IN THE HOUSE OF REPRESENTATIVES

March 27, 2003

Mr. Ross introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on Education and the Workforce, 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 require health insurance coverage for certain reconstructive surgery.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Reconstructive Surgery Act of 2003”.

SEC. 2. COVERAGE OF RECONSTRUCTIVE SURGERY.

(a) Group Health Plans.—

(1) Public health service act amendments.—
(A) IN GENERAL.—Section 2706 of the Public Health Service Act (42 U.S.C. 300gg–6) is amended to read as follows:

"SEC. 2706. COVERAGE OF RECONSTRUCTIVE SURGERY.

“(a) REQUIREMENT.—A group health plan and a health insurance issuer offering group health insurance coverage in connection with a group health plan that provides coverage for surgery shall provide coverage for reconstructive surgery.

“(b) DEFINITION.—In subsection (a), the term ‘reconstructive surgery’ means any medically necessary and appropriate surgery performed to correct or repair abnormal structures of the body caused by congenital defects, developmental abnormalities, trauma, infection, tumors, or disease to—

“(1) improve functions; or

“(2) give the patient a normal appearance, to the extent possible, in the judgment of the physician performing the surgery.

“(c) RULE OF CONSTRUCTION.—

“(1) IN GENERAL.—Nothing in this section shall be construed to require a group health plan or health insurance issuer in connection with a group health plan to provide coverage for cosmetic surgery.
“(2) DEFINITION.—In paragraph (1), the term ‘cosmetic surgery’ means surgery that is performed to alter or reshape normal structures of the body in order to improve appearance.”.

(B) CONFORMING AMENDMENT.—Section 2723(c) of the Public Health Service Act (42 U.S.C. 300gg–23(c)) is amended by striking “section 2704” and inserting “sections 2704 and 2706”.

(2) ERISA AMENDMENTS.—

(A) IN GENERAL.—Section 713 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1185b) is amended to read as follows:

“SEC. 713. COVERAGE FOR RECONSTRUCTIVE SURGERY.

“(a) REQUIREMENT.—A group health plan and a health insurance issuer offering group health insurance coverage in connection with a group health plan that provides coverage for surgery shall provide coverage for reconstructive surgery.

“(b) DEFINITION.—In subsection (a), the term ‘reconstructive surgery’ means any medically necessary and appropriate surgery performed to correct or repair abnormal structures of the body caused by congenital defects,
developmental abnormalities, trauma, infection, tumors, or disease to—

“(1) improve functions; or

“(2) give the patient a normal appearance, to the extent possible, in the judgment of the physician performing the surgery.

“(c) RULE OF CONSTRUCTION.—

“(1) IN GENERAL.—Nothing in this section shall be construed to require a group health plan or health insurance issuer in connection with a group health plan to provide coverage for cosmetic surgery.

“(2) DEFINITION.—In paragraph (1), the term ‘cosmetic surgery’ means surgery that is performed to alter or reshape normal structures of the body in order to improve appearance.”.

(B) CONFORMING AMENDMENTS.—

(i) Section 731(c) of such Act (29 U.S.C. 1191(c)) is amended by striking “section 711” and inserting “sections 711 and 713”.

(ii) Section 732(a) of such Act (29 U.S.C. 1191a(a)) is amended by striking “section 711” and inserting “sections 711 and 713”.

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(iii) The table of contents in section 1 of such Act is amended by inserting after the item relating to section 712 the following new item:

“Sec. 713. Coverage for reconstructive surgery.”.

(b) INDIVIDUAL MARKET.—Section 2752 of the Public Health Service Act (42 U.S.C. 300gg–52) is amended to read as follows:

“SEC. 2752. COVERAGE FOR RECONSTRUCTIVE SURGERY.

“The provisions of section 2706 shall apply to health insurance coverage offered by a health insurance issuer in the individual market in the same manner as they apply to health insurance coverage offered by a health insurance issuer in connection with a group health plan in the small or large group market.”.

(c) EFFECTIVE DATES.—

(1) GROUP HEALTH PLANS.—Subject to paragraph (3), the amendments made by subsection (a) shall apply with respect to group health plans for plan years beginning on or after January 1, 2004.

(2) HEALTH INSURANCE COVERAGE.—The amendment made by subsection (b) shall apply with respect to health insurance coverage offered, sold, issued, renewed, in effect, or operated in the individual market on or after such date.
(3) COLLECTIVE BARGAINING AGREEMENTS.—

In the case of a group health plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified before the date of enactment of this Act, the amendments made by subsection (a) shall not apply to plan years beginning before the later of—

(A) the date on which the last collective bargaining agreements relating to the plan terminates (determined without regard to any extension thereof agreed to after the date of enactment of this Act), or

(B) January 1, 2004.

For purposes of subparagraph (A), any plan amendment made pursuant to a collective bargaining agreement relating to the plan which amends the plan solely to conform to any requirement added by subsection (a) shall not be treated as a termination of such collective bargaining agreement.

(d) COORDINATED REGULATIONS.—Section 104(1) of Health Insurance Portability and Accountability Act of 1996 (Public Law 104–191) is amended by striking “this subtitle (and the amendments made by this subtitle and section 401)” and inserting “the provisions of part 7 of
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1 subtitle B of title I of the Employee Retirement Income
2 Security Act of 1974, and the provisions of parts A and
3 C of title XXVII of the Public Health Service Act”.

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