

104TH CONGRESS
2D SESSION

H. R. 4052

To amend the Internal Revenue Code of 1986 to assure continued health insurance coverage of retired workers.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 11, 1996

Mr. KLECZKA (for himself and Mr. STARK) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committees on Economic and Educational Opportunities, and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Internal Revenue Code of 1986 to assure continued health insurance coverage of retired workers.

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 “Health Care Assurance
5 for Retired Employees Act of 1996”.

1 **SEC. 2. ADVANCE NOTICE OF MATERIAL REDUCTIONS IN**
2 **COVERED SERVICES UNDER GROUP HEALTH**
3 **PLANS.**

4 (a) ADVANCE NOTICE.—

5 (1) IN GENERAL.—Section 104(b)(1) of the
6 Employee Retirement Income Security Act of 1974
7 (as amended by section 101(c)(1)(B) of the Health
8 Insurance Portability and Accountability Act of
9 1996 (Public Law 104–191)) is amended—

10 (A) by redesignating subparagraphs (A)
11 and (B) as clauses (i) and (ii), respectively;

12 (B) by striking “(1) The administrator”
13 and inserting “(1)(A) The administrator”;

14 (C) by striking “The administrator” the
15 second place it appears and inserting the follow-
16 ing:

17 “(B) The administrator”;

18 (D) by striking “If there is a modification”
19 and inserting the following:

20 “(C) If there is a modification”; and

21 (E) by adding at the end the following new
22 subparagraph:

23 “(D) Notwithstanding subparagraph (C), a modifica-
24 tion or change described in section 102(a)(1) in covered
25 services or benefits provided in the case of a group health
26 plan (as defined in section 706(a)(1))) relating to retiree

1 health benefits, a summary description of such modifica-
2 tion or change shall be furnished to participants and bene-
3 ficiaries not later than 180 days before the effective date
4 of the modification or change. In any case in which an
5 individual first becomes a participant under a group
6 health plan during any such 180-day period with respect
7 to such a modification or change or (in the case of any
8 other beneficiary under the plan) first receives benefits
9 under the plan during such 180-day period, the require-
10 ments of the preceding sentence may be met by providing
11 the summary description of such modification or change
12 not later than the date on which such individual first be-
13 comes a participant or such other beneficiary first receives
14 benefits under the plan.”.

15 (2) DETERMINATION BY SECRETARY.—Section
16 104 of the Employee Retirement Income Security
17 Act of 1974 (29 U.S.C. 1024) is further amended by
18 redesignating subsection (d) as subsection (e) and by
19 inserting after subsection (c) the following new sub-
20 section:

21 “(d) A change or modification in covered services or
22 benefits provided in the case of a group health plan relat-
23 ing to retiree health benefits that is subject to the require-
24 ments of subsection (b)(1)(D) may not take effect until
25 after the Secretary determines that such change or modi-

1 fication does not violate the plan, including collective bar-
 2 gaining agreements.”.

3 (3) ADVANCE NOTICE TO SECRETARY.—Section
 4 104(a)(1)(D) of the Employee Retirement Income
 5 Security Act of 1974 (29 U.S.C. 1024(a)(1)(D)) is
 6 amended by inserting before the period the follow-
 7 ing: “, or in the case of any such modifications and
 8 changes in covered services or benefits provided in
 9 the case of a group health plan relating to retiree
 10 health benefits, not later than 180 days before the
 11 effective date of such modification or change.”.

12 (4) CIVIL PENALTY.—Section 502(c)(1) of such
 13 Act (29 U.S.C. 1132(c)(1)) is amended by striking
 14 “or section 101(e)(1)” and inserting “, section
 15 101(e)(1), or section 104(b)(1)(D)”.

16 (b) ENFORCEMENT.—

17 (1) REQUIREMENTS.—Section 4980B of the In-
 18 ternal Revenue Code of 1986 is amended by redesignig-
 19 nating subsection (g) as subsection (h) and by in-
 20 serting after subsection (f) the following new sub-
 21 section:

22 “(g) NOTICE OF CHANGE OR MODIFICATION IN
 23 HEALTH BENEFITS.—

24 “(1) IN GENERAL.—A group health plan meets
 25 the requirements of this subsection if—

1 “(A) the plan sponsor complies with sec-
2 tion 104(b)(1)(D) of the Employee Retirement
3 Income Security Act of 1974 (relating to pro-
4 viding advance notice of modification or change
5 in retiree health benefits provided under a
6 group health plan); and

7 “(B) such modification or change in retiree
8 health benefits in a group health plan takes ef-
9 fect after the Secretary of Labor makes the de-
10 termination required by section 104(d) of such
11 Act that such change or modification does not
12 violate the plan, including collective bargaining
13 agreements.

14 “(2) NONCOMPLIANCE PERIOD.—For the pur-
15 poses of subsection (b), the noncompliance period
16 with respect to this subsection shall be determined
17 without regard to paragraph (2)(B)(ii) of subsection
18 (b).”.

19 (2) CONFORMING AMENDMENTS.—

20 (A) Subsection (a) of section 4980B of
21 such Code is amended by striking “subsection
22 (f)” and inserting “subsections (f) and (g)”.

23 (B) Clause (iv)(II) of section
24 4980B(f)(2)(B) of such Code is amended by

1 striking “subsection (g)(1)(D)” and inserting
 2 “subsection (h)(1)(D)”.

3 (c) EFFECTIVE DATE.—The amendments made by
 4 this section shall apply with respect to plan years ending
 5 after August 1, 1996.

6 **SEC. 3. CONTINUATION OF COVERAGE FOR PERSONS 55**
 7 **AND OLDER UNTIL ELIGIBLE FOR MEDICARE.**

8 (a) IN GENERAL.—Section 4980B(f)(2) of the Inter-
 9 nal Revenue Code of 1986 is amended by adding at the
 10 end the following:

11 “(F) COVERAGE FOR PERSONS 55 AND
 12 OLDER UNTIL ELIGIBLE FOR MEDICARE.—In
 13 the case of a covered employee who has attained
 14 the age of 55 before a qualifying event de-
 15 scribed in paragraph (3)(B)—

16 “(i) in no event shall the period of
 17 continued coverage under subparagraph
 18 (B)(i) with respect to such event end be-
 19 fore the applicable date under subpara-
 20 graph (B)(iv), and

21 “(ii) the premium requirements for
 22 any period of continuation of coverage sole-
 23 ly be reason of clause (i) shall be deter-
 24 mined by substituting ‘110 percent’ for
 25 ‘102 percent’ in subparagraph (C)(i), un-

1 less the last sentence of subparagraph (C)
2 otherwise applies.”.

3 (b) **EFFECTIVE DATE.**—The amendments made by
4 this section shall apply with respect to plan years ending
5 after August 1, 1996.

6 **SEC. 4. PROTECTIONS UNDER THE MEDICARE PROGRAM**
7 **FOR RETIRED WORKERS WHO LOSE RETIREE**
8 **HEALTH BENEFITS.**

9 (a) **NO PREMIUM PENALTY FOR LATE ENROLL-**
10 **MENT.**—The second sentence of section 1839(b) of the So-
11 cial Security Act (42 U.S.C. 1395r(b)) is amended by in-
12 serting “and not pursuant to a special enrollment period
13 under section 1837(i)(4)” after “section 1837”.

14 (b) **SPECIAL MEDICARE ENROLLMENT PERIOD.**—

15 (1) **IN GENERAL.**—Section 1837(i) of such Act
16 (42 U.S.C. 1395p(i)) is amended by adding at the
17 end the following new paragraph:

18 “(4)(A) In the case of an individual who—

19 “(i) at the time the individual first satisfies
20 paragraph (1) or (2) of section 1836—

21 “(I) is enrolled in a group health plan de-
22 scribed in section 1862(b)(1)(A)(v) by reason of
23 the individual’s (or the individual’s spouse’s)
24 current employment or otherwise, and

1 “(II) has elected not to enroll (or to be
2 deemed enrolled) under this section during the
3 individual’s initial enrollment period; and

4 “(ii) whose continuous enrollment under such
5 group health plan is involuntarily terminated at a
6 time when the enrollment under the plan is not by
7 reason of the individual’s (or the individual’s
8 spouse’s) current employment,

9 there shall be a special enrollment period described in sub-
10 paragraph (B).

11 “(B) The special enrollment period referred to in sub-
12 paragraph (A) is the 6-month period beginning on the date
13 of the enrollment termination described in subparagraph
14 (A)(ii).”.

15 (2) COVERAGE PERIOD.—Section 1838(e) of
16 such Act (42 U.S.C. 1395q(e)) is amended—

17 (A) by inserting “or 1837(i)(4)(B)” after
18 “1837(i)(3)” the first place it appears, and

19 (B) by inserting “or specified in section
20 1837(i)(4)(A)(i)” after “1837(i)(3)” the second
21 place it appears”.

22 (c) PROVIDING FOR MEDIGAP OPEN ENROLLMENT
23 PERIOD.—Section 1882(s)(2)(A) of such Act (42 U.S.C.
24 1395ss(s)(2)(A)) is amended—

25 (1) by inserting “(i)” after “during”, and

1 (2) by inserting before the period at the end the
2 following: “or (ii) in the case of an individual who
3 enrolls in part B pursuant to a special enrollment
4 period provided under section 1837(i)(4), the 6-
5 month period beginning with the first month as of
6 the first day of which the individual is enrolled
7 under part B pursuant to such enrollment”.

8 (d) EFFECTIVE DATE.—

9 (1) IN GENERAL.—Subject to paragraph (2),
10 the amendments made by this section shall take ef-
11 fect on the date of the enactment of this Act and
12 apply to involuntary terminations of coverage under
13 a group health plan occurring on or after August 1,
14 1996.

15 (2) TRANSITION.—In the case of an involuntary
16 termination of coverage under a group health plan
17 that occurred during the period beginning on August
18 1, 1996, and ending on the date of the enactment
19 of this Act, the special enrollment period under sec-
20 tion 1837(i)(4)(B) of the Social Security Act (as
21 amended by subsection (b)) is deemed to begin as of
22 the date of the enactment of this Act.

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