

105TH CONGRESS
1ST SESSION

H. R. 177

To direct the Secretary of Health and Human Services to establish a schedule of preventive health care services and to provide for coverage of such services in accordance with such schedule under private health insurance plans and health benefit programs of the Federal Government, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 7, 1997

Mr. GILMAN introduced the following bill; which was referred to the Committee on Commerce, and in addition to the Committees on Ways and Means, Government Reform and Oversight, Veterans' Affairs, and National Security, 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 direct the Secretary of Health and Human Services to establish a schedule of preventive health care services and to provide for coverage of such services in accordance with such schedule under private health insurance plans and health benefit programs of the Federal Government, and for other purposes.

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 “Comprehensive Preven-
3 tive Health and Promotion Act of 1997”.

4 **SEC. 2. ESTABLISHMENT OF SCHEDULE OF PREVENTIVE**
5 **HEALTH CARE SERVICES.**

6 (a) INITIAL SCHEDULE.—

7 (1) PROPOSED SCHEDULE.—Not later than 6
8 months after the date of the enactment of this Act,
9 the Secretary of Health and Human Services, in
10 consultation with representatives of individuals de-
11 scribed in subsection (d), shall establish a proposed
12 initial schedule of recommended preventive health
13 care services. In accordance with section 553 of title
14 5, United States Code, the Secretary shall publish
15 such proposed schedule in the Federal Register and
16 provide for a 90-day period for receiving public com-
17 ment on the schedule.

18 (2) FINAL SCHEDULE.—The proposed schedule
19 of recommended preventive health care services es-
20 tablished under paragraph (1) shall become effective
21 for the first calendar year that begins 90 or more
22 days after the expiration of the period for receiving
23 public comment described in paragraph (1).

24 (b) ANNUAL ADJUSTMENT.—Not later than October
25 1 of every year (beginning with the first year for which
26 the schedule established under subsection (a) is in effect),

1 the Secretary, in consultation with representatives of indi-
2 viduals described in subsection (d) and in accordance with
3 section 553 of title 5, United States Code, may revise the
4 schedule of preventive health care services established
5 under this section for the following calendar year.

6 (c) USE OF SOURCES FOR ESTABLISHING SCHED-
7 ULE.—In establishing the initial schedule of recommended
8 preventive health care services under subsection (a) and
9 in revising the schedule for subsequent years under sub-
10 section (b), the Secretary shall take into consideration the
11 recommendations for preventive health care services con-
12 tained in the Guide to Clinical Preventive Services pre-
13 sented to the Department of Health and Human Services
14 by the United States Preventive Services Task Force and
15 the Year 2000 Health Objectives of the United States
16 Public Health Service.

17 (d) INDIVIDUALS SERVING AS CONSULTANTS.—The
18 individuals described in this subsection are as follows:

- 19 (1) Hospital administrators.
- 20 (2) Administrators of health benefit plans.
- 21 (3) General practice physicians.
- 22 (4) Mental health practitioners.
- 23 (5) Pediatricians.
- 24 (6) Chiropractors.

1 (7) Physicians practicing in medical specialty
2 areas.

3 (8) Nutritionists.

4 (9) Nurses.

5 (10) Experts in scientific research.

6 (11) Dentists.

7 (12) Representatives of manufacturers of pre-
8 scription drugs.

9 (13) Health educators.

10 **SEC. 3. APPLICATION TO INDIVIDUALS ENROLLED IN PRI-**
11 **VATE HEALTH INSURANCE PLANS.**

12 (a) REQUIREMENT FOR CARRIERS AND PLANS.—

13 (1) IN GENERAL.—Each carrier and employer
14 health benefit plan shall include in the services cov-
15 ered for each individual enrolled with the carrier or
16 plan the preventive health care services applicable to
17 the individual under the schedule of preventive
18 health care services established under section 2.

19 (2) DEFINITIONS.—In this section:

20 (A) The term “carrier” means any entity
21 which provides health insurance or health bene-
22 fits in a State, and includes a licensed insur-
23 ance company, a prepaid hospital or medical
24 service plan, a health maintenance organization,
25 the plan sponsor of a multiple employer welfare

1 arrangement or an employee benefit plan (as
2 defined under the Employee Retirement Income
3 Security Act of 1974), or any other entity pro-
4 viding a plan of health insurance subject to
5 State insurance regulation, but such term does
6 not include for purposes of section 103 an en-
7 tity that provides health insurance or health
8 benefits under a multiple employer welfare ar-
9 rangement.

10 (B)(i) Subject to clause (ii), the term “em-
11 ployer health benefit plan” means a health ben-
12 efit plan (including an employee welfare benefit
13 plan, as defined in section 3(1) of the Employee
14 Retirement Income Security Act of 1974) which
15 is offered to employees through an employer
16 and for which the employer provides for any
17 contribution to such plan or any premium for
18 such plan are deducted by the employer from
19 compensation to the employee.

20 (ii) A State may provide (for a plan in a
21 State) that the term “employer health benefit
22 plan” does not include an association plan (as
23 defined in clause (iii)).

24 (iii) For purposes of clause (ii), the term
25 “association plan” means a health benefit plan

1 offered by an organization to its members if the
2 organization was formed other than for pur-
3 poses of purchasing insurance.

4 (C) The term “full-time employee” means,
5 with respect to an employer, an individual who
6 normally is employed for at least 30 hours per
7 week by the employer.

8 (D) The term “health benefit plan” means
9 any hospital or medical expense incurred policy
10 or certificate, hospital or medical service plan
11 contract, or health maintenance subscriber con-
12 tract, or a multiple employer welfare arrange-
13 ment or employee benefit plan (as defined
14 under the Employee Retirement Income Secu-
15 rity Act of 1974) which provides benefits with
16 respect to health care services, but does not in-
17 clude—

18 (i) coverage only for accident, dental,
19 vision, disability income, or long-term care
20 insurance, or any combination thereof,

21 (ii) medicare supplemental health in-
22 surance,

23 (iii) coverage issued as a supplement
24 to liability insurance,

1 (iv) worker's compensation or similar
2 insurance, or
3 (v) automobile medical-payment insur-
4 ance,
5 or any combination thereof.

6 (E) The term "small employer carrier"
7 means a carrier with respect to the issuance of
8 an employer health benefit plan which provides
9 coverage to one or more full-time employees of
10 an entity actively engaged in business which, on
11 at least 50 percent of its working days during
12 the preceding year, employed at least 2, but
13 fewer than 36, full-time employees. For pur-
14 poses of determining if an employer is a small
15 employer, rules similar to the rules of sub-
16 section (b) and (c) of section 414 of the Inter-
17 nal Revenue Code of 1986 shall apply.

18 (b) ENFORCEMENT THROUGH EXCISE TAX.—

19 (1) IN GENERAL.—Chapter 43 of the Internal
20 Revenue Code of 1986 (relating to qualified pension,
21 etc., plans) is amended by adding at the end thereof
22 the following new section:

1 **“SEC. 4980C. FAILURE TO COMPLY WITH EMPLOYER**
2 **HEALTH BENEFIT PLAN STANDARDS RE-**
3 **GARDING PREVENTIVE HEALTH CARE.**

4 “(a) IMPOSITION OF TAX.—

5 “(1) IN GENERAL.—There is hereby imposed a
6 tax on the failure of a carrier or an employer health
7 benefit plan to comply with section 3(a)(1) of the
8 Comprehensive Preventive Health and Promotion
9 Act of 199 .

10 “(2) EXCEPTION.—Paragraph (1) shall not
11 apply to a failure by a small employer carrier or
12 plan in a State if the Secretary of Health and
13 Human Services determines that the State has in ef-
14 fect a regulatory enforcement mechanism that pro-
15 vides adequate sanctions with respect to such a fail-
16 ure by such a carrier or of such a plan.

17 “(b) AMOUNT OF TAX.—

18 “(1) IN GENERAL.—Subject to paragraph (2),
19 the tax imposed by subsection (a) shall be an
20 amount not to exceed 25 percent of the amounts re-
21 ceived by the carrier or under the plan for coverage
22 during the period such failure persists.

23 “(2) LIMITATION IN CASE OF INDIVIDUAL FAIL-
24 URES.—In the case of a failure that only relates to
25 specified individuals or employers (and not to the
26 plan generally), the amount of the tax imposed by

1 subsection (a) shall not exceed the aggregate of
2 \$100 for each day during which such failure persists
3 for each individual to which such failure relates. A
4 rule similar to the rule of section 4980B(b)(3) shall
5 apply for purposes of this section.

6 “(c) LIABILITY FOR TAX.—The tax imposed by this
7 section shall be paid by the carrier.

8 “(d) EXCEPTIONS.—

9 “(1) CORRECTIONS WITHIN 30 DAYS.—No tax
10 shall be imposed by subsection (a) by reason of any
11 failure if—

12 “(A) such failure was due to reasonable
13 cause and not to willful neglect, and

14 “(B) such failure is corrected within the
15 30-day period beginning on earliest date the
16 carrier knew, or exercising reasonable diligence
17 would have known, that such failure existed.

18 “(2) WAIVER BY SECRETARY.—In the case of a
19 failure which is due to reasonable cause and not to
20 willful neglect, the Secretary may waive part or all
21 of the tax imposed by subsection (a) to the extent
22 that payment of such tax would be excessive relative
23 to the failure involved.

24 “(e) DEFINITIONS.—For purposes of this section, the
25 terms ‘carrier’, ‘employer health benefit plan’, and ‘small

1 employer carrier' have the respective meanings given such
 2 terms in section 3(a)(2) of the Comprehensive Preventive
 3 Health and Promotion Act of 1995.”

4 (2) CLERICAL AMENDMENT.—The table of sec-
 5 tions for chapter 43 of such Code is amended by
 6 adding at the end thereof the following new items:

“Sec. 4980C. Failure to comply with employer health plan stand-
 ards regarding preventive health care.”.

7 (3) EFFECTIVE DATE.—The amendments made
 8 by this subsection shall apply to plan years begin-
 9 ning after December 31, 1995.

10 **SEC. 4. COVERAGE OF PREVENTIVE HEALTH CARE SERV-**
 11 **ICES UNDER MEDICARE.**

12 (a) IN GENERAL.—Section 1861(s)(2) of the Social
 13 Security Act (42 U.S.C. 1395x(s)(2)) is amended—

14 (1) by striking “and” at the end of subpara-
 15 graph (O);

16 (2) by striking the semicolon at the end of sub-
 17 paragraph (P) and inserting “; and”; and

18 (3) by adding at the end the following new sub-
 19 paragraph:

20 “(Q) in the case of an individual, services appli-
 21 cable to the individual under the schedule of preven-
 22 tive health care services established under the Com-
 23 prehensive Preventive Health and Promotion Act of
 24 1993 (to the extent such services are not otherwise

1 covered with respect to the individual under this
2 title);”.

3 (b) CONFORMING AMENDMENTS.—Section 1862(a)
4 of such Act (42 U.S.C. 1395y(a)) is amended—

5 (1) in paragraph (1)—

6 (A) in subparagraph (E), by striking
7 “and” at the end,

8 (B) in subparagraph (F), by striking the
9 semicolon at the end and inserting “, and”, and

10 (C) by adding at the end the following new
11 subparagraph:

12 “(G) in the case of items or services described
13 in section 1861(s)(2)(Q), which are not provided in
14 accordance with the schedule of preventive health
15 care services established under the Comprehensive
16 Preventive Health and Promotion Act of 1995;”;
17 and

18 (2) in paragraph (7), by striking “paragraph
19 (1)(B) or under paragraph (1)(F)” and inserting
20 “subparagraphs (B), (F), or (G) of paragraph (1)”.

21 (c) EFFECTIVE DATE.—The amendments made by
22 this section shall apply to services furnished on or after
23 January 1, 1995.

24 **SEC. 5. COVERAGE UNDER STATE MEDICAID PLANS.**

25 (a) IN GENERAL.—

1 (1) INCLUSION IN MEDICAL ASSISTANCE.—Sec-
2 tion 1905(a) of the Social Security Act (42 U.S.C.
3 1396d(a)) is amended—

4 (A) by striking “and” at the end of para-
5 graph (21);

6 (B) in paragraph (24), by striking the
7 comma at the end and inserting a semicolon;

8 (C) by redesignating paragraphs (22),
9 (23), and (24) as paragraphs (25), (22), and
10 (23), respectively, and by transferring and in-
11 serting paragraph (25) after paragraph (23), as
12 so redesignated; and

13 (D) by inserting after paragraph (23) the
14 following new paragraph:

15 “(24) services applicable to the individual under
16 the schedule of preventive health care services estab-
17 lished under the Comprehensive Preventive Health
18 and Promotion Act of 1995 (to the extent such serv-
19 ices are not otherwise covered with respect to the in-
20 dividual under the State plan under this title); and”.

21 (2) COVERAGE MADE MANDATORY.—(A) Sec-
22 tion 1902(a)(10)(A) of such Act (42 U.S.C.
23 1396a(a)(10)(A)) is amended by striking “(17) and
24 (21)” and inserting “(17), (21), and (24)”.

1 (B) Section 1902(a)(10)(C)(iv) of such Act (42
2 U.S.C. 1396a(a)(10)(C)(iv)) is amended—

3 (i) by striking “(5) and (17)” and insert-
4 ing “(5), (17), and (24)”; and

5 (ii) by striking “through (21)” and insert-
6 ing “through (24)”.

7 (C) Section 1902(j) of such Act (42 U.S.C.
8 1396a(j)) is amended by striking “through (22)”
9 and inserting “through (24)”.

10 (b) EFFECTIVE DATE.—(1) Except as provided in
11 paragraph (2), the amendments made by subsection (a)
12 shall apply to calendar quarters beginning on or after Jan-
13 uary 1, 1994, without regard to whether or not final regu-
14 lations to carry out such amendments have been promul-
15 gated by such date.

16 (2) In the case of a State plan for medical assistance
17 under title XIX of the Social Security Act which the Sec-
18 retary of Health and Human Services determines requires
19 State legislation (other than legislation appropriating
20 funds) in order for the plan to meet the additional require-
21 ments imposed by the amendments made by subsections
22 (a) and (b), the State plan shall not be regarded as failing
23 to comply with the requirements of such title solely on the
24 basis of its failure to meet these additional requirements
25 before the first day of the first calendar quarter beginning

1 after the close of the first regular session of the State leg-
2 islature that begins after the date of the enactment of this
3 Act. For purposes of the previous sentence, in the case
4 of a State that has a 2-year legislative session, each year
5 of such session shall be deemed to be a separate regular
6 session of the State legislature.

7 **SEC. 6. COVERAGE OF PREVENTIVE HEALTH CARE SERV-**
8 **ICES FOR VETERANS.**

9 (a) IN GENERAL.—Section 1701(6) of title 38,
10 United States Code is amended—

11 (1) by striking “and” at the end of subpara-
12 graph (A);

13 (2) by striking the period at the end of sub-
14 paragraph (B) and inserting “; and”; and

15 (3) by adding at the end the following new sub-
16 paragraph:

17 “(C) with respect to any veteran, any preventive
18 care services applicable under the schedule of pre-
19 ventive health care services established under the
20 Comprehensive Preventive Health and Promotion
21 Act of 1995, to the extent such services are not oth-
22 erwise treated as medical services under this para-
23 graph.”.

24 (b) PROVIDING SERVICES IN OUTPATIENT SET-
25 TING.—Section 1712(a)(5)(A) of such title is amended—

1 individual under the schedule of preventive
2 health care services established under the Com-
3 prehensive Preventive Health and Promotion
4 Act of 1995.”.

5 (b) EFFECTIVE DATE.—The amendments made by
6 subsection (a) shall apply with respect to services fur-
7 nished on or after January 1, 1995.

8 **SEC. 8. COVERAGE OF PREVENTIVE HEALTH CARE SERV-**
9 **ICES FOR DEPENDENTS OF MEMBERS OF THE**
10 **UNIFORMED SERVICES.**

11 (a) PREVENTIVE HEALTH CARE SERVICES IN-
12 CLUDED IN AUTHORIZED CARE.—Section 1077(a) of title
13 10, United States Code, is amended by adding at the end
14 the following new paragraph:

15 “(13) Any preventive care services applicable
16 under the schedule of preventive health care services
17 established under the Comprehensive Preventive
18 Health and Promotion Act of 1995, to the extent
19 such services are not otherwise authorized as health
20 care services under this subsection.”.

21 (b) EFFECTIVE DATE.—Paragraph (13) of section
22 1077(a) of title 10, United States Code (as added by sub-
23 section (a)), shall apply with respect to health care serv-
24 ices furnished on or after January 1, 1995, to dependents

1 of members or former members of the uniformed services
2 authorized to receive such services.

3 **SEC. 9. PREVENTIVE HEALTH CARE DEMONSTRATION**
4 **PROJECT.**

5 (a) ESTABLISHMENT.—There is hereby established a
6 demonstration project to demonstrate the effectiveness in
7 providing preventive health care services in improving the
8 health of individuals and reducing the aggregate costs of
9 providing health care, under which the Secretary of Health
10 and Human Services shall—

11 (1) make grants over a 5-year period to 50 eli-
12 gible counties to assist the counties in providing pre-
13 ventive health care services (in accordance with sub-
14 section (b)) to individuals who would otherwise be
15 unable to pay (or have payment made on their be-
16 half) for such services;

17 (2) conduct the study described in subsection
18 (c); and

19 (3) carry out the educational program described
20 in subsection (d).

21 (b) GRANTS TO COUNTIES.—

22 (1) SERVICES DESCRIBED.—A county receiving
23 a grant under subsection (a)(1) shall provide preven-
24 tive health care services to individuals at clinics in
25 accordance with the schedule of preventive health

1 care services established under the Comprehensive
2 Preventive Health and Promotion Act of 1995, ex-
3 cept that—

4 (A) the county may furnish services to in-
5 dividuals residing in rural areas at locations
6 other than clinics if no clinics that are able to
7 provide such services are located in the area;
8 and

9 (B) the Secretary may revise the schedule
10 of services otherwise required to be provided to
11 take into account the special needs of a partici-
12 pating county.

13 (2) ELIGIBILITY OF COUNTIES.—A county is el-
14 igible to receive a grant under subsection (a)(1) if
15 it submits to the Secretary, at such time and in such
16 form as the Secretary may require, an application
17 containing such information and assurances as the
18 Secretary may require.

19 (3) GEOGRAPHIC BALANCE AMONG COUNTIES
20 SELECTED.—In selecting counties to receive grants
21 under subsection (a)(1), the Secretary shall consider
22 the need to select counties representing urban, rural,
23 and suburban areas and counties representing var-
24 ious geographic regions of the United States.

1 (c) STUDY OF STATE PREVENTIVE CARE REQUIRE-
2 MENTS.—

3 (1) STUDY.—The Secretary shall conduct a
4 study of the requirements regarding preventive
5 health care services that are imposed by each State
6 on health benefit plans offered to individuals resid-
7 ing in the State.

8 (2) REPORT.—Not later than 1 year after the
9 date of the enactment of this Act, the Secretary
10 shall submit a report to Congress on the study con-
11 ducted under paragraph (1).

12 (d) DISSEMINATION OF INFORMATION ON PREVEN-
13 TIVE HEALTH CARE.—Not later than 2 years after the
14 date of the enactment of this Act, the Secretary, in con-
15 sultation with experts in preventive medicine and rep-
16 resentatives of providers of health care services, shall pub-
17 lish and disseminate information on the benefits of prac-
18 ticing preventive health care, the importance of under-
19 going periodic health examinations, and the need to estab-
20 lish and maintain a family medical history to businesses,
21 providers of health care services, and other appropriate
22 groups and individuals.

23 (e) STATE DEFINED.—In this section, the term
24 “State” means each of the 50 States and the District of
25 Columbia.

1 **SEC. 10. PROGRAMS TO ESTABLISH ON-SITE WORKSHOPS**
2 **ON HEALTH PROMOTION.**

3 (a) GRANTS TO BUSINESSES.—

4 (1) IN GENERAL.—The Secretary of Health and
5 Human Services shall establish a program under
6 which the Secretary shall make grants over a 5-year
7 period to 300 eligible employers to establish and
8 conduct on-site workshops on health care promotion
9 for employees.

10 (2) ELIGIBILITY.—An employer is eligible to re-
11 ceive a grant under paragraph (1) if the employer
12 submits an application (at such time and in such
13 form as the Secretary may require) containing such
14 information and assurances as the Secretary may re-
15 quire, including assurances that the employer shall
16 use funds received under the grant only to provide
17 services that the employer does not otherwise pro-
18 vide (either directly or through a carrier) to its em-
19 ployees.

20 (3) INFORMATION AND SERVICES PROVIDED.—

21 On-site workshops on health care promotion con-
22 ducted with grants received under paragraph (1)
23 shall include the presentation of such information
24 and the provision of such services as the Secretary
25 considers appropriate, including counseling on nutri-
26 tion and weight management, clinical sessions on

1 avoiding back injury, programs on smoking ces-
2 sation, and information on stress management.

3 (b) ESTABLISHMENT OF PROGRAMS FOR FEDERAL
4 EMPLOYEES.—The Secretary of Labor shall establish a
5 program under which the Secretary shall conduct on-site
6 workshops on health care promotion for employees of the
7 Federal Government, and shall include in such workshops
8 the presentation of such information and the provision of
9 such services as the Secretary (in consultation with the
10 Secretary of Health and Human Services) considers ap-
11 propriate, including counseling on nutrition and weight
12 management, clinical sessions on avoiding back injury,
13 programs on smoking cessation, and information on stress
14 management.

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