

**[COMMITTEE PRINT]**

[SHOWING THE TEXT OF THE BILL AS FORWARDED BY THE SUBCOMMITTEE  
ON HEALTH ON JULY 9, 2008]

110TH CONGRESS  
1ST SESSION

**H. R. 2851**

To amend the Employee Retirement Income Security Act of 1974, the Public Health Service Act, and the Internal Revenue Code of 1986 to ensure that dependent students who take a medically necessary leave of absence do not lose health insurance coverage, and for other purposes.

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**IN THE HOUSE OF REPRESENTATIVES**

JUNE 25, 2007

Mr. HODES (for himself, Mr. CASTLE, Ms. SHEA-PORTER, Mr. NADLER, Mrs. MCCARTHY of New York, Mr. DAVIS of Illinois, Ms. SUTTON, Mrs. BOYDA of Kansas, Mr. MCGOVERN, Mr. STARK, Ms. CASTOR, Ms. CLARKE, Mr. COHEN, Mr. JOHNSON of Georgia, Mrs. LOWEY, Mr. EDWARDS, Mr. EMANUEL, Ms. SOLIS, Ms. ZOE LOFGREN of California, Mr. LANTOS, Mr. SHERMAN, Mr. WU, Mr. LINCOLN DAVIS of Tennessee, Mr. KAGEN, Mr. LARSON of Connecticut, Mr. BERRY, Mr. McDERMOTT, Mrs. TAUSCHER, Ms. HARMAN, Mr. GUTIERREZ, Mr. SCOTT of Virginia, Ms. SCHAKOWSKY, Mr. MITCHELL, Mr. SARBANES, Ms. KAPTUR, Mr. GILCHREST, Mr. BARROW, Mr. McNULTY, Mr. WELCH of Vermont, Ms. SCHWARTZ, Mr. BRALEY of Iowa, Mr. ELLISON, Mr. REGULA, and Mr. BISHOP of New York) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committees on Education and Labor and Ways and Means, 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

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**A BILL**

To amend the Employee Retirement Income Security Act

of 1974, the Public Health Service Act, and the Internal Revenue Code of 1986 to ensure that dependent students who take a medically necessary leave of absence do not lose health insurance coverage, 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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as “Michelle’s Law”.

5 **SEC. 2. COVERAGE OF DEPENDENT STUDENTS ON MEDI-**  
6 **CALLY NECESSARY LEAVE OF ABSENCE.**

7 (a) AMENDMENTS OF ERISA.—

8 (1) IN GENERAL.—Subpart B of part 7 of title  
9 I of the Employee Retirement Income Security Act  
10 of 1974 (29 U.S.C. 1185 et seq.) is amended by  
11 adding at the end the following:

12 **“SEC. 714. COVERAGE OF DEPENDENT STUDENTS ON MEDI-**  
13 **CALLY NECESSARY LEAVE OF ABSENCE.**

14 “(a) MEDICALLY NECESSARY LEAVE OF ABSENCE.—  
15 In this section, the term ‘medically necessary leave of ab-  
16 sence’ means, with respect to a dependent child described  
17 in subsection (b)(2), a leave of absence of such child from  
18 a postsecondary educational institution (including an in-  
19 stitution of higher education as defined in section 102 of  
20 the Higher Education Act of 1965), or any other change  
21 in enrollment of such child at such an institution, that—

1           “(1) commences while such child is suffering  
2 from a severe illness or injury;

3           “(2) is medically necessary; and

4           “(3) causes such child to lose full-time student  
5 status under the terms of the plan.

6           “(b) REQUIREMENT TO CONTINUE COVERAGE.—

7           “(1) IN GENERAL.—In the case of a dependent  
8 child described in paragraph (2), a group health  
9 plan (or health insurance coverage offered in connec-  
10 tion with such a plan) shall not terminate coverage  
11 of such child due to a medically necessary leave of  
12 absence before the date that is the earlier of—

13                   “(A) the date that is 1 year after the first  
14 day of the medically necessary leave of absence;  
15 or

16                   “(B) the date on which such coverage  
17 would otherwise terminate under the terms of  
18 the plan.

19           “(2) DEPENDENT CHILD DESCRIBED.—A de-  
20 pendent child described in this paragraph is a bene-  
21 ficiary under the plan who—

22                   “(A) is a dependent child, under the terms  
23 of the plan, of a participant or beneficiary of  
24 the plan;

1           “(B) was enrolled in the plan or coverage  
2           as of the first day of the medically necessary  
3           leave of absence involved; and

4           “(C) was enrolled as a full-time student at  
5           a postsecondary educational institution (as de-  
6           scribed in subsection (a)) until the first day of  
7           the medically necessary leave of absence in-  
8           volved.

9           “(3) CERTIFICATION BY PHYSICIAN.—Para-  
10          graph (1) shall not apply to a group health plan (or  
11          health insurance coverage offered in connection with  
12          such a plan) unless certification by the child’s at-  
13          tending physician is submitted to the plan or issuer  
14          stating that the dependent child is suffering from a  
15          severe illness or injury and that the leave of absence  
16          is medically necessary.

17          “(c) NO LOSS OF FULL-TIME STATUS DUE TO  
18          BREAK IN SEMESTER.—Any breaks in the school semester  
19          shall not disqualify a dependent child described under sub-  
20          section (b) from coverage under this section.

21          “(d) NO CHANGE IN BENEFITS.—A dependent child  
22          whose benefits are continued under this section shall be  
23          entitled to the same benefits as if (during the medically  
24          necessary leave of absence) the child continued to be a

1 full-time student at the institution of higher education and  
2 was not on a medically necessary leave of absence.

3 “(e) COVERAGE UNDER SUCCESSOR PLAN.—If a  
4 plan sponsor changes group health plans after the first  
5 day of a medically necessary leave of absence of dependent  
6 child described in subsection (b) but before the date de-  
7 scribed under subsection (b)(1), and such new group  
8 health plan offers coverage of beneficiaries as dependent  
9 children, such new group health plan shall be subject to  
10 this section in the same manner as the predecessor group  
11 health plan.

12 “(f) PRESUMPTION.—For purposes of administrative  
13 or judicial proceedings, upon certification under sub-  
14 section (b)(3), there shall be a rebuttable presumption  
15 that the requirements of paragraphs (1) and (2) of sub-  
16 section (a) have been met.”.

17 (2) CONFORMING AMENDMENT.—The table of  
18 contents in section 1 of such Act is amended by in-  
19 sserting after the item relating to section 713 the fol-  
20 lowing new item:

“Sec. 714. Coverage of dependent students on medically necessary leave of ab-  
sence.”.

21 (b) AMENDMENTS TO THE PUBLIC HEALTH SERVICE  
22 ACT.—

23 (1) GROUP MARKETS.—Subpart 2 of part A of  
24 title XXVII of the Public Health Service Act (42

1 U.S.C. 300gg-4 et seq.) is amended by adding at  
2 the end the following new section:

3 **“SEC. 2707. COVERAGE OF DEPENDENT STUDENTS ON**  
4 **MEDICALLY NECESSARY LEAVE OF ABSENCE.**

5 “(a) **MEDICALLY NECESSARY LEAVE OF ABSENCE.—**

6 In this section, the term ‘medically necessary leave of ab-  
7 sence’ means, with respect to a dependent child, a leave  
8 of absence of such child from a postsecondary educational  
9 institution (including an institution of higher education as  
10 defined in section 102 of the Higher Education Act of  
11 1965), or any other change in enrollment of such child  
12 at such an institution, that—

13 “(1) commences while such child is suffering  
14 from a severe illness or injury;

15 “(2) is medically necessary; and

16 “(3) causes such child to lose full-time student  
17 status under the terms of the plan.

18 **“(b) REQUIREMENT TO CONTINUE COVERAGE.—**

19 “(1) **IN GENERAL.—**In the case of a dependent  
20 child described in paragraph (2), a group health  
21 plan (or health insurance coverage offered in connec-  
22 tion with such a plan) shall not terminate coverage  
23 of such child due to a medically necessary leave of  
24 absence before the date that is the earlier of—

1           “(A) the date that is 1 year after the first  
2           day of the medically necessary leave of absence;  
3           or

4           “(B) the date on which such coverage  
5           would otherwise terminate under the terms of  
6           the plan.

7           “(2) CHILD DESCRIBED.—A dependent child  
8           described in this paragraph is a beneficiary under  
9           the plan who—

10           “(A) is a dependent child, under the terms  
11           of the plan, of a participant or beneficiary of  
12           the plan;

13           “(B) was enrolled in the plan or coverage  
14           as of the first day of the medically necessary  
15           leave of absence involved; and

16           “(C) was enrolled as a full-time student at  
17           a postsecondary educational institution (as de-  
18           scribed in subsection (a)) until the first day of  
19           the medically necessary leave of absence in-  
20           volved.

21           “(3) CERTIFICATION BY PHYSICIAN.—Para-  
22           graph (1) shall not apply to a group health plan (or  
23           health insurance coverage offered in connection with  
24           such a plan) unless certification by the child’s at-  
25           tending physician is submitted to the plan or issuer

1       stating that the dependent child is suffering from a  
2       severe illness or injury and that the leave of absence  
3       is medically necessary.

4       “(c) NO LOSS OF FULL-TIME STATUS DUE TO  
5 BREAK IN SEMESTER.—Any breaks in the school semester  
6 shall not disqualify a dependent child described under sub-  
7 section (b) from coverage under this section.

8       “(d) NO CHANGE IN BENEFITS.—A dependent child  
9 whose benefits are continued under this section shall be  
10 entitled to the same benefits as if (during the medically  
11 necessary leave of absence) the child continued to be a  
12 full-time student at the institution of higher education and  
13 was not on a medically necessary leave of absence.

14       “(e) COVERAGE UNDER SUCCESSOR PLAN.—If a  
15 plan sponsor changes group health plans after the first  
16 day of a medically necessary leave of absence of dependent  
17 child described in subsection (b) but before the date de-  
18 scribed under subsection (b)(1), and such new group  
19 health plan offers coverage of beneficiaries as dependent  
20 children, such new group health plan shall be subject to  
21 this section in the same manner as the predecessor group  
22 health plan.

23       “(f) PRESUMPTION.—For purposes of administrative  
24 or judicial proceedings, upon certification under sub-  
25 section (b)(3), there shall be a rebuttable presumption

1 that the requirements of paragraphs (1) and (2) of sub-  
2 section (a) have been met.”.

3 (2) INDIVIDUAL MARKET.—Subpart 3 of part B  
4 of title XXVII of such Act (42 U.S.C. 300gg–51 et  
5 seq.) is amended by adding at the end the following  
6 new section:

7 **“SEC. 2753. COVERAGE OF DEPENDENT STUDENTS ON**  
8 **MEDICALLY NECESSARY LEAVE OF ABSENCE.**

9 “The provisions of section 2707 shall apply to health  
10 insurance coverage offered by a health insurance issuer  
11 in the individual market in the same manner as they apply  
12 to health insurance coverage offered by a health insurance  
13 issuer in connection with a group health plan in the small  
14 or large group market.”.

15 (c) AMENDMENTS TO THE INTERNAL REVENUE  
16 CODE.—

17 (1) IN GENERAL.—Subchapter B of chapter  
18 100 of the Internal Revenue Code of 1986 (relating  
19 to other group health plan requirements) is amended  
20 by inserting after section 9812 the following new  
21 section:

22 **“SEC. 9813. COVERAGE OF DEPENDENT STUDENTS ON**  
23 **MEDICALLY NECESSARY LEAVE OF ABSENCE.**

24 “(a) MEDICALLY NECESSARY LEAVE OF ABSENCE.—  
25 In this section, the term ‘medically necessary leave of ab-

1 sence' means, with respect to a dependent child, a leave  
2 of absence of such child from a postsecondary educational  
3 institution (including an institution of higher education as  
4 defined in section 102 of the Higher Education Act of  
5 1965), or any other change in enrollment of such child  
6 at such an institution, that—

7           “(1) commences while such child is suffering  
8           from a severe illness or injury;

9           “(2) is medically necessary; and

10           “(3) causes such child to lose full-time student  
11           status under the terms of the plan.

12           “(b) REQUIREMENT TO CONTINUE COVERAGE.—

13           “(1) IN GENERAL.—In the case of a dependent  
14           child described in paragraph (2), a group health  
15           plan shall not terminate coverage of such child due  
16           to a medically necessary leave of absence before the  
17           date that is the earlier of—

18                   “(A) the date that is 1 year after the first  
19                   day of the medically necessary leave of absence;  
20                   or

21                   “(B) the date on which such coverage  
22                   would otherwise terminate under the terms of  
23                   the plan.

1           “(2) CHILD DESCRIBED.—A dependent child  
2 described in this paragraph is a beneficiary under  
3 the plan who—

4           “(A) is a dependent child, under the terms  
5 of the plan, of a participant or beneficiary of  
6 the plan;

7           “(B) was enrolled in the plan or coverage  
8 as of the first day of the medically necessary  
9 leave of absence involved; and

10           “(C) was enrolled as a full-time student at  
11 a postsecondary educational institution (as de-  
12 scribed in subsection (a)) until the first day of  
13 the medically necessary leave of absence in-  
14 volved.

15           “(3) CERTIFICATION BY PHYSICIAN.—Para-  
16 graph (1) shall not apply to a group health plan (or  
17 health insurance coverage offered in connection with  
18 such a plan) unless certification by the child’s at-  
19 tending physician is submitted to the plan (or the  
20 issuer health insurance coverage in connection with  
21 the plan) stating that the dependent child is suf-  
22 fering from a severe illness or injury and that the  
23 leave of absence is medically necessary.

24           “(c) NO LOSS OF FULL-TIME STATUS DUE TO  
25 BREAK IN SEMESTER.—Any breaks in the school semester

1 shall not disqualify a dependent child described under sub-  
2 section (b) from coverage under this section.

3 “(d) NO CHANGE IN BENEFITS.—A dependent child  
4 whose benefits are continued under this section shall be  
5 entitled to the same benefits as if (during the medically  
6 necessary leave of absence) the child continued to be a  
7 full-time student at the institution of higher education and  
8 was not on a medically necessary leave of absence.

9 “(e) COVERAGE UNDER SUCCESSOR PLAN.—If a  
10 plan sponsor changes group health plans after the first  
11 day of a medically necessary leave of absence of a depend-  
12 ent child described in subsection (b) but before the date  
13 described under subsection (b)(1), and such new group  
14 health plan offers coverage of beneficiaries as dependent  
15 children, such new group health plan shall be subject to  
16 this section in the same manner as the predecessor group  
17 health plan.

18 “(f) PRESUMPTION.—For purposes of administrative  
19 or judicial proceedings, upon certification under sub-  
20 section (b)(3), there shall be a rebuttable presumption  
21 that the requirements of paragraphs (1) and (2) of sub-  
22 section (a) have been met.”.

23 (2) CONFORMING AMENDMENT.—The table of  
24 sections for subchapter B of chapter 100 of such

1 Code is amended by inserting after the item relating  
2 to section 9812 the following new item:

“Sec. 9813. Coverage of dependent students on medically necessary leave of absence.”.

3 (d) **EFFECTIVE DATE.**—The amendments made by  
4 this Act shall apply with respect to plan years beginning  
5 on or after the date that is one year after the date of  
6 the enactment of this Act and to medically necessary  
7 leaves of absence beginning during such plan years.