Prosthetics Parity Act of 2008 (Introduced in Senate)

S 3517 IS

110th CONGRESS
2d Session
S. 3517

To amend the Employee Retirement Income Security Act of 1974 and the Public Health Service Act to provide parity under group health plans and group health insurance coverage for the provision of benefits for prosthetic devices and components and benefits for other medical and surgical services.

IN THE SENATE OF THE UNITED STATES

September 18 (legislative day, September 17), 2008

Ms. SNOWE (for herself, Mr. HARKIN, Mr. INOUYE, and Mr. FEINGOLD) 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 amend the Employee Retirement Income Security Act of 1974 and the Public Health Service Act to provide parity under group health plans and group health insurance coverage for the provision of benefits for prosthetic devices and components and benefits for other medical and surgical services.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the `Prosthetics Parity Act of 2008'.

SEC. 2. FINDINGS AND PURPOSE.

(a) Findings- Congress makes the following findings:

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

(2) Every year, there are more than 130,000 people in the United States who undergo amputation procedures.

(3) In addition, United States military personnel serving in Iraq and Afghanistan and around the world have sustained traumatic injuries resulting in amputation.

(4) The number of amputations in the United States is projected to increase in the years ahead due to the rising incidence of diabetes and other chronic illness.
(5) Those suffering from limb loss can and want to regain their lives as productive members of society.
(6) Prosthetic devices enable amputees to continue working and living productive lives.
(7) Insurance companies have begun to limit reimbursement of prosthetic equipment costs to unrealistic levels or not at all and often restrict coverage over an individual's lifetime, which shifts costs onto the Medicare and Medicaid programs.
(8) Eleven States have addressed this problem and have prosthetic parity legislation.
(9) Prosthetic parity legislation has been introduced and is being actively considered in 30 States.
(10) The States in which prosthetic parity laws have been enacted have found there to be minimal or no increases in insurance premiums and have reduced Medicare and Medicaid costs.
(11) Prosthetic parity legislation will not add to the size of government or to the costs associated with the Medicare and Medicaid programs.
(12) If coverage for prosthetic devices and components are offered by a group health insurance policy, then providing such coverage of prosthetic devices on par with other medical and surgical benefits will not increase the incidence of amputations or the number of individuals for which a prosthetic device would be medically necessary and appropriate.
(13) In States where prosthetic parity legislation has been enacted, amputees are able to return to a productive life, State funds have been saved, and the health insurance industry has continued to prosper.
(14) Prosthetic services allow people to return more quickly to their preexisting work.

(b) Purpose- It is te purpose of this Act to require that each group health plan that provides both coverage for prosthetic devices and components and medical and surgical benefits, provide such coverage under terms and conditions that are no less favorable that the terms and conditions under which such benefits are provided for other benefits under such plan.

SEC. 3. PROSTHETICS PARITY.

(a) ERISA-

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

`SEC. 714. PROSTHETICS PARITY.

`(a) In General- In the case of a group health plan (or health insurance coverage offered in connection with a group health plan) that provides both medical and surgical benefits for prosthetic devices and components (as defined under subsection (d)(1))--

`(1) such benefits for prosthetic devices and components under the plan (or coverage) shall be provided under terms and conditions that are no less favorable than the terms and conditions applicable to substantially all medical and surgical benefits provided under the plan (or coverage);

`(2) such benefits for prosthetic devices and components under the plan (or coverage) may not be subject to separate financial requirements (as defined in subsection (d)(2)) that are applicable only with respect to such benefits, and any financial requirements applicable to such benefits shall be no more restrictive than the financial requirements applicable to substantially all medical and surgical benefits provided under the plan (or coverage); and

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

`(b) In Network and Out-of-Network Standards-

`(1) IN GENERAL- In the case of a group health plan (or health insurance coverage offered in connection with a group health plan) that provides both medical and surgical benefits and benefits for prosthetic devices and components, and that provides both in-network benefits for prosthetic devices and components and out-of-network benefits for prosthetic devices and components, the requirements of this section shall apply separately with respect to benefits under the plan (or coverage) on an in-network basis and benefits provided under the plan (or coverage) on an out-of-network basis.

`(2) CLARIFICATION- Nothing in paragraph (1) shall be construed as requiring that a group health plan (or health insurance coverage offered in connection with a group health plan) eliminate an out-of-network provider option from such plan (or coverage) pursuant to the terms of the plan (or coverage).

`(c) Additional Requirements-

`(1) PRIOR AUTHORIZATION- In the case of a group health plan (or health insurance coverage offered in connection with a group health plan) that requires, as a condition of coverage or payment for prosthetic devices and components under the plan (or coverage), prior authorization, such prior authorization must be required in the same manner as prior authorization is required by the plan (or coverage) as a condition of coverage or payment for all similar benefits provided under the plan (or coverage).

`(2) LIMITATION ON MANDATED BENEFITS- Coverage for required benefits for prosthetic devices and components under this section shall be

limited to coverage of the most appropriate device or component model that adequately meets the medical requirements of the patient, as determined by the treating physician of the patient involved.

`(3) COVERAGE FOR REPAIR OR REPLACEMENT- Benefits for prosthetic devices and components required under this section shall include coverage for the repair or replacement of prosthetic devices and components, if the repair or replacement is determined appropriate by the treating physician of the patient involved.

`(4) ANNUAL OR LIFETIME DOLLAR LIMITATIONS- A group health plan (or health insurance coverage offered in connection with a group health plan) shall not impose any annual or lifetime dollar limitation on benefits for prosthetic devices and components required to be covered under this section unless such limitation applies in the aggregate to all medical and surgical benefits provided under the plan (or coverage) and benefits for prosthetic devices components.

`(d) Definitions- In this section:

`(1) PROSTHETIC DEVICES AND COMPONENTS- The term `prosthetic devices and components' means those devices and components that may be used to replace, in whole or in part, an arm or leg, as well as the services required to do so and includes external breast prostheses incident to mastectomy resulting from breast cancer.

`(2) FINANCIAL REQUIREMENTS- The term `financial requirements' includes deductibles, coinsurance, co-payments, other cost sharing, and limitations on the total amount that may be paid by a participant or beneficiary with respect to benefits under the plan or health insurance coverage and also includes the application of annual and lifetime limits.

`(3) TREATMENT LIMITATIONS- The term `treatment limitations' includes limits on the frequency of treatment, number of visits, days of coverage, or other similar limits on the scope or duration of treatment.'.

(2) CLERICAL AMENDMENT- The table of contents in section 1 of the Employee Retirement Income Security Act of 1974 is amended by inserting after the item relating to section 713 the following:

`Sec. 714. Prosthetics parity.'.

(b) PHSA- Subpart 2 of part A of title XXVII of the Public Health Service Act (42 U.S.C. 300gg-4 et seq.) is amended by adding at the end the following:

`SEC. 2707. PROSTHETICS PARITY.

`(a) In General- In the case of a group health plan (or health insurance coverage offered in connection with a group health plan) that provides both medical and surgical benefits for prosthetic devices and components (as defined under subsection (d)(1))--

`(1) such benefits for prosthetic devices and components under the plan (or coverage) shall be provided under terms and conditions that are no less favorable than the terms and conditions applicable to substantially all medical and surgical benefits provided under the plan (or coverage);

`(2) such benefits for prosthetic devices and components under the plan (or coverage) may not be subject to separate financial requirements (as defined in subsection (d)(2)) that are applicable only with respect to such benefits, and any financial requirements applicable to such benefits shall be no more restrictive than the financial requirements applicable to substantially all medical and surgical benefits provided under the plan (or coverage); and

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

`(b) In Network and Out-of-Network Standards-

`(1) IN GENERAL- In the case of a group health plan (or health insurance coverage offered in connection with a group health plan) that provides both medical and surgical benefits and benefits for prosthetic devices and components, and that provides both in-network benefits for prosthetic devices and components and out-of-network benefits for prosthetic devices and components, the requirements of this section shall apply separately with respect to benefits under the plan (or coverage) on an in-network basis and benefits provided under the plan (or coverage) on an out-of-network basis.

`(2) CLARIFICATION- Nothing in paragraph (1) shall be construed as requiring that a group health plan (or health insurance coverage offered in connection with a group health plan) eliminate an out-of-network provider option from such plan (or coverage) pursuant to the terms of the plan (or coverage).

`(c) Additional Requirements-

`(1) PRIOR AUTHORIZATION- In the case of a group health plan (or health insurance coverage offered in connection with a group health plan) that requires, as a condition of coverage or payment for prosthetic devices and components under the plan (or coverage), prior authorization, such prior authorization must be required in the same manner as prior authorization is required by the plan (or coverage) as a condition of coverage or payment for all similar benefits provided under the plan (or coverage).

`(2) LIMITATION ON MANDATED BENEFITS- Coverage for required benefits for prosthetic devices and components under this section shall be limited to coverage of the most appropriate device or component model that adequately meets the medical requirements of the patient, as determined by the treating physician of the patient involved.

`(3) COVERAGE FOR REPAIR OR REPLACEMENT- Benefits for prosthetic devices and components required under this section shall include coverage for the repair or replacement of prosthetic devices and components, if the repair or replacement is determined appropriate by the treating physician of the patient involved.

`(4) ANNUAL OR LIFETIME DOLLAR LIMITATIONS- A group health plan (or health insurance coverage offered in connection with a group health plan) shall not impose any annual or lifetime dollar limitation on benefits for prosthetic devices and components required to be covered under this section unless such limitation applies in the aggregate to all medical and surgical benefits provided under the plan (or coverage) and benefits for prosthetic devices components.

`(d) Definitions- In this section:

`(1) PROSTHETIC DEVICES AND COMPONENTS- The term `prosthetic devices and components' means those devices and components that may be used to replace, in whole or in part, an arm or leg, as well as the services required to do so and includes external breast prostheses incident to mastectomy resulting from breast cancer.

`(2) FINANCIAL REQUIREMENTS- The term `financial requirements' includes deductibles, coinsurance, co-payments, other cost sharing, and limitations on the total amount that may be paid by an enrollee with respect to benefits under the plan or health insurance coverage and also includes the application of annual and lifetime limits.

`(3) TREATMENT LIMITATIONS- The term `treatment limitations' includes limits on the frequency of treatment, number of visits, days of coverage, or other similar limits on the scope or duration of treatment.'.

(c) Effective Date- The amendments made by this section shall apply with respect to group health plans (and health insurance coverage offered in connection with group health plans) for plan years beginning on or after the date of the enactment of this Act.

SEC. 4. FEDERAL ADMINISTRATIVE RESPONSIBILITIES.

(a) Assistance to Enrollees- The Secretary of Labor, in consultation with the Secretary of Health and Human Services, shall provide assistance to enrollees under plans or coverage to which the amendment made by section 3 apply with any questions or problems with respect to compliance with the requirements of such amendment.

(b) Audits- The Secretary of Labor, in consultation with the Secretary of Health and Human Services, shall provide for the conduct of random audits of group health plans (and health insurance coverage offered in connection with such plans) to ensure that such plans (or coverage) are in compliance with the amendments made by section (3).

(c) GAO Study-

(1) STUDY- The Comptroller General of the United States shall conduct a study that evaluates the effect of the implementation of the amendments made by this Act on the cost of the health insurance coverage, on access to health insurance coverage (including the availability of in-network providers), on the quality of health care, on benefits and coverage for prosthetics devices and components, on any additional cost or savings to group health plans, on State prosthetic devices and components benefit

mandate laws, on the business community and the Federal Government, and on other issues as determined appropriate by the Comptroller General.

(2) REPORT- Not later than 2 years after the date of the enactment of this Act, the Comptroller General of the United States shall prepare and submit to the appropriate committee of Congress a report containing the results of the study conducted under paragraph (1).

(d) Regulations- Not later than 1 year after the date of the enactment of this Act, the Secretary of Labor, in consultation with the Secretary of Health and Human Services, shall promulgate final regulations to carry out this Act and the amendments made by this Act.