

Background: On March 13, 2008 the Prosthetic Parity Act was introduced into the 110th Congress of the United States of America as House Resolution 5615. The bill was authored by Representative Robert Andrews (D-NJ), with Representatives George Miller (D-CA), Todd Platts (R-PA), Mario Diaz-Balart (R-FL), and Lincoln Diaz-Balart (R-FL) signing on as original co-sponsors. Rep. Maxine Waters (D-CA) recently signed on as a co-sponsor.

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

SEC. 2. FINDINGS; PURPOSE.

- (a) Findings related to the incident and prevalence of amputation.
Information about the need for legislation to provide meaningful coverage for prostheses.
- (b) The purpose of the bill which is to require that group health plans or health insurance coverage offered in connection with such a plan that provide coverage for prosthetic and medical and surgical benefits will provide prosthetic coverage under terms and conditions that are no less favorable than the terms and conditions for the medical and surgical benefits. This is the strictest definition of "prosthetic parity" --- no special provisions.

SEC. 3. PROSTHETICS PARITY UNDER ERISA.

The Employee Retirement Income Security Act of 1974 will be amended to include the following provisions:

SEC. 714. PROSTHETICS PARITY.

(a) Any group health plan or health insurance coverage offered in connection with such a plan that provides both medical and surgical benefits and benefits for prosthetic devices and components must uphold the following:

- (1) prosthetic benefits 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
- (2) prosthetic benefits may not be subject to separate financial requirements that are applicable only with respect to such benefits. Any financial requirements applicable to such prosthetic benefits may be no more restrictive than the financial requirements applicable to the plan's medical and surgical benefits.
- (3) any treatment limitations applicable to prosthetic benefits may not be more restrictive than the treatment limitations applicable to substantially all medical and surgical benefits provided under the plan.

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

- (1) The requirements of this section shall apply separately with respect to benefits provided 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- Group health plans are not required to 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- Group health plans that require prior authorization as a condition of coverage or payment for prosthetic benefits must authorize coverage in the same manner as authorization is done for all similar benefits provided under the plan.
- (2) LIMITATION ON MANDATED BENEFITS- Required benefits for prosthetic devices and components under this section are limited to the most appropriate model that adequately meets the medical requirements of the patient, as determined by the treating physician of the patient.

(3) COVERAGE FOR REPAIR OR REPLACEMENT- Coverage for repair or replacement of prosthetic devices and components is included if the repair or replacement is determined appropriate by the treating physician of the patient involved.

(4) ANNUAL OR LIFETIME DOLLAR LIMITATIONS- Group health plans may not impose any annual or lifetime dollar limitation on prosthetic benefits unless such limitation applies in the aggregate to all medical and surgical benefits provided under the plan and benefits for prosthetic devices and components.

(d) Definitions- For the purposes of this section:

(1) PROSTHETIC DEVICES AND COMPONENTS- 'Prosthetic devices and components' are defined in paragraphs (9) and (12) of section 1861(s) of the Social Security Act 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.'

(b) Clerical Amendment- The table of contents in section 1 of such Act is amended by inserting after the item relating to section 713 the following new item: Sec. 714. Prosthetics parity.

(c) Effective Date- The amendments made by this section shall apply for plan years beginning on or after the date of the enactment of this Act.

SEC. 4. FEDERAL ADMINISTRATIVE RESPONSIBILITIES.

(a) The Secretary of Labor shall provide assistance to participants and beneficiaries for any questions or problems regarding compliance with the requirements of the bill.

(b) The Secretary of Labor shall provide for the conduct of random audits of group health plans to ensure that such plans are in compliance with the bill.

(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 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 prosthetic 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- The report should be done within two years of the date of the enactment of this Acts and submitted to the appropriate committees of Congress.

(d) Regulations- The Secretary of Labor shall make the final regulations for this Act and the amendments of this Act no later than 1 year after the date of the enactment of this Act