

107TH CONGRESS  
1ST SESSION

# S. 331

To amend the Internal Revenue Code of 1986 to incorporate certain provisions of the Women's Health and Cancer Rights Act of 1998.

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IN THE SENATE OF THE UNITED STATES

FEBRUARY 14, 2001

Mr. BIDEN (for himself, Mr. KERRY, and Ms. MIKULSKI) introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To amend the Internal Revenue Code of 1986 to incorporate certain provisions of the Women's Health and Cancer Rights Act of 1998.

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 "Breast Reconstruction  
5 Implementation Act of 2001".

1 **SEC. 2. CONFORMING THE INTERNAL REVENUE CODE OF**  
2 **1986 TO REQUIREMENTS IMPOSED BY THE**  
3 **WOMEN'S HEALTH AND CANCER RIGHTS ACT**  
4 **OF 1998.**

5 (a) IN GENERAL.—Subchapter B of chapter 100 of  
6 the Internal Revenue Code of 1986 (relating to other re-  
7 quirements) is amended by adding at the end the fol-  
8 lowing:

9 **“SEC. 9813. REQUIRED COVERAGE FOR RECONSTRUCTIVE**  
10 **SURGERY FOLLOWING MASTECTOMIES.**

11 “(a) IN GENERAL.—A group health plan that pro-  
12 vides medical and surgical benefits with respect to a mas-  
13 tectomy shall provide, in a case of a participant or bene-  
14 ficiary who is receiving benefits in connection with a mas-  
15 tectomy and who elects breast reconstruction in connection  
16 with such mastectomy, coverage for—

17 “(1) all stages of reconstruction of the breast  
18 on which the mastectomy has been performed,

19 “(2) surgery and reconstruction of the other  
20 breast to produce a symmetrical appearance, and

21 “(3) prostheses and physical complications of  
22 mastectomy, including lymphedemas,

23 in a manner determined in consultation with the attending  
24 physician and the patient. Such coverage may be subject  
25 to annual deductibles and coinsurance provisions as may  
26 be deemed appropriate and as are consistent with those

1 established for other benefits under the plan. Written no-  
 2 tice of the availability of such coverage shall be delivered  
 3 to the participant upon enrollment and annually there-  
 4 after.

5 “(b) PROHIBITIONS.—A group health plan may not—

6 “(1) deny to a patient eligibility, or continued  
 7 eligibility, to enroll or to renew coverage under the  
 8 terms of the plan, solely for the purpose of avoiding  
 9 the requirements of this section, and

10 “(2) penalize or otherwise reduce or limit the  
 11 reimbursement of an attending provider, or provide  
 12 incentives (monetary or otherwise) to an attending  
 13 provider, to induce such provider to provide care to  
 14 an individual participant or beneficiary in a manner  
 15 inconsistent with this section.

16 “(c) RULE OF CONSTRUCTION.—Nothing in this sec-  
 17 tion shall be construed to prevent a group health plan  
 18 from negotiating the level and type of reimbursement with  
 19 a provider for care provided in accordance with this sec-  
 20 tion.”.

21 (b) CLERICAL AMENDMENT.—The table of sections  
 22 for chapter 100 of such Code is amended by adding at  
 23 the end the following:

“Sec. 9813. Required coverage for reconstructive surgery following  
 mastectomies.”.

24 (c) EFFECTIVE DATE.—

1           (1) IN GENERAL.—The amendments made by  
2 this section shall apply with respect to plan years be-  
3 ginning on or after the date of the enactment of this  
4 Act.

5           (2) SPECIAL RULE FOR COLLECTIVE BAR-  
6 GAINING AGREEMENTS.—In the case of a group  
7 health plan maintained pursuant to 1 or more collec-  
8 tive bargaining agreements between employee rep-  
9 resentatives and 1 or more employers, any plan  
10 amendment made pursuant to a collective bargaining  
11 agreement relating to the plan which amends the  
12 plan solely to conform to any requirement added by  
13 this section shall not be treated as a termination of  
14 such collective bargaining agreement.

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