

**[COMMITTEE PRINT]**

JUNE 16, 1999

**[Approved by the Subcommittee on Employer-Employee Relations  
on June 16, 1999]**

106TH CONGRESS  
1ST SESSION

**H. R. 2045**

To amend title I of the Employee Retirement Income Security Act of 1974 to provide to participants and beneficiaries of group health plans access to emergency medical care.

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IN THE HOUSE OF REPRESENTATIVES

JUNE 8, 1999

Mr. TOOMEY introduced the following bill; which was referred to the Committee on Education and the Workforce

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**A BILL**

To amend title I of the Employee Retirement Income Security Act of 1974 to provide to participants and beneficiaries of group health plans access to emergency medical care.

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 “Patient Right to Emer-  
3 gency Medical Care Act of 1999”.

4 **SEC. 2. PATIENT ACCESS TO EMERGENCY MEDICAL CARE.**

5 (a) IN GENERAL.—Subpart B of part 7 of subtitle  
6 B of title I of the Employee Retirement Income Security  
7 Act of 1974 is amended by adding at the end the following  
8 new section:

9 **“SEC. 714. PATIENT ACCESS TO EMERGENCY MEDICAL**  
10 **CARE.**

11 “(a) IN GENERAL.—To the extent that a group  
12 health plan (or a health insurance issuer offering health  
13 insurance coverage in connection with the plan) provides  
14 for any benefits consisting of emergency medical care, ex-  
15 cept for items or services specifically excluded—

16 “(1) the plan or issuer shall provide benefits,  
17 without requiring preauthorization and without re-  
18 gard to otherwise applicable network limitations, for  
19 appropriate emergency medical screening examina-  
20 tions (within the capability of the emergency facility,  
21 including ancillary services routinely available to the  
22 emergency facility) to the extent that a prudent  
23 layperson, who possesses an average knowledge of  
24 health and medicine, would determine such examina-  
25 tions to be necessary in order to determine whether  
26 emergency medical care is required; and

1           “(2) the plan or issuer shall provide benefits for  
2           additional emergency medical services following an  
3           emergency medical screening examination (if deter-  
4           mined necessary under paragraph (1)) to the extent  
5           that a prudent emergency medical professional  
6           would determine such additional emergency services  
7           to be necessary to avoid the consequences described  
8           in subsection (c).

9           “(b) UNIFORM COST-SHARING REQUIRED.—Nothing  
10          in this section shall be construed as preventing a group  
11          health plan or issuer from imposing any form of cost-shar-  
12          ing applicable to any participant or beneficiary (including  
13          coinsurance, copayments, deductibles, and any other  
14          charges) in relation to benefits described in subsection (a),  
15          if such form of cost-sharing is uniformly applied under  
16          such plan, with respect to similarly situated participants  
17          and beneficiaries, to all benefits consisting of emergency  
18          medical care provided to such similarly situated partici-  
19          pants and beneficiaries under the plan.

20          “(c) EMERGENCY MEDICAL CARE.—For purposes of  
21          this section, the term ‘emergency medical care’ means  
22          medical care in any case in which an appropriate physician  
23          has certified in writing (or as otherwise provided in regula-  
24          tions of the Secretary)—

1           “(1) that failure to immediately provide the  
2           care to the participant or beneficiary could reason-  
3           ably be expected to result in—

4                   “(A) placing the health of such participant  
5                   or beneficiary (or, with respect to such a partic-  
6                   ipant or beneficiary who is a pregnant woman,  
7                   the health of the woman or her unborn child)  
8                   in serious jeopardy;

9                   “(B) serious impairment to bodily func-  
10                  tions; or

11                  “(C) serious dysfunction of any bodily  
12                  organ or part; or

13           “(2) that immediate provision of the care is  
14           necessary because the participant or beneficiary has  
15           made or is at serious risk of making an attempt to  
16           harm himself or herself or another individual.”.

17           (b) CONFORMING AMENDMENT.—The table of con-  
18           tents in section 1 of such Act is amended by adding at  
19           the end of the items relating to subpart B of part 7 of  
20           subtitle B of title I of such Act the following new item:

          “Sec. 714. Patient access to emergency medical care.”.

21   **SEC. 3. EFFECTIVE DATE AND RELATED RULES.**

22           (a) IN GENERAL.—The amendments made by this  
23           Act shall apply with respect to plan years beginning on  
24           or after January 1 of the second calendar year following  
25           the date of the enactment of this Act, except that the Sec-

1 retary of Labor may issue regulations before such date  
2 under such amendments. The Secretary shall first issue  
3 regulations necessary to carry out the amendments made  
4 by this Act before the effective date thereof.

5 (b) LIMITATION ON ENFORCEMENT ACTIONS.—No  
6 enforcement action shall be taken, pursuant to the amend-  
7 ments made by this Act, against a group health plan or  
8 health insurance issuer with respect to a violation of a re-  
9 quirement imposed by such amendments before the date  
10 of issuance of regulations issued in connection with such  
11 requirement, if the plan or issuer has sought to comply  
12 in good faith with such requirement.

13 (c) SPECIAL RULE FOR COLLECTIVE BARGAINING  
14 AGREEMENTS.—In the case of a group health plan main-  
15 tained pursuant to one or more collective bargaining  
16 agreements between employee representatives and one or  
17 more employers ratified before the date of the enactment  
18 of this Act, the amendments made by this Act shall not  
19 apply with respect to plan years beginning before the later  
20 of—

21 (1) the date on which the last of the collective  
22 bargaining agreements relating to the plan termi-  
23 nates (determined without regard to any extension  
24 thereof agreed to after the date of the enactment of  
25 this Act); or

1                   (2) January 1, 2002.

2 For purposes of this subsection, any plan amendment  
3 made pursuant to a collective bargaining agreement relat-  
4 ing to the plan which amends the plan solely to conform  
5 to any requirement added by this Act shall not be treated  
6 as a termination of such collective bargaining agreement.