

110TH CONGRESS  
2D SESSION

# H. R. 5615

To provide parity under group health plans and group health insurance coverage in the provision of benefits for prosthetic devices and components and benefits for other medical and surgical services.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 13, 2008

Mr. ANDREWS (for himself, Mr. GEORGE MILLER of California, Mr. PLATTS, Mr. LINCOLN DIAZ-BALART of Florida, and Mr. MARIO DIAZ-BALART of Florida) introduced the following bill; which was referred to the Committee on Education and Labor

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## A BILL

To provide parity under group health plans and group health insurance coverage in the provision of benefits for prosthetic devices and components and benefits for other medical and surgical services.

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; TABLE OF CONTENTS.**

4       This Act may be cited as the “Group Health Plan  
5       Prosthetics Parity Act of 2007”.

6       **SEC. 2. FINDINGS; PURPOSE.**

7       (a) FINDINGS.—Congress finds the following:

1           (1) There are more than 1,800,000 people in  
2 the United States living with limb loss.

3           (2) Every year, there are more than 130,000  
4 people in the United States who undergo amputa-  
5 tion.

6           (3) In addition, United States military per-  
7 sonnel serving in Iraq and Afghanistan and around  
8 the world have sustained traumatic injuries resulting  
9 in amputation.

10          (4) The number of amputations in the United  
11 States is projected to increase in the years ahead  
12 due to rising incidence of diabetes and other chronic  
13 illness.

14          (5) Those suffering from limb loss can and  
15 want to regain their lives as productive members of  
16 society.

17          (6) Prosthetic devices enable amputees to con-  
18 tinue working and living productive lives.

19          (7) Insurance companies have begun to limit re-  
20 imbursement of prosthetic equipment costs at unre-  
21 alistic levels or not at all and often restrict coverage  
22 over a person's lifetime, which shifts costs onto the  
23 Medicare and Medicaid programs.

24          (8) Eight States have addressed this problem  
25 and have enacted prosthetic parity legislation.

1           (9) Prosthetic parity legislation has been intro-  
2           duced and is being actively considered in 30 States.

3           (10) The States in which prosthetic parity laws  
4           have been enacted have found there to be minimal  
5           or no increases in insurance premiums and have re-  
6           duced Medicare and Medicaid costs.

7           (11) Prosthetic parity legislation will not add to  
8           the size of government or to the costs associated  
9           with the Medicare or Medicaid programs.

10          (12) If coverage for prosthetic devices and com-  
11          ponents are offered by a group health insurance pol-  
12          icy, then providing such coverage of prosthetic de-  
13          vices on par with other medical and surgical benefits  
14          will not increase the incidence of amputations or the  
15          number of individuals for which a prosthetic device  
16          would be medically necessary and appropriate.

17          (13) In States where prosthetic parity legisla-  
18          tion has been enacted, amputees are able to return  
19          to a productive life, State funds have been saved,  
20          and the health insurance industry has continued to  
21          prosper.

22          (14) Prosthetic services allow people to return  
23          more quickly to their preexisting work.

24          (b) PURPOSE.—The purpose of this Act is to require  
25          that each group health plan that provides both coverage

1 for prosthetic devices and components and medical and  
2 surgical benefits, provide such coverage under terms and  
3 conditions that are no less favorable than the terms and  
4 conditions under which such benefits are provided under  
5 such plan.

6 **SEC. 3. PROSTHETICS PARITY UNDER ERISA.**

7 (a) IN GENERAL.—Subpart B of part 7 of subtitle  
8 B of title I of the Employee Retirement Income Security  
9 Act of 1974 is amended by inserting after section 713 (29  
10 U.S.C. 1185b) the following new section:

11 **“SEC. 714. PROSTHETICS PARITY.**

12 “(a) IN GENERAL.—In the case of a group health  
13 plan (or health insurance coverage offered in connection  
14 with such a plan) that provides both medical and surgical  
15 benefits and benefits for prosthetic devices and compo-  
16 nents (as defined under subsection (d)(1))—

17 “(1) such benefits for prosthetic devices and  
18 components under the plan (or coverage) shall be  
19 provided under terms and conditions that are no less  
20 favorable than the terms and conditions applicable  
21 to substantially all medical and surgical benefits pro-  
22 vided under the plan (or coverage);

23 “(2) such benefits for prosthetic devices and  
24 components under the plan (or coverage) may not be  
25 subject to separate financial requirements (as de-

1       fined in subsection (d)(2)) that are applicable only  
2       with respect to such benefits, and any financial re-  
3       quirements applicable to such benefits may be no  
4       more restrictive than the financial requirements ap-  
5       plicable to substantially all medical and surgical ben-  
6       efits provided under the plan (or coverage); and

7               “(3) any treatment limitations (as defined in  
8       subsection (d)(3)) applicable to such benefits for  
9       prosthetic devices and components under the plan  
10       (or coverage) may not be more restrictive than the  
11       treatment limitations applicable to substantially all  
12       medical and surgical benefits provided under the  
13       plan (or coverage).

14       “(b) IN-NETWORK AND OUT-OF-NETWORK STAND-  
15       ARDS.—

16               “(1) IN GENERAL.—In the case of a group  
17       health plan (or health insurance coverage offered in  
18       connection with such a plan) that provides both  
19       medical and surgical benefits and benefits for pros-  
20       thetic devices and components, and that provides  
21       both in-network benefits for prosthetic devices and  
22       components and out-of-network benefits for pros-  
23       thetic devices and components, the requirements of  
24       this section shall apply separately with respect to  
25       benefits provided under the plan (or coverage) on an

1 in-network basis and benefits provided under the  
2 plan (or coverage) on an out-of-network basis.

3 “(2) CLARIFICATION.—Nothing in paragraph  
4 (1) shall be construed as requiring that a group  
5 health plan (or health insurance coverage offered in  
6 connection with such a plan) eliminate an out-of-net-  
7 work provider option from such plan (or coverage)  
8 pursuant to the terms of the plan (or coverage).

9 “(c) ADDITIONAL REQUIREMENTS.—

10 “(1) PRIOR AUTHORIZATION.—In the case of a  
11 group health plan (or health insurance coverage of-  
12 fered in connection with such a plan) that requires,  
13 as a condition of coverage or payment for prosthetic  
14 devices and components under the plan (or cov-  
15 erage), prior authorization, such prior authorization  
16 must be required in the same manner as prior au-  
17 thorization is required by the plan (or coverage) as  
18 a condition of coverage or payment for all similar  
19 benefits provided under the plan (or coverage).

20 “(2) LIMITATION ON MANDATED BENEFITS.—  
21 Required benefits for prosthetic devices and compo-  
22 nents under this section are limited to the most ap-  
23 propriate model that adequately meets the medical  
24 requirements of the patient, as determined by the  
25 treating physician of the patient.

1           “(3) COVERAGE FOR REPAIR OR REPLACE-  
2           MENT.—Benefits for prosthetic devices and compo-  
3           nents required under this section shall include cov-  
4           erage for repair or replacement of prosthetic devices  
5           and components, if the repair or replacement is de-  
6           termined appropriate by the treating physician of  
7           the patient involved.

8           “(4) ANNUAL OR LIFETIME DOLLAR LIMITA-  
9           TIONS.—A group health plan (or health insurance  
10          coverage offered in connection with such a plan)  
11          may not impose any annual or lifetime dollar limita-  
12          tion on benefits for prosthetic devices and compo-  
13          nents unless such limitation applies in the aggregate  
14          to all medical and surgical benefits provided under  
15          the plan (or coverage) and benefits for prosthetic de-  
16          vices and components.

17          “(d) DEFINITIONS.—For the purposes of this section:

18               “(1) PROSTHETIC DEVICES AND COMPO-  
19               NENTS.—The term ‘prosthetic devices and compo-  
20               nents’ means the items and services described in  
21               paragraphs (9) and (12) of section 1861(s) of the  
22               Social Security Act and includes external breast  
23               prostheses incident to mastectomy resulting from  
24               breast cancer.

1           “(2) FINANCIAL REQUIREMENTS.—The term  
2           ‘financial requirements’ includes deductibles, coin-  
3           surance, co-payments, other cost sharing, and limita-  
4           tions on the total amount that may be paid by a  
5           participant or beneficiary with respect to benefits  
6           under the plan or health insurance coverage and also  
7           includes the application of annual and lifetime lim-  
8           its.

9           “(3) TREATMENT LIMITATIONS.—The term  
10          ‘treatment limitations’ includes limits on the fre-  
11          quency of treatment, number of visits, days of cov-  
12          erage, or other similar limits on the scope or dura-  
13          tion of treatment.”.

14          (b) CLERICAL AMENDMENT.—The table of contents  
15          in section 1 of such Act is amended by inserting after the  
16          item relating to section 713 the following new item:

          “Sec. 714. Prosthetics parity.”.

17          (c) EFFECTIVE DATE.—The amendments made by  
18          this section shall apply with respect to group health plans  
19          (and health insurance coverage offered in connection with  
20          group health plans) for plan years beginning on or after  
21          the date of the enactment of this Act.

22          **SEC. 4. FEDERAL ADMINISTRATIVE RESPONSIBILITIES.**

23          (a) ASSISTANCE TO PLAN PARTICIPANTS AND BENE-  
24          FIICIARIES.—The Secretary of Labor shall provide for as-  
25          sistance to participants and beneficiaries under such plans

1 with any questions or problems regarding compliance with  
2 the requirements of this section.

3 (b) AUDITS.—The Secretary of Labor shall provide  
4 for the conduct of random audits of group health plans  
5 (and health insurance coverage offered in connection with  
6 such plans) to ensure that such plans are in compliance  
7 with section 714 of the Employee Retirement Income Se-  
8 curity Act of 1974, as added by section 3.

9 (c) GAO STUDY.—

10 (1) STUDY.—The Comptroller General of the  
11 United States shall conduct a study that evaluates  
12 the effect of the implementation of the amendments  
13 made by this Act on the cost of health insurance  
14 coverage, on access to health insurance coverage (in-  
15 cluding the availability of in-network providers), on  
16 the quality of health care, on benefits and coverage  
17 for prosthetic devices and components, on any addi-  
18 tional cost or savings to group health plans, on State  
19 prosthetic devices and components benefit mandate  
20 laws, on the business community and the Federal  
21 Government, and on other issues as determined ap-  
22 propriate by the Comptroller General.

23 (2) REPORT.—Not later than 2 years after the  
24 date of the enactment of this Act, the Comptroller  
25 General of the United States shall prepare and sub-

1       mit to the appropriate committees of Congress a re-  
2       port containing the results of the study conducted  
3       under paragraph (1).

4       (d) REGULATIONS.—Not later than 1 year after the  
5       date of the enactment of this Act, the Secretary of Labor  
6       shall promulgate final regulations to carry out this Act  
7       and the amendments made by this Act.

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