OF COV-  
9                   ERAGE.—The term ‘terrorism-related loss of  
10                  coverage’ means, with respect to an eligible in-  
11                  dividual, the loss of health benefits coverage as-  
12                  sociated with the death, injury, or loss of em-  
13                  ployment of an individual described in section  
14                  405(c)(2) of the September 11th Victim Com-  
15                  pensation Fund of 2001.”.

16                  (b) PHSA AMENDMENT.—Section 2205 of the Public  
17                  Health Service Act (42 U.S.C. 300bb–5) is amended by  
18                  adding at the end the following:

19                  “(c) TEMPORARY EXTENSION OF COBRA ELECTION  
20                  AND COVERAGE PERIOD FOR VICTIMS OF TERRORIST AT-  
21                  TACKS.—

22                  “(1) IN GENERAL.—In the case of an eligible  
23                  individual and notwithstanding subsection (a), such  
24                  individual may elect continuation coverage under

1 this title during the 120-day period that begins on  
2 the later of—

3 “(A) the date of enactment of the Con-  
4 tinuing Care for Recovering Families Act; or

5 “(B) the date on which the individual ex-  
6periences the terrorism-related loss of coverage.

7 “(2) COMMENCEMENT OF COVERAGE; NO  
8 REACH-BACK.—Any continuation coverage elected by  
9 an eligible individual under paragraph (1) shall com-  
10 mence at the beginning of the 120-day election pe-  
11 riod described in such paragraph and shall not in-  
12 clude any period prior to such 120-day election pe-  
13 riod. In no event shall the maximum period required  
14 under section 2202(2)(A) be less than the period  
15 during which the individual is an eligible individual.

16 “(3) PREEXISTING CONDITIONS.—With respect  
17 to an individual who elects continuation coverage  
18 pursuant to paragraph (1), the period—

19 “(A) beginning on the date of the ter-  
20 rorism-related loss of coverage, and

21 “(B) ending on the first day of the 120-  
22 day election period described in paragraph (1),  
23 shall be disregarded for purposes of determining the  
24 63-day periods referred to in section 2701(c)(2), sec-  
25 tion 701(c)(2) of the Employee Retirement Income

1 Security Act of 1974, and section 9801(c)(2) of the  
2 Internal Revenue Code of 1986.

3 “(4) DEFINITIONS.—For purposes of this sub-  
4 section:

5 “(A) ELIGIBLE INDIVIDUAL.—The term  
6 ‘eligible individual’ means an individual who—

7 “(i)(I) is the child of an individual de-  
8 scribed in section 405(c)(2) of the Sep-  
9 tember 11th Victim Compensation Fund of  
10 2001; or

11 “(II) was the spouse of an individual  
12 described in section 405(c)(2) of the Sep-  
13 tember 11th Victim Compensation Fund of  
14 2001, on September 11, 2001;

15 “(ii) has experienced a terrorism-re-  
16 lated loss of coverage; and

17 “(iii) is not otherwise covered under a  
18 health benefits plan or entitled to benefits,  
19 or enrolled, under part A of title XVIII of  
20 the Social Security Act or enrolled under  
21 part B of such title.

22 “(B) TERRORISM-RELATED LOSS OF COV-  
23 ERAGE.—The term ‘terrorism-related loss of  
24 coverage’ means, with respect to an eligible in-  
25 dividual, the loss of health benefits coverage as-

1           sociated with the death, injury, or loss of em-  
2           ployment of an individual described in section  
3           405(c)(2) of the September 11th Victim Com-  
4           pensation Fund of 2001.”.

5           (c) IRC AMENDMENTS.—Paragraph (5) of section  
6 4980B(f) of the Internal Revenue Code of 1986 (relating  
7 to election) is amended by adding at the end the following:

8                   “(D) TEMPORARY EXTENSION OF COBRA  
9                   ELECTION AND COVERAGE PERIOD FOR VICTIMS  
10                   OF TERRORIST ATTACKS.—

11                   “(i) IN GENERAL.—In the case of an  
12                   eligible individual and notwithstanding  
13                   paragraph (1), such individual may elect  
14                   continuation coverage under this title dur-  
15                   ing the 120-day period that begins on the  
16                   later of—

17                   “(I) the date of enactment of the  
18                   Continuing Care for Recovering Fami-  
19                   lies Act; or

20                   “(II) the date on which the indi-  
21                   vidual experiences the terrorism-re-  
22                   lated loss of coverage.

23                   “(ii) COMMENCEMENT OF COVERAGE;  
24                   NO REACH-BACK.—Any continuation cov-  
25                   erage elected by an eligible individual

1 under clause (i) shall commence at the be-  
2 ginning of the 120-day election period de-  
3 scribed in such clause and shall not include  
4 any period prior to such 120-day election  
5 period. In no event shall the maximum pe-  
6 riod required under paragraph (2)(B)(i) be  
7 less than the period during which the indi-  
8 vidual is an eligible individual.

9 “(iii) PREEXISTING CONDITIONS.—

10 With respect to an individual who elects  
11 continuation coverage pursuant to clause  
12 (i), the period—

13 “(I) beginning on the date of the  
14 terrorism-related loss of coverage, and

15 “(II) ending on the first day of  
16 the 120-day election period described  
17 in clause (i),

18 shall be disregarded for purposes of deter-  
19 mining the 63-day periods referred to in  
20 section 9801(c)(2), section 701(c)(2) of the  
21 Employee Retirement Income Security Act  
22 of 1974, and section 2701(c)(2) of the  
23 Public Health Service Act.

24 “(iv) DEFINITIONS.—For purposes of  
25 this subparagraph:

1                   “(I) ELIGIBLE INDIVIDUAL.—

2                   The term ‘eligible individual’ means  
3                   an individual who—

4                   “(aa)(AA) is the child of an  
5                   individual described in section  
6                   405(c)(2) of the September 11th  
7                   Victim Compensation Fund of  
8                   2001; or

9                   “(BB) was the spouse of an  
10                  individual described in section  
11                  405(c)(2) of the September 11th  
12                  Victim Compensation Fund of  
13                  2001, on September 11, 2001;

14                  “(bb) has experienced a ter-  
15                  rorism-related loss of coverage;  
16                  and

17                  “(cc) is not otherwise cov-  
18                  ered under a health benefits plan  
19                  or entitled to benefits, or en-  
20                  rolled, under part A of title  
21                  XVIII of the Social Security Act  
22                  or enrolled under part B of such  
23                  title.

24                  “(II) TERRORISM-RELATED LOSS  
25                  OF COVERAGE.—The term ‘terrorism-

1 related loss of coverage' means, with  
2 respect to an eligible individual, the  
3 loss of health benefits coverage associ-  
4 ated with the death, injury, or loss of  
5 employment of an individual described  
6 in section 405(c)(2) of the September  
7 11th Victim Compensation Fund of  
8 2001.'".

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