

107TH CONGRESS
2^D SESSION

H. R. 5204

To provide for coverage of hormone replacement therapy and alternative treatments for hormone replacement therapy (HRT) under the Medicare and Medicaid programs, group health plans and individual health insurance coverage, and other Federal health insurance programs.

IN THE HOUSE OF REPRESENTATIVES

JULY 24, 2002

Ms. LEE introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committees on Ways and Means, Education and the Workforce, Government Reform, Veterans' Affairs, and Armed Services, 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 provide for coverage of hormone replacement therapy and alternative treatments for hormone replacement therapy (HRT) under the Medicare and Medicaid programs, group health plans and individual health insurance coverage, and other Federal health insurance programs.

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; TABLE OF CONTENTS.**

2 (a) SHORT TITLE.—This Act may be cited as the
3 “Hormone Replacement Therapy Alternative Treatment
4 Fairness Act”.

5 (b) TABLE OF CONTENTS.—The table of contents of
6 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Findings.
- Sec. 3. Medicare coverage of hormone replacement therapy and alternative treatments for hormone replacement therapy.
- Sec. 4. Medicaid coverage of alternative treatments for hormone replacement therapy.
- Sec. 5. Coverage of hormone replacement therapy and alternative treatments for hormone replacement therapy under group health plans and individual health insurance coverage.
- Sec. 6. Coverage of alternative treatments for hormone replacement therapy under FEHBP.
- Sec. 7. Coverage of alternative treatments for hormone replacement therapy under veterans’ benefits.
- Sec. 8. Coverage of alternative treatments for hormone replacement therapy under TRICARE.

7 **SEC. 2. FINDINGS.**

8 Congress finds the following:

9 (1) 50 million women in the United States suf-
10 fer from symptoms or conditions related to meno-
11 pause, including osteoporosis, hot flashes, heart dis-
12 ease, and depression.

13 (2) The Women’s Health Initiative terminated
14 its study on the synthetic version of hormone re-
15 placement therapy (HRT) three years early due to
16 findings that the combination of estrogen and pro-
17 gesterin increases the risk of heart disease, stroke,
18 blood clots, and breast cancer.

1 (3) Only 35 percent of women in the United
2 States who are undergoing menopause take pre-
3 scribed synthetic HRT for treatment of menopausal
4 symptoms.

5 (4) Natural estrogen and progestin, which may
6 not be available by prescription, could be useful in
7 treating menopause symptoms and related condi-
8 tions.

9 (5) 33 percent of women in the United States
10 who are undergoing menopause routinely use alter-
11 native treatments for menopausal symptoms, such as
12 Soy, Black Cohosh, Chasteberry, Pro-Gest, Hops,
13 Red Clover, Dong Quai, Evening Primose Oil, Vita-
14 min E, Flax Seed Oil, Ginseng, and natural DHEA.

15 (6) Women deserve relief from ailments relating
16 to menopause.

17 (7) Government insurance programs such as
18 medicare, medicaid, the Federal Employees Health
19 Benefits Program (FEHBP), and the Department
20 of Veterans' Affairs do not cover non-prescription al-
21 ternative HRT treatments.

22 (8) Most private insurance does not cover non-
23 prescription alternative HRT treatments.

1 **SEC. 3. MEDICARE COVERAGE OF HORMONE REPLACEMENT THERAPY AND ALTERNATIVE TREATMENTS FOR HORMONE REPLACEMENT THERAPY.**

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

6
7 (1) by striking “and” at the end of subparagraph (U);

8
9 (2) by adding “and” at the end of subparagraph (V); and

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

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13 “(W)(i) hormone replacement therapy for treatment of menopausal symptoms and (ii) an alternative therapy for hormone replacement therapy for treatment of menopausal symptoms if the therapy is recommended by a health care provider who is licensed, accredited, or certified under State law and if it has been proven safe and effective in peer-reviewed scientific studies;”.

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21 (b) **EFFECTIVE DATE.**—The amendments made by subsection (a) shall apply to therapies furnished on or
22 after the date of the enactment of this Act.
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1 **SEC. 4. MEDICAID COVERAGE OF ALTERNATIVE TREAT-**
2 **MENTS FOR HORMONE REPLACEMENT THER-**
3 **APY.**

4 (a) **REQUIREMENT FOR COVERAGE.**—Section
5 1902(a)(10) of the Social Security Act (42 U.S.C.
6 1396a(a)(10)) is amended—

7 (1) in subparagraph (A) in the matter before
8 clause (i), by striking “and (21)” and inserting “,
9 (21), and (27)”;

10 (2) in subparagraph (C)(iv)—

11 (A) by striking “and (17)” and inserting
12 “, (17), and (27)”;

13 (B) by striking “through (24)” and insert-
14 ing “through (27)”.

15 (b) **DESCRIPTION OF COVERED THERAPIES.**—Sec-
16 tion 1905(a) of such Act (42 U.S.C. 1396d(a)) is
17 amended—

18 (1) by striking “and” at the end of paragraph
19 (26);

20 (2) by redesignating paragraph (27) as para-
21 graph (28); and

22 (3) by inserting after paragraph (26) the fol-
23 lowing new paragraph:

24 “(27) an alternative therapy for hormone re-
25 placement therapy for treatment of menopausal
26 symptoms if the therapy is recommended by a health

1 care provider who is licensed, accredited, or certified
 2 under State law and if it has been proven safe and
 3 effective in peer-reviewed scientific studies; and”.

4 (c) EFFECTIVE DATE.—The amendments made by
 5 this section apply to therapies furnished on or after the
 6 date of the enactment of this Act, without regard to
 7 whether or not final regulations to carry out such amend-
 8 ments have been promulgated by such date.

9 **SEC. 5. COVERAGE OF HORMONE REPLACEMENT THERAPY**
 10 **AND ALTERNATIVE TREATMENTS FOR HOR-**
 11 **MONE REPLACEMENT THERAPY UNDER**
 12 **GROUP HEALTH PLANS AND INDIVIDUAL**
 13 **HEALTH INSURANCE COVERAGE.**

14 (a) GROUP HEALTH PLANS.—

15 (1) PUBLIC HEALTH SERVICE ACT AMEND-
 16 MENTS.—(A) Subpart 2 of part A of title XXVII of
 17 the Public Health Service Act is amended by adding
 18 at the end the following new section:

19 **“SEC. 2707. STANDARD RELATING TO COVERAGE OF HOR-**
 20 **MONE REPLACEMENT THERAPY AND ALTER-**
 21 **NATIVE TREATMENTS FOR HORMONE RE-**
 22 **PLACEMENT THERAPY.**

23 **“(a) REQUIREMENTS.—**

24 **“(1) HORMONE REPLACEMENT THERAPY.—If a**
 25 **group health plan, or a health insurance issuer offer-**

1 ing group health insurance coverage, provides bene-
2 fits for outpatient prescription drugs, the plan or
3 coverage may not exclude or restrict benefits for
4 hormone replacement therapy for treatment of men-
5 opausal symptoms.

6 “(2) ALTERNATIVE TREATMENTS FOR HOR-
7 MONE REPLACEMENT THERAPY.—If a group health
8 plan, or a health insurance issuer offering group
9 health insurance coverage, provides benefits for hor-
10 mone replacement therapy for treatment of meno-
11 pausal symptoms, the plan or coverage may not ex-
12 clude or restrict benefits for an alternative therapy
13 for hormone replacement therapy for treatment of
14 menopausal symptoms if—

15 “(A) the therapy is recommended by a
16 health care provider who is licensed, accredited,
17 or certified under State law; and

18 “(B) it has been proven safe and effective
19 in peer-reviewed scientific studies.

20 “(b) NOTICE.—A group health plan under this part
21 shall comply with the notice requirement under section
22 714(b) of the Employee Retirement Income Security Act
23 of 1974 with respect to the requirements of this section
24 as if such section applied to such plan.”.

1 (B) Section 2723(c) of such Act (42 U.S.C.
2 300gg-23(c)) is amended by striking “section 2704”
3 and inserting “sections 2704 and 2707”.

4 (2) ERISA AMENDMENTS.—(A) Subpart B of
5 part 7 of subtitle B of title I of the Employee Re-
6 tirement Income Security Act of 1974 is amended by
7 adding at the end the following new section:

8 **“SEC. 714. STANDARD RELATING TO COVERAGE OF HOR-**
9 **MONE REPLACEMENT THERAPY AND ALTER-**
10 **NATIVE TREATMENTS FOR HORMONE RE-**
11 **PLACEMENT THERAPY.**

12 “(a) REQUIREMENTS.—

13 “(1) HORMONE REPLACEMENT THERAPY.—If a
14 group health plan, or a health insurance issuer offer-
15 ing group health insurance coverage, provides bene-
16 fits for outpatient prescription drugs, the plan or
17 coverage may not exclude or restrict benefits for
18 hormone replacement therapy for treatment of men-
19 opausal symptoms.

20 “(2) ALTERNATIVE TREATMENTS FOR HOR-

21 MONE REPLACEMENT THERAPY.—If a group health
22 plan, or a health insurance issuer offering group
23 health insurance coverage, provides benefits for hor-
24 mone replacement therapy for treatment of meno-
25 pausal symptoms, the plan or coverage may not ex-

1 clude or restrict benefits for an alternative therapy
2 for hormone replacement therapy for treatment of
3 menopausal symptoms if—

4 “(A) the therapy is recommended by a
5 health care provider who is licensed, accredited,
6 or certified under State law; and

7 “(B) it has been proven safe and effective
8 in peer-reviewed scientific studies.

9 “(b) NOTICE UNDER GROUP HEALTH PLAN.—The
10 imposition of the requirement of this section shall be treat-
11 ed as a material modification in the terms of the plan de-
12 scribed in section 102(a)(1), for purposes of assuring no-
13 tice of such requirements under the plan; except that the
14 summary description required to be provided under the
15 last sentence of section 104(b)(1) with respect to such
16 modification shall be provided by not later than 60 days
17 after the first day of the first plan year in which such
18 requirement apply.”.

19 (B) Section 731(e) of such Act (29 U.S.C.
20 1191(e)) is amended by striking “section 711” and
21 inserting “sections 711 and 714”.

22 (C) Section 732(a) of such Act (29 U.S.C.
23 1191a(a)) is amended by striking “section 711” and
24 inserting “sections 711 and 714”.

1 (D) The table of contents in section 1 of such
 2 Act is amended by inserting after the item relating
 3 to section 713 the following new item:

“Sec. 714. Standard relating to coverage of hormone replacement therapy and
 alternative treatments for hormone replacement therapy.”.

4 (3) INTERNAL REVENUE CODE AMEND-
 5 MENTS.—

6 (A) IN GENERAL.—Subchapter B of chap-
 7 ter 100 of the Internal Revenue Code of 1986
 8 is amended—

9 (i) in the table of sections, by insert-
 10 ing after the item relating to section 9812
 11 the following new item:

“Sec. 9813. Standard relating to coverage of hormone replace-
 ment therapy and alternative treatments for hor-
 mone replacement therapy.”;

12 and

13 (ii) by inserting after section 9812 the
 14 following:

15 **“SEC. 9813. STANDARD RELATING TO COVERAGE OF HOR-**
 16 **MONE REPLACEMENT THERAPY AND ALTER-**
 17 **NATIVE TREATMENTS FOR HORMONE RE-**
 18 **PLACEMENT THERAPY.**

19 “(a) HORMONE REPLACEMENT THERAPY.—If a
 20 group health plan provides benefits for outpatient pre-
 21 scription drugs, the plan may not exclude or restrict bene-

1 fits for hormone replacement therapy for treatment of
2 menopausal symptoms.

3 “(b) ALTERNATIVE TREATMENTS FOR HORMONE
4 REPLACEMENT THERAPY.—If a group health plan pro-
5 vides benefits for hormone replacement therapy for treat-
6 ment of menopausal symptoms, the plan may not exclude
7 or restrict benefits for an alternative therapy for hormone
8 replacement therapy for treatment of menopausal symp-
9 toms if—

10 “(1) the therapy is recommended by a health
11 care provider who is licensed, accredited, or certified
12 under State law; and

13 “(2) it has been proven safe and effective in
14 peer-reviewed scientific studies.”

15 (B) CONFORMING AMENDMENT.—Section
16 4980D(d)(1) of such Code is amended by strik-
17 ing “section 9811” and inserting “sections
18 9811 and 9813”.

19 (b) INDIVIDUAL HEALTH INSURANCE.—(1) Part B
20 of title XXVII of the Public Health Service Act is amend-
21 ed by inserting after section 2752 the following new sec-
22 tion:

1 **“SEC. 2753. STANDARD RELATING TO COVERAGE OF HOR-**
2 **MONE REPLACEMENT THERAPY AND ALTER-**
3 **NATIVE TREATMENTS FOR HORMONE RE-**
4 **PLACEMENT THERAPY.**

5 “(a) IN GENERAL.—The provisions of section
6 2707(a) shall apply to health insurance coverage offered
7 by a health insurance issuer in the individual market in
8 the same manner as they apply to health insurance cov-
9 erage offered by a health insurance issuer in connection
10 with a group health plan in the small or large group mar-
11 ket.

12 “(b) NOTICE.—A health insurance issuer under this
13 part shall comply with the notice requirement under sec-
14 tion 714(b) of the Employee Retirement Income Security
15 Act of 1974 with respect to the requirements referred to
16 in subsection (a) as if such section applied to such issuer
17 and such issuer were a group health plan.”.

18 (2) Section 2762(b)(2) of such Act (42 U.S.C.
19 300gg-62(b)(2)) is amended by striking “section 2751”
20 and inserting “sections 2751 and 2753”.

21 (c) EFFECTIVE DATE.—The amendments made by
22 this section shall apply with respect to therapies furnished
23 on or after the date of the enactment of this Act.

24 (d) COORDINATION OF ADMINISTRATION.—The Sec-
25 retary of Labor, the Secretary of the Treasury, and the
26 Secretary of Health and Human Services shall ensure,

1 through the execution of an interagency memorandum of
2 understanding among such Secretaries, that—

3 (1) regulations, rulings, and interpretations
4 issued by such Secretaries relating to the same mat-
5 ter over which two or more such Secretaries have re-
6 sponsibility under the provisions of this section (and
7 the amendments made thereby) are administered so
8 as to have the same effect at all times; and

9 (2) coordination of policies relating to enforcing
10 the same requirements through such Secretaries in
11 order to have a coordinated enforcement strategy
12 that avoids duplication of enforcement efforts and
13 assigns priorities in enforcement.

14 **SEC. 6. COVERAGE OF HORMONE REPLACEMENT THERAPY**
15 **AND ALTERNATIVE TREATMENTS FOR HOR-**
16 **MONE REPLACEMENT THERAPY UNDER**
17 **FEHBP.**

18 (a) IN GENERAL.—Section 8902 of title 5, United
19 States Code, is amended by adding at the end the fol-
20 lowing new subsection:

21 “(p)(1) If a contract or plan provides benefits for out-
22 patient prescription drugs, the contract or plan may not
23 exclude or restrict benefits for hormone replacement ther-
24 apy for treatment of menopausal symptoms.

1 “(2) If a contract or plan provides benefits for hor-
2 mone replacement therapy for treatment of menopausal
3 symptoms, the contract or plan may not exclude or restrict
4 benefits for an alternative therapy for hormone replace-
5 ment therapy for treatment of menopausal symptoms if—

6 “(A) the therapy is recommended by a health
7 care provider who is licensed, accredited, or certified
8 under State law; and

9 “(B) it has been proven safe and effective in
10 peer-reviewed scientific studies.”.

11 (b) **EFFECTIVE DATE.**—The amendment made by
12 this section shall apply with respect to contracts made and
13 plans approved on or after the date of the enactment of
14 this Act.

15 **SEC. 7. COVERAGE OF ALTERNATIVE TREATMENTS FOR**
16 **HORMONE REPLACEMENT THERAPY UNDER**
17 **VETERANS’ BENEFITS.**

18 (a) **IN GENERAL.**—Section 1701(6) of title 38,
19 United States Code, is amended by adding at the end the
20 following new subparagraph:

21 “(G) An alternative therapy for hormone
22 replacement therapy for treatment of meno-
23 pausal symptoms if the therapy is recommended
24 by a health care provider who is licensed, ac-
25 credited, or certified under State law and if it

1 has been proven safe and effective in peer-re-
2 viewed scientific studies.”.

3 (b) EFFECTIVE DATE.—The amendments made by
4 subsection (a) shall apply to therapies made on or after
5 the date of the enactment of this Act.

6 **SEC. 8. COVERAGE OF ALTERNATIVE TREATMENTS FOR**
7 **HORMONE REPLACEMENT THERAPY UNDER**
8 **TRICARE.**

9 (a) IN GENERAL.—(1) Chapter 55 of title 10, United
10 States Code, is amended by inserting after section 1074k
11 the following new section:

12 **“§ 1074l. TRICARE program: benefits for alternative**
13 **treatments for hormone replacement**
14 **therapy**

15 “Each contract under the TRICARE program shall
16 provide benefits for an alternative therapy for hormone re-
17 placement therapy for treatment of menopausal symptoms
18 if—

19 “(1) the therapy is recommended by a health
20 care provider who is licensed, accredited, or certified
21 under State law; and

22 “(2) it has been proven safe and effective in
23 peer-reviewed scientific studies.”.

1 (2) The table of sections at the beginning of such
2 chapter is amended by inserting after the item relating
3 to section 1074k the following new item:

 “1074l. TRICARE program: benefits for alternative treatments for hormone re-
 placement therapy.”.

4 (b) **EFFECTIVE DATE.**—Section 1074l of title 10,
5 United States Code, as added by subsection (a), shall
6 apply to therapies furnished on or after the date of the
7 enactment of this Act.

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