

112TH CONGRESS  
1ST SESSION

# H. R. 1028

To provide for equal access to COBRA continuation coverage.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 10, 2011

Mr. WEINER (for himself, Mr. FRANK of Massachusetts, Mr. POLIS, Ms. BALDWIN, Mr. CICILLINE, Ms. RICHARDSON, Mr. HONDA, Mr. GUTIERREZ, Ms. NORTON, Ms. BERKLEY, Mr. LANGEVIN, Mr. ROTHMAN of New Jersey, Ms. BROWN of Florida, Mr. DOYLE, Mr. CAPUANO, Mr. ACKERMAN, Mr. BERMAN, Ms. MOORE, Mr. TOWNS, Mr. GRIJALVA, Mr. ISRAEL, Mr. ELLISON, Mr. BRADY of Pennsylvania, Mr. MCGOVERN, Mr. NADLER, Mr. MORAN, Mr. SERRANO, Mrs. MALONEY, Mr. GEORGE MILLER of California, Mr. HINCHEY, Ms. CHU, Mr. ENGEL, Ms. WOOLSEY, Ms. ZOE LOFGREN of California, Mr. PALLONE, Mr. MICHAUD, Ms. EDDIE BERNICE JOHNSON of Texas, Ms. PINGREE of Maine, Mr. FILLNER, Mrs. CAPPs, Mr. STARK, Mr. HOLT, Mr. HIGGINS, Mr. SHERMAN, and Ms. SPEIER) introduced the following bill; which was referred to the Committee on Education and the Workforce, and in addition to the Committees on Energy and Commerce 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 provide for equal access to COBRA continuation coverage.

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.**

2 This Act may be cited as the “Equal Access to  
3 COBRA Act of 2011”.

4 **SEC. 2. AMENDMENTS TO THE INTERNAL REVENUE CODE**  
5 **OF 1986.**

6 (a) **QUALIFIED BENEFCIARY.**—Section  
7 4980B(g)(1)(A) of the Internal Revenue Code of 1986 is  
8 amended—

9 (1) in clause (i), by striking “or” at the end  
10 thereof;

11 (2) in clause (ii), by striking the period and in-  
12 sserting a comma; and

13 (3) by inserting after clause (ii), the following:

14 “(iii) as the domestic partner of the  
15 employee, as such term is defined by the  
16 group health plan, or

17 “(iv) as the dependent child of the do-  
18 mestic partner (as defined in clause  
19 (iii)).”.

20 (b) **SPECIAL RULE FOR RETIREES AND WIDOWS.**—

21 Section 4980B(g)(1)(D) of the Internal Revenue Code of  
22 1986 is amended by striking clauses (i) through (iii), and  
23 inserting the following:

24 “(i) as the spouse or domestic partner  
25 (described in subparagraph (A)(iii)) of the  
26 covered employee,

1                   “(ii) as the dependent child of the  
2                   covered employee or the covered employee’s  
3                   domestic partner (described in clause (i)),  
4                   or

5                   “(iii) as the surviving spouse or sur-  
6                   viving domestic partner (described in  
7                   clause (i)) of the covered employee.”.

8           (c) SPECIAL RULE FOR CERTAIN BANKRUPTCY PRO-  
9   CEEDINGS.—Section 4980B(f)(2)(B)(i)(III) of the Inter-  
10   nal Revenue Code of 1986 is amended by striking “or de-  
11   pendent children of the covered employee” and inserting  
12   “, surviving domestic partner (described in subsection  
13   (g)(1)(A)(iii)), or dependent children of the covered em-  
14   ployee or such surviving domestic partner”.

15           (d) QUALIFYING EVENT.—Section 4980B(f)(3)(C) of  
16   the Internal Revenue Code of 1986 is amended by insert-  
17   ing before the period the following: “, or the covered em-  
18   ployee’s domestic partner (described in subsection  
19   (g)(1)(A)(iii)) ceasing to be such covered employee’s do-  
20   mestic partner under the terms of the group health plan”.

21           (e) NOTICE REQUIREMENTS.—Section  
22   4980B(f)(6)(A) of the Internal Revenue Code of 1986 is  
23   amended by striking “and spouse of the employee (if  
24   any)” and inserting “and, if any, such covered employee’s  
25   qualified beneficiaries who are age 19 or older”.

1 **SEC. 3. AMENDMENTS TO THE EMPLOYEE RETIREMENT IN-**  
2 **COME SECURITY ACT OF 1974.**

3 (a) **QUALIFIED BENEFICIARY.**—Section 607(3)(A) of  
4 the Employee Retirement Income Security Act of 1974  
5 (29 U.S.C. 1167(3)(A)) is amended—

6 (1) in clause (i), by striking “or” at the end  
7 thereof;

8 (2) in clause (ii), by striking the period and in-  
9 serting a comma; and

10 (3) by inserting after clause (ii), the following:

11 “(iii) as the domestic partner of the  
12 employee, as such term is defined by the  
13 group health plan, or

14 “(iv) as the dependent child of the do-  
15 mestic partner (as defined in clause  
16 (iii)).”.

17 (b) **SPECIAL RULE FOR RETIREES AND WIDOWS.**—

18 Section 607(3)(C) of the Employee Retirement Income Se-  
19 curity Act of 1974 (29 U.S.C. 1167(3)(C)) is amended  
20 by striking clauses (i) through (iii) and inserting the fol-  
21 lowing:

22 “(i) as the spouse or domestic partner  
23 (described in paragraph (3)(A)(iii)) of the  
24 covered employee,

25 “(ii) as the dependent child of the  
26 covered employee or the covered employee’s

1 domestic partner (described in clause (i)),  
2 or  
3 “(iii) as the surviving spouse or sur-  
4 viving domestic partner (described in  
5 clause (i)) of the covered employee.”.

6 (c) SPECIAL RULE FOR CERTAIN BANKRUPTCY PRO-  
7 CEEDINGS.—Section 602(2)(A)(iii) of the Employee Re-  
8 tirement Income Security Act of 1974 (29 U.S.C.  
9 1162(2)(A)(iii)) is amended by striking “or dependent  
10 children of the covered employee” and inserting “, sur-  
11 viving domestic partner (described in section  
12 607(3)(A)(iii)), or dependent children of the covered em-  
13 ployee or such surviving domestic partner”.

14 (d) QUALIFYING EVENT.—Section 603(3) of the Em-  
15 ployee Retirement Income Security Act of 1974 (29  
16 U.S.C. 1163) is amended by inserting before the period  
17 the following: “, or the covered employee’s domestic part-  
18 ner (described in section 607(3)(A)(iii)) ceasing to be such  
19 covered employee’s domestic partner under the terms of  
20 the group health plan”.

21 (e) NOTICE REQUIREMENTS.—Section 606(a)(1) of  
22 the Employee Retirement Income Security Act of 1974  
23 (29 U.S.C. 1166(a)(1)) is amended by striking “and  
24 spouse of the employee (if any)” and inserting “and, if

1 any, such covered employee’s qualified beneficiaries who  
2 are age 19 or older”.

3 **SEC. 4. AMENDMENTS TO THE PUBLIC HEALTH SERVICE**

4 **ACT.**

5 (a) **QUALIFIED BENEFICIARY.**—Section 2208(3)(A)  
6 of the Public Health Service Act (42 U.S.C. 300bb–  
7 8(3)(A)) is amended—

8 (1) in clause (i), by striking “or” at the end  
9 thereof;

10 (2) in clause (ii), by striking the period and in-  
11 serting a comma; and

12 (3) by inserting after clause (ii), the following:

13 “(iii) as the domestic partner of the  
14 employee, as such term is defined by the  
15 group health plan, or

16 “(iv) as the dependent child of the do-  
17 mestic partner (as defined in clause  
18 (iii)).”.

19 (b) **QUALIFYING EVENT.**—Section 2203(3) of the  
20 Public Health Service Act (42 U.S.C. 300bb–3(3)) is  
21 amended by inserting before the period the following: “,  
22 or the covered employee’s domestic partner (described in  
23 section 2208(3)(A)(iii)) ceasing to be such covered em-  
24 ployee’s domestic partner under the terms of the group  
25 health plan”.

1 (c) NOTICE REQUIREMENTS.—Section 2206(1) of the  
2 Public Health Service Act (42 U.S.C. 300bb–6(1)) is  
3 amended by striking “and spouse of the employee (if  
4 any)” and inserting “and, if any, such covered employee’s  
5 qualified beneficiaries who are age 19 or older”.

6 **SEC. 5. EFFECTIVE DATE.**

7 (a) IN GENERAL.—Except as provided in subsection  
8 (b), the amendments made by this Act shall apply with  
9 respect to plan years beginning after 180 days after the  
10 date of the enactment of this Act.

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

18 (1) the date on which the last of the collective  
19 bargaining agreements relating to the plan termi-  
20 nates (determined without regard to any extension  
21 thereof agreed to after the date of the enactment of  
22 this Act); or

23 (2) 3 years after the date of the enactment of  
24 this Act.

1 For purposes of paragraph (1), any plan amendment made  
2 pursuant to a collective bargaining agreement relating to  
3 the plan which amends the plan solely to conform to any  
4 requirement added by this Act shall not be treated as a  
5 termination of such collective bargaining agreement.

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