

106TH CONGRESS  
1ST SESSION

# S. 697

To ensure that a woman can designate an obstetrician or gynecologist as her primary care provider.

---

IN THE SENATE OF THE UNITED STATES

MARCH 24, 1999

Mrs. BOXER (for herself and Ms. SNOWE) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

---

## A BILL

To ensure that a woman can designate an obstetrician or gynecologist as her primary care provider.

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 “Women’s Access to  
5 Care Act”.

6 **SEC. 2. AMENDMENTS TO THE EMPLOYEE RETIREMENT IN-**  
7 **COME SECURITY ACT OF 1974.**

8 (a) IN GENERAL.—Subpart B of part 7 of subtitle  
9 B of title I of the Employee Retirement Income Security  
10 Act of 1974 (29 U.S.C. 1185 et seq.), as amended by the

1 Omnibus Consolidated and Emergency Supplemental Ap-  
2 propriations Act, 1999 (Public Law 105–277), is amended  
3 by adding at the end the following:

4 **“SEC. 714. ACCESS TO OBSTETRICAL AND GYNECOLOGICAL**  
5 **CARE.**

6 “(a) IN GENERAL.—If a group health plan, or a  
7 health insurance issuer in connection with the provision  
8 of health insurance coverage, requires or provides for a  
9 participant or beneficiary to designate a participating pri-  
10 mary care provider—

11 “(1) the plan or issuer shall permit such an in-  
12 dividual who is a female to designate a participating  
13 physician who specializes in obstetrics and gyne-  
14 cology as the individual’s primary care provider in  
15 lieu of or in addition to the designation by such indi-  
16 vidual of a provider who does not specialize in ob-  
17 stetrics and gynecology as the primary care provider;  
18 and

19 “(2) if such an individual has not designated a  
20 physician who specializes in obstetrics or gynecology  
21 as a primary care provider, the plan or issuer—

22 “(A) may not require authorization or a  
23 referral by the individual’s primary care pro-  
24 vider or otherwise for coverage of routine gyne-  
25 cological care (such as preventive women’s

1 health examinations) and pregnancy-related  
 2 services provided by a participating health care  
 3 professional who specializes in obstetrics and  
 4 gynecology to the extent such care is otherwise  
 5 covered, and

6 “(B) may treat the ordering of other gyne-  
 7 cological care by such a participating health  
 8 professional as the authorization of the primary  
 9 care provider with respect to such care under  
 10 the plan or coverage.

11 “(b) CONSTRUCTION.—Nothing in subsection  
 12 (a)(2)(B) shall waive any requirements of coverage relat-  
 13 ing to medical necessity or appropriateness with respect  
 14 to coverage of gynecological care so ordered.”.

15 (b) CLERICAL AMENDMENT.—The table of contents  
 16 in section 1 of the Employee Retirement Income Security  
 17 Act of 1974 (29 U.S.C. 1001 note), as amended by the  
 18 Omnibus Consolidated and Emergency Supplemental Ap-  
 19 propriations Act, 1999 (Public Law 105–277), is amended  
 20 by inserting after the item relating to section 713 the fol-  
 21 lowing new item:

“Sec. 714. Access to obstetrical and gynecological care.”.

22 **SEC. 3. AMENDMENTS TO THE PUBLIC HEALTH SERVICE**

23 **ACT.**

24 (a) GROUP MARKET.—Subpart 2 of part A of title  
 25 XXVII of the Public Health Service Act (42 U.S.C.

1 300gg–4 et seq.), as amended by the Omnibus Consoli-  
2 dated and Emergency Supplemental Appropriations Act,  
3 1999 (Public Law 105–277), is amended by adding at the  
4 end the following new section:

5 **“SEC. 2707. ACCESS TO OBSTETRICAL AND GYNECO-**  
6 **LOGICAL CARE.**

7 “(a) IN GENERAL.—If a group health plan, or a  
8 health insurance issuer in connection with the provision  
9 of health insurance coverage, requires or provides for an  
10 enrollee to designate a participating primary care  
11 provider—

12 “(1) the plan or issuer shall permit such an in-  
13 dividual who is a female to designate a participating  
14 physician who specializes in obstetrics and gyne-  
15 cology as the individual’s primary care provider in  
16 lieu of or in addition to the designation by such indi-  
17 vidual of a provider who does not specialize in ob-  
18 stetrics and gynecology as the primary care provider;  
19 and

20 “(2) if such an individual has not designated a  
21 physician who specializes in obstetrics or gynecology  
22 as a primary care provider, the plan or issuer—

23 “(A) may not require authorization or a  
24 referral by the individual’s primary care pro-  
25 vider or otherwise for coverage of routine gyne-

1           cological care (such as preventive women’s  
2           health examinations) and pregnancy-related  
3           services provided by a participating health care  
4           professional who specializes in obstetrics and  
5           gynecology to the extent such care is otherwise  
6           covered, and

7                   “(B) may treat the ordering of other gyne-  
8           cological care by such a participating health  
9           professional as the authorization of the primary  
10          care provider with respect to such care under  
11          the plan or coverage.

12          “(b) CONSTRUCTION.—Nothing in subsection  
13 (a)(2)(B) shall waive any requirements of coverage relat-  
14 ing to medical necessity or appropriateness with respect  
15 to coverage of gynecological care so ordered.”.

16          (b) INDIVIDUAL MARKET.—The first subpart 3 of  
17 part B of title XXVII of the Public Health Service Act  
18 (42 U.S.C. 300gg–51 et seq.) (relating to other require-  
19 ments), as amended by the Omnibus Consolidated and  
20 Emergency Supplemental Appropriations Act, 1999 (Pub-  
21 lic Law 105–277) is amended—

22                   (1) by redesignating such subpart as subpart 2;

23          and

24                   (2) by adding at the end the following:

1 **“SEC. 2753. ACCESS TO OBSTETRICAL AND GYNECO-**  
 2 **LOGICAL CARE.**

3 “The provisions of section 2707 shall apply to health  
 4 insurance coverage offered by a health insurance issuer  
 5 in the individual market in the same manner as they apply  
 6 to health insurance coverage offered by a health insurance  
 7 issuer in connection with a group health plan in the small  
 8 or large group market.”.

9 **SEC. 4. AMENDMENTS TO THE INTERNAL REVENUE CODE**  
 10 **OF 1986.**

11 Subchapter B of chapter 100 of the Internal Revenue  
 12 Code of 1986 is amended—

13 (1) in the table of sections, by inserting after  
 14 the item relating to section 9812 the following new  
 15 item:

“Sec. 9813. Access to obstetrical and gynecological care.”; and

16 (2) by inserting after section 9812 the fol-  
 17 lowing:

18 **“SEC. 9813. ACCESS TO OBSTETRICAL AND GYNECO-**  
 19 **LOGICAL CARE.**

20 “(a) IN GENERAL.—If a group health plan, or a  
 21 health insurance issuer in connection with the provision  
 22 of health insurance coverage, requires or provides for a  
 23 participant or beneficiary to designate a participating pri-  
 24 mary care provider—

1           “(1) the plan or issuer shall permit such an in-  
2           dividual who is a female to designate a participating  
3           physician who specializes in obstetrics and gyne-  
4           cology as the individual’s primary care provider in  
5           lieu of or in addition to the designation by such indi-  
6           vidual of a provider who does not specialize in ob-  
7           stetrics and gynecology as the primary care provider;  
8           and

9           “(2) if such an individual has not designated a  
10          physician who specializes in obstetrics or gynecology  
11          as a primary care provider, the plan or issuer—

12                 “(A) may not require authorization or a  
13                 referral by the individual’s primary care pro-  
14                 vider or otherwise for coverage of routine gyne-  
15                 cological care (such as preventive women’s  
16                 health examinations) and pregnancy-related  
17                 services provided by a participating health care  
18                 professional who specializes in obstetrics and  
19                 gynecology to the extent such care is otherwise  
20                 covered, and

21                 “(B) may treat the ordering of other gyne-  
22                 cological care by such a participating health  
23                 professional as the authorization of the primary  
24                 care provider with respect to such care under  
25                 the plan or coverage.

1       “(b) CONSTRUCTION.—Nothing in subsection  
2 (a)(2)(B) shall waive any requirements of coverage relat-  
3 ing to medical necessity or appropriateness with respect  
4 to coverage of gynecological care so ordered.”.

5 **SEC. 5. EFFECTIVE DATES.**

6       (a) IN GENERAL.—Except as provided in subsection  
7 (c), the amendments made by this Act shall apply with  
8 respect to plan years beginning on or after the date of  
9 enactment of this Act.

10       (b) SPECIAL RULE FOR COLLECTIVE BARGAINING  
11 AGREEMENTS.—In the case of a group health plan main-  
12 tained pursuant to 1 or more collective bargaining agree-  
13 ments between employee representatives and 1 or more  
14 employers ratified before the date of enactment of this  
15 Act, the amendments made by this Act shall not apply  
16 to plan years beginning before the later of—

17               (1) the date on which the last collective bar-  
18               gaining agreements relating to the plan terminates  
19               (determined without regard to any extension thereof  
20               agreed to after the date of enactment of this Act),  
21               or

22               (2) January 1, 2000.

23 For purposes of paragraph (1), any plan amendment made  
24 pursuant to a collective bargaining agreement relating to  
25 the plan which amends the plan solely to conform to any

1 requirement added by this Act shall not be treated as a  
2 termination of such collective bargaining agreement.

3 (c) INDIVIDUAL MARKET.—The amendment made by  
4 section 3(b) shall apply to health insurance coverage of-  
5 fered, sold, issued, renewed, in effect, or operated in the  
6 individual market on or after the date of enactment of this  
7 Act.

8 **SEC. 6. RULE OF CONSTRUCTION.**

9 Nothing in this Act shall be construed to require a  
10 participating physician to accept designation as a primary  
11 care provider.

○