

113TH CONGRESS
1ST SESSION

H. R. 3020

To amend the Employee Retirement Income Security Act of 1974, the Public Health Service Act, and the Internal Revenue Code of 1986 to provide parity under group and individual health plans and group and individual health insurance coverage for the provision of benefits for prosthetics and custom orthotics and benefits for other medical and surgical services.

IN THE HOUSE OF REPRESENTATIVES

AUGUST 2, 2013

Mr. DENT (for himself and Mr. ANDREWS) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committees on Education and the Workforce 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

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 provide parity under group and individual health plans and group and individual health insurance coverage for the provision of benefits for prosthetics and custom orthotics and benefits for other medical and surgical services.

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 “Insurance Fairness
3 for Amputees Act”.

4 **SEC. 2. FINDINGS AND PURPOSE.**

5 (a) FINDINGS.—Congress makes the following find-
6 ings:

7 (1) There are more than 1,700,000 people in
8 the United States living with limb loss, many of
9 whom are appropriate candidates for prosthetic care.
10 A comparable number experience trauma, illness, or
11 disability that results in musculoskeletal or neuro-
12 muscular impairment of the limbs, back, and neck
13 requiring the use of orthotic care.

14 (2) Every year, there are more than 130,000
15 people in the United States who undergo amputation
16 procedures.

17 (3) In addition, United States military per-
18 sonnel serving in Iraq and Afghanistan and around
19 the world have sustained traumatic injuries resulting
20 in amputation and musculoskeletal or neuromuscular
21 injury.

22 (4) The number of amputations in the United
23 States is projected to increase in the years ahead
24 due to the rising incidence of diabetes and other
25 chronic illness.

1 (5) Those experiencing limb loss and limb dys-
2 function can and want to regain their lives as pro-
3 ductive members of society, and prosthetic and
4 orthotic care often enables amputees and others with
5 orthopedic impairments to continue working and liv-
6 ing productive lives.

7 (6) Insurance companies often restrict coverage
8 for prosthetic and orthotic devices and related serv-
9 ices over an individual's lifetime, which shifts costs
10 onto individuals and consequently to the Medicare
11 and Medicaid programs.

12 (7) Twenty States have addressed this problem
13 and have prosthetic or orthotic parity legislation,
14 which also is being considered actively in other
15 States.

16 (8) The States in which prosthetic or orthotic
17 fairness in coverage laws have been enacted have
18 found there to be minimal or no increases in insur-
19 ance premiums and have reduced Medicare and
20 Medicaid costs.

21 (9) Coverage of orthotic and prosthetic devices
22 and related services is only appropriate for individ-
23 uals missing a limb or having an orthopedic condi-
24 tion in need of treatment. Therefore, a fixed popu-

1 lation of individuals are candidates for these devices
2 and related services.

3 (10) Appropriate and timely treatment involv-
4 ing prosthetic and orthotic devices and related serv-
5 ices allow people to regain health function, pre-
6 existing work, and independent living.

7 (11) Prosthetic and orthotic devices and related
8 services are a distinct and separate benefit from the
9 durable medical equipment benefit, but this distinc-
10 tion often is not recognized as insurers typically
11 combine these benefits under a combined limit.

12 (12) The Patient Protection and Affordable
13 Care Act (Public Law 111–148) and the Health
14 Care and Education Reconciliation Act (Public Law
15 111–152), include rehabilitative and habilitative
16 services as an essential health benefit, which legisla-
17 tive history shows is intended to cover prosthetic and
18 orthotic devices and related services.

19 (13) The Institute of Medicine concluded that
20 prosthetic and orthotic devices and related services
21 are covered under a typical employer plan.

22 (14) However, while lifetime and annual dollar
23 limitations on essential health benefits are prohibited
24 under the Patient Protection and Affordable Care
25 Act (Public Law 111–148) and the Health Care and

1 Education Reconciliation Act (Public Law 111–152),
2 other techniques to minimize or eliminate coverage
3 continue to be used across the country and are deny-
4 ing individuals access to medically necessary pros-
5 thetic and orthotic devices and related services.

6 (b) PURPOSE.—It is the purpose of this Act to re-
7 quire that each group and individual health plan and indi-
8 vidual and group health insurance coverage that provides
9 medical and surgical benefits and also provides coverage
10 for prosthetics or custom orthotics (or both), provide such
11 coverage under terms and conditions that are no less fa-
12 vorable than the terms and conditions under which med-
13 ical and surgical benefits are provided under such plan.

14 **SEC. 3. PROSTHETICS AND CUSTOM ORTHOTICS FAIRNESS**
15 **IN COVERAGE.**

16 (a) ERISA.—

17 (1) IN GENERAL.—Subpart B of part 7 of sub-
18 title B of title I of the Employee Retirement Income
19 Security Act of 1974 (29 U.S.C. 1185 et seq.) is
20 amended by adding at the end the following:

21 **“SEC. 716. PROSTHETICS AND CUSTOM ORTHOTICS FAIR-**
22 **NESS IN COVERAGE.**

23 “(a) IN GENERAL.—In the case of a group health
24 plan (or health insurance coverage offered in connection
25 with a group health plan) that provides medical and sur-

1 gical benefits and also provides benefits for prosthetics or
2 custom orthotics (as defined under paragraphs (1) and (2)
3 of subsection (e)) (or both)—

4 “(1) such benefits for prosthetics or custom
5 orthotics (or both) under the plan (or coverage) shall
6 be provided under terms and conditions that are no
7 less favorable than the terms and conditions applica-
8 ble to substantially all medical and surgical benefits
9 provided under the plan (or coverage);

10 “(2) such benefits for prosthetics or custom
11 orthotics (or both) under the plan (or coverage) may
12 not be subject to separate financial requirements (as
13 defined in subsection (d)(3)) that are applicable only
14 with respect to such benefits, and any financial re-
15 quirements applicable to such benefits shall be no
16 more restrictive than the financial requirements ap-
17 plicable to substantially all medical and surgical ben-
18 efits provided under the plan (or coverage); and

19 “(3) any treatment limitations (as defined in
20 subsection (d)(4)) applicable to such benefits for
21 prosthetics or custom orthotics (or both) under the
22 plan (or coverage) may not be more restrictive than
23 the treatment limitations applicable to substantially
24 all medical and surgical benefits provided under the
25 plan (or coverage).

1 “(b) PATIENT ACCESS.—A group health plan (or
2 health insurance coverage offered in connection with a
3 group health plan) described in subsection (a) that does
4 not provide coverage for benefits outside of a network shall
5 ensure that such provider network is adequate to ensure
6 enrollee access to prosthetic and custom orthotic devices
7 and related services provided by appropriately credentialed
8 practitioners and accredited suppliers of prosthetics and
9 custom orthotics.

10 “(c) ADDITIONAL REQUIREMENTS.—

11 “(1) PRIOR AUTHORIZATION.—In the case of a
12 group health plan (or health insurance coverage of-
13 fered in connection with a group health plan) that
14 requires, as a condition of coverage or payment for
15 prosthetics or custom orthotics (or both) under the
16 plan (or coverage), prior authorization, such prior
17 authorization must be required in the same manner
18 as prior authorization is required by the plan (or
19 coverage) as a condition of coverage or payment for
20 all similar medical and surgical benefits provided
21 under the plan (or coverage).

22 “(2) LIMITATION ON BENEFITS.—Coverage for
23 required benefits for prosthetics and custom
24 orthotics under this section may be limited to cov-
25 erage of the most appropriate device or component

1 model that meets the medical requirements of the
2 patient, as determined by the treating physician of
3 the patient involved.

4 “(3) COVERAGE FOR REPAIR OR REPLACE-
5 MENT.—Benefits for prosthetics and custom
6 orthotics required under this section shall include
7 coverage for the repair or replacement of prosthetics
8 and custom orthotics, if the repair or replacement is
9 due to normal wear and tear, irreparable damage, a
10 change in the condition of the patient as determined
11 by the treating physician, or otherwise determined
12 appropriate by the treating physician of the patient
13 involved.

14 “(d) DEFINITIONS.—In this section:

15 “(1) PROSTHETICS.—The term ‘prosthetics’
16 means those devices and components that may be
17 used to replace, in whole or in part, an arm or leg,
18 as well as the services required to do so and includes
19 external breast prostheses incident to mastectomy
20 resulting from breast cancer.

21 “(2) CUSTOM ORTHOTICS.—The term ‘custom
22 orthotics’ means the following:

23 “(A) Custom-fabricated orthotics and re-
24 lated services, which include custom-fabricated
25 devices that are individually made for a specific

1 patient, as well as all services and supplies that
2 are medically necessary for the effective use of
3 the orthotic device and instructing the patient
4 in the use of the device. No other patient would
5 be able to use this particular orthosis. A cus-
6 tom-fabricated orthosis is a device which is fab-
7 ricated based on clinically derived and rectified
8 castings, tracings, measurements, or other im-
9 ages (such as x-rays) of the body part. The fab-
10 rication may involve using calculations, tem-
11 plates and component parts. This process re-
12 quires the use of basic materials and involves
13 substantial work such as vacuum forming, cut-
14 ting, bending, molding, sewing, drilling and fin-
15 ishing prior to fitting on the patient. Custom-
16 fabricated devices may be furnished only by an
17 appropriately credentialed (certified or licensed)
18 practitioner and accredited supplier in Orthotics
19 or Prosthetics. Such devices and related serv-
20 ices are represented by the set of L-codes under
21 the Healthcare Common Procedure Coding Sys-
22 tem describing this care listed on the date of
23 enactment of this section in Centers for Medi-
24 care & Medicaid Services Transmittal 656.

1 “(B) Custom-fitted high orthotics and re-
2 lated services, which include prefabricated de-
3 vices that are manufactured with no specific pa-
4 tient in mind, but that are appropriately sized,
5 adapted, modified, and configured (with the re-
6 quired tools and equipment) to a specific pa-
7 tient in accordance with a prescription, and
8 which no other patient would be able to use, as
9 well as all services and supplies that are medi-
10 cally necessary for the effective use of the
11 orthotic device and instructing the patient in
12 the use of the device. Custom-fitted high devices
13 may be furnished only by an appropriately
14 credentialed (certified or licensed) practitioner
15 and accredited supplier in Orthotics or Pros-
16 thetics. Such devices and related services are
17 represented by the existing set of L-codes under
18 the Healthcare Common Procedure Coding Sys-
19 tem describing this care listed on the date of
20 enactment of this section in Centers for Medi-
21 care & Medicaid Services Transmittal 656.

22 For purposes of subparagraphs (A) and (B), Centers
23 for Medicare & Medicaid Services Transmittal 656,
24 upon modification or reissuance by the Centers for
25 Medicare & Medicaid Services to reflect new code ad-

1 conditions and coding changes for prosthetics and cus-
2 tom orthotics, shall be the version of the Transmittal
3 used for purposes of such subparagraphs.

4 “(3) FINANCIAL REQUIREMENTS.—The term
5 ‘financial requirements’ includes deductibles, coin-
6 surance, co-payments, other cost sharing, and limita-
7 tions on the total amount that may be paid by a
8 participant or beneficiary with respect to benefits
9 under the plan or health insurance coverage.

10 “(4) TREATMENT LIMITATIONS.—The term
11 ‘treatment limitations’ includes limits on the fre-
12 quency of treatment, number of visits, specific pre-
13 scribed components, limits that are more broadly ap-
14 plicable to durable medical equipment, or other simi-
15 lar limits on the amount, duration, or scope of treat-
16 ment.

17 “(e) DIFFERENTIATION FROM DURABLE MEDICAL
18 EQUIPMENT.—For purposes of this section, prosthetics
19 and custom orthotics shall be treated as distinct from du-
20 rable medical equipment.”.

21 (2) CLERICAL AMENDMENT.—The table of con-
22 tents in section 1 of the Employee Retirement In-
23 come Security Act of 1974 is amended by inserting
24 after the item relating to section 714 the following:

“Sec. 715. Additional market reforms.

“Sec. 716. Prosthetics and custom orthotics parity.”.

1 (b) PHSA.—

2 (1) IN GENERAL.—Title XXVII of the Public
3 Health Service Act is amended by inserting after
4 section 2728 of such Act (42 U.S.C. 300gg–28), as
5 redesignated by section 1001(2) of the Patient Pro-
6 tection and Affordable Care Act (Public Law 111–
7 148), the following:

8 **“SEC. 2729. PROSTHETICS AND CUSTOM ORTHOTICS PAR-**
9 **ITY.**

10 “(a) IN GENERAL.—In the case of a group health
11 plan, or a health insurance issuer offering group or indi-
12 vidual health insurance coverage, that provides medical
13 and surgical benefits and also provides benefits for pros-
14 thetics or custom orthotics (as defined under paragraphs
15 (1) and (2) of subsection (e)) (or both)—

16 “(1) such benefits for prosthetics or custom
17 orthotics (or both) under the plan or coverage shall
18 be provided under terms and conditions that are no
19 less favorable than the terms and conditions applica-
20 ble to substantially all medical and surgical benefits
21 provided under the plan or coverage;

22 “(2) such benefits for prosthetics or custom
23 orthotics (or both) under the plan or coverage may
24 not be subject to separate financial requirements (as
25 defined in subsection (e)(2)) that are applicable only

1 with respect to such benefits, and any financial re-
2 quirements applicable to such benefits shall be no
3 more restrictive than the financial requirements ap-
4 plicable to substantially all medical and surgical ben-
5 efits provided under the plan or coverage; and

6 “(3) any treatment limitations (as defined in
7 subsection (e)(3)) applicable to such benefits for
8 prosthetics or custom orthotics (or both) under the
9 plan or coverage may not be more restrictive than
10 the treatment limitations applicable to substantially
11 all medical and surgical benefits provided under the
12 plan or coverage.

13 “(b) PATIENT ACCESS.—A group health plan, or
14 health insurance issuer offering group or individual health
15 insurance coverage, described in subsection (a) that does
16 not provide coverage for benefits outside of a network shall
17 ensure that such provider network is adequate to ensure
18 enrollee access to prosthetic and custom orthotic devices
19 and related services provided by appropriately credentialed
20 practitioners and accredited suppliers of prosthetics and
21 custom orthotics.

22 “(c) ADDITIONAL REQUIREMENTS.—

23 “(1) PRIOR AUTHORIZATION.—In the case of a
24 group health plan, or health insurance issuer offer-
25 ing group or individual health insurance coverage,

1 that requires, as a condition of coverage or payment
2 for prosthetics or custom orthotics (or both) under
3 the plan or coverage, prior authorization, such prior
4 authorization must be required in the same manner
5 as prior authorization is required by the plan or cov-
6 erage as a condition of coverage or payment for all
7 similar medical and surgical benefits provided under
8 the plan or coverage.

9 “(2) LIMITATION ON BENEFITS.—Coverage for
10 required benefits for prosthetics and custom
11 orthotics under this section may be limited to cov-
12 erage of the most appropriate device or component
13 model that adequately meets the medical require-
14 ments of the patient, as determined by the treating
15 physician of the patient involved.

16 “(3) COVERAGE FOR REPAIR OR REPLACE-
17 MENT.—Benefits for prosthetics and custom
18 orthotics required under this section shall include
19 coverage for the repair or replacement of prosthetics
20 and custom orthotics, if the repair or replacement is
21 due to normal wear and tear, irreparable damage, a
22 change in the condition of the patient as determined
23 by the treating physician, or otherwise determined
24 appropriate by the treating physician of the patient
25 involved.

1 “(d) DEFINITIONS.—In this section:

2 “(1) PROSTHETICS.—The term ‘prosthetics’
3 means those devices and components that may be
4 used to replace, in whole or in part, an arm or leg,
5 as well as the services required to do so and includes
6 external breast prostheses incident to mastectomy
7 resulting from breast cancer.

8 “(2) CUSTOM ORTHOTICS.—The term ‘custom
9 orthotics’ means the following:

10 “(A) Custom-fabricated orthotics and re-
11 lated services, which include custom-fabricated
12 devices that are individually made for a specific
13 patient, as well as all services and supplies that
14 are medically necessary for the effective use of
15 the orthotic device and instructing the patient
16 in the use of the device. No other patient would
17 be able to use this particular orthosis. A cus-
18 tom-fabricated orthosis is a device which is fab-
19 ricated based on clinically derived and rectified
20 castings, tracings, measurements, or other im-
21 ages (such as x-rays) of the body part. The fab-
22 rication may involve using calculations, tem-
23 plates and component parts. This process re-
24 quires the use of basic materials and involves
25 substantial work such as vacuum forming, cut-

1 ting, bending, molding, sewing, drilling and fin-
2 ishing prior to fitting on the patient. Custom-
3 fabricated devices may be furnished only by an
4 appropriately credentialed (certified or licensed)
5 practitioner and accredited supplier in Orthotics
6 or Prosthetics. Such devices and related serv-
7 ices are represented by the set of L-codes under
8 the Healthcare Common Procedure Coding Sys-
9 tem describing this care listed on the date of
10 enactment of this section in Centers for Medi-
11 care & Medicaid Services Transmittal 656.

12 “(B) Custom-fitted high orthotics and re-
13 lated services, which include prefabricated de-
14 vices that are manufactured with no specific pa-
15 tient in mind, but that are appropriately sized,
16 adapted, modified, and configured (with the re-
17 quired tools and equipment) to a specific pa-
18 tient in accordance with a prescription, and
19 which no other patient would be able to use, as
20 well as all services and supplies that are medi-
21 cally necessary for the effective use of the
22 orthotic device and instructing the patient in
23 the use of the device. Custom-fitted high devices
24 may be furnished only by an appropriately
25 credentialed (certified or licensed) practitioner

1 and accredited supplier in Orthotics or Pros-
2 thetics. Such devices and related services are
3 represented by the existing set of L-codes under
4 the Healthcare Common Procedure Coding Sys-
5 tem describing this care listed on the date of
6 enactment of this section in Centers for Medi-
7 care & Medicaid Services Transmittal 656.

8 For purposes of subparagraphs (A) and (B), Centers
9 for Medicare & Medicaid Services Transmittal 656,
10 upon modification or reissuance by the Centers for
11 Medicare & Medicaid Services to reflect new code ad-
12 ditions and coding changes for prosthetics and cus-
13 tom orthotics, shall be the version of the Transmittal
14 used for purposes of such subparagraphs.

15 “(3) FINANCIAL REQUIREMENTS.—The term
16 ‘financial requirements’ includes deductibles, coin-
17 surance, co-payments, other cost sharing, and limita-
18 tions on the total amount that may be paid by a
19 participant or beneficiary with respect to benefits
20 under the plan or health insurance coverage.

21 “(4) TREATMENT LIMITATIONS.—The term
22 ‘treatment limitations’ includes limits on the fre-
23 quency of treatment, number of visits, specific pre-
24 scribed components, and limits that are more broad-
25 ly applicable to durable medical equipment, or other

1 similar limits on the amount, duration, or scope of
2 treatment.

3 “(e) DIFFERENTIATION FROM DURABLE MEDICAL
4 EQUIPMENT.—For purposes of this section, prosthetics
5 and custom orthotics shall be treated as distinct from du-
6 rable medical equipment.”.

7 (2) APPLICATION TO INDIVIDUAL HEALTH IN-
8 SURANCE COVERAGE BEFORE 2014.—For purposes of
9 applying section 2729 of the Public Health Service
10 Act, as inserted by paragraph (1), to individual
11 health insurance coverage before 2014, the provi-
12 sions of such section shall be treated as also in-
13 cluded under part B of title XXVII of the Public
14 Health Service Act.

15 (c) INTERNAL REVENUE CODE.—Subchapter B of
16 chapter 100 of subtitle K of the Internal Revenue Code
17 of 1986 is amended by adding after section 9813 the fol-
18 lowing:

19 **“SEC. 9814. PROSTHETICS AND CUSTOM ORTHOTICS FAIR-**
20 **NESS IN COVERAGE.**

21 “(a) IN GENERAL.—In the case of a group health
22 plan (or health insurance coverage offered in connection
23 with a group health plan) that provides medical and sur-
24 gical benefits and also provides benefits for prosthetics or

1 custom orthotics (as defined under paragraphs (1) and (2)
2 of subsection (e)) (or both)—

3 “(1) such benefits for prosthetics or custom
4 orthotics (or both) under the plan (or coverage) shall
5 be provided under terms and conditions that are no
6 less favorable than the terms and conditions applica-
7 ble to substantially all medical and surgical benefits
8 provided under the plan (or coverage);

9 “(2) such benefits for prosthetics or custom
10 orthotics (or both) under the plan (or coverage) may
11 not be subject to separate financial requirements (as
12 defined in subsection (e)(2)) that are applicable only
13 with respect to such benefits, and any financial re-
14 quirements applicable to such benefits shall be no
15 more restrictive than the financial requirements ap-
16 plicable to substantially all medical and surgical ben-
17 efits provided under the plan (or coverage); and

18 “(3) any treatment limitations (as defined in
19 subsection (e)(3)) applicable to such benefits for
20 prosthetics or custom orthotics (or both) under the
21 plan (or coverage) may not be more restrictive than
22 the treatment limitations applicable to substantially
23 all medical and surgical benefits provided under the
24 plan (or coverage).

1 “(b) PATIENT ACCESS.—A group health plan (or
2 health insurance coverage offered in connection with a
3 group health plan) described in subsection (a) that does
4 not provide coverage for benefits outside of a network shall
5 ensure that such provider network is adequate to ensure
6 enrollee access to prosthetic and custom orthotic devices
7 and related services provided by appropriately credentialed
8 practitioners and accredited suppliers of prosthetics and
9 custom orthotics.

10 “(c) ADDITIONAL REQUIREMENTS.—

11 “(1) PRIOR AUTHORIZATION.—In the case of a
12 group health plan (or health insurance coverage of-
13 fered in connection with a group health plan) that
14 requires, as a condition of coverage or payment for
15 prosthetics or custom orthotics (or both) under the
16 plan (or coverage), prior authorization, such prior
17 authorization must be required in the same manner
18 as prior authorization is required by the plan (or
19 coverage) as a condition of coverage or payment for
20 all similar medical and surgical benefits provided
21 under the plan (or coverage).

22 “(2) LIMITATION ON BENEFITS.—Coverage for
23 required benefits for prosthetics and custom
24 orthotics under this section may be limited to cov-
25 erage of the most appropriate device or component

1 model that meets the medical requirements of the
2 patient, as determined by the treating physician of
3 the patient involved.

4 “(3) COVERAGE FOR REPAIR OR REPLACE-
5 MENT.—Benefits for prosthetics and custom
6 orthotics required under this section shall include
7 coverage for the repair or replacement of prosthetics
8 and custom orthotics, if the repair or replacement is
9 due to normal wear and tear, irreparable damage, a
10 change in the condition of the patient as determined
11 by the treating physician, or otherwise determined
12 appropriate by the treating physician of the patient
13 involved.

14 “(4) ASSISTANCE TO ENROLLEES.—The Sec-
15 retary of the Treasury, in consultation with the Sec-
16 retary of Health and Human Services, shall provide
17 assistance to enrollees under plans or coverage to
18 which the amendment made by section 3 apply with
19 any questions or problems with respect to compli-
20 ance with the requirements of such amendment.

21 “(5) AUDITS.—The Secretary of the Treasury,
22 in consultation with the Secretary of Health and
23 Human Services, shall provide for the conduct of
24 random audits of group health plans (and health in-
25 surance coverage offered in connection with such

1 plans) to ensure that such plans (or coverage) are in
2 compliance with the amendments made by section
3 (3).

4 “(d) DEFINITIONS.—In this section:

5 “(1) PROSTHETICS.—The term ‘prosthetics’
6 means those devices and components that may be
7 used to replace, in whole or in part, an arm or leg,
8 as well as the services required to do so and includes
9 external breast prostheses incident to mastectomy
10 resulting from breast cancer.

11 “(2) CUSTOM ORTHOTICS.—The term ‘custom
12 orthotics’ means the following:

13 “(A) Custom-fabricated orthotics and re-
14 lated services, which include custom-fabricated
15 devices that are individually made for a specific
16 patient, as well as all services and supplies that
17 are medically necessary for the effective use of
18 the orthotic device and instructing the patient
19 in the use of the device. No other patient would
20 be able to use this particular orthosis. A cus-
21 tom-fabricated orthosis is a device which is fab-
22 ricated based on clinically derived and rectified
23 castings, tracings, measurements, or other im-
24 ages (such as x-rays) of the body part. The fab-
25 rication may involve using calculations, tem-

1 plates and component parts. This process re-
2 quires the use of basic materials and involves
3 substantial work such as vacuum forming, cut-
4 ting, bending, molding, sewing, drilling and fin-
5 ishing prior to fitting on the patient. Custom-
6 fabricated devices may be furnished only by an
7 appropriately credentialed (certified or licensed)
8 practitioner and accredited supplier in Orthotics
9 or Prosthetics. Such devices and related serv-
10 ices are represented by the set of L-codes under
11 the Healthcare Common Procedure Coding Sys-
12 tem describing this care listed on the date of
13 enactment of this section in Centers for Medi-
14 care & Medicaid Services Transmittal 656.

15 “(B) Custom-fitted high orthotics and re-
16 lated services, which include prefabricated de-
17 vices that are manufactured with no specific pa-
18 tient in mind, but that are appropriately sized,
19 adapted, modified, and configured (with the re-
20 quired tools and equipment) to a specific pa-
21 tient in accordance with a prescription, and
22 which no other patient would be able to use, as
23 well as all services and supplies that are medi-
24 cally necessary for the effective use of the
25 orthotic device and instructing the patient in

1 the use of the device. Custom-fitted high devices
2 may be furnished only by an appropriately
3 credentialed (certified or licensed) practitioner
4 and accredited supplier in Orthotics or Pros-
5 thetics. Such devices and related services are
6 represented by the existing set of L-codes under
7 the Healthcare Common Procedure Coding Sys-
8 tem describing this care listed on the date of
9 enactment of this section in Centers for Medi-
10 care & Medicaid Services Transmittal 656.

11 For purposes of subparagraphs (A) and (B), Centers
12 for Medicare & Medicaid Services Transmittal 656,
13 upon modification or reissuance by the Centers for
14 Medicare & Medicaid Services to reflect new code ad-
15 ditions and coding changes for prosthetics and cus-
16 tom orthotics, shall be the version of the Transmittal
17 used for purposes of such subparagraphs.

18 “(3) FINANCIAL REQUIREMENTS.—The term
19 ‘financial requirements’ includes deductibles, coin-
20 surance, co-payments, other cost sharing, and limita-
21 tions on the total amount that may be paid by a
22 participant or beneficiary with respect to benefits
23 under the plan or health insurance coverage.

24 “(4) TREATMENT LIMITATIONS.—The term
25 ‘treatment limitations’ includes limits on the fre-

1 quency of treatment, number of visits, specific pre-
2 scribed components, or other similar limits on the
3 scope or duration of treatment.

4 “(e) DIFFERENTIATION FROM DURABLE MEDICAL
5 EQUIPMENT.—For purposes of this section, prosthetics
6 and custom orthotics shall be treated as distinct from du-
7 rable medical equipment.”.

8 (d) EFFECTIVE DATE.—The amendments made by
9 this section shall apply with respect to plan years begin-
10 ning on or after the date of the enactment of this section
11 and with respect to health insurance coverage issued on
12 or after such date.

13 **SEC. 4. UPDATING STANDARD DEFINITIONS TO INCLUDE**
14 **PROSTHETICS AND CUSTOM ORTHOTICS.**

15 (a) IN GENERAL.—Section 2715(g)(3) of the Public
16 Health Service Act (42 U.S.C. 300gg–15(g)(3)) is amend-
17 ed by inserting “prosthetics, custom orthotics,” after
18 “emergency medical transportation,”.

19 (b) PROSTHETICS; CUSTOM ORTHOTICS.—In devel-
20 oping standards for the definitions of the terms “pros-
21 thetics” and “custom orthotics” pursuant to the amend-
22 ment made by subsection (a), the Secretary shall ensure
23 that such definitions are consistent with the definitions of
24 such terms in section 2729(d) of the Public Health Service
25 Act (as added by section 3(b) of this Act).

1 **SEC. 5. FEDERAL ADMINISTRATIVE RESPONSIBILITIES.**

2 (a) ASSISTANCE TO ENROLLEES.—The Secretary of
3 Labor, in consultation with the Secretary of Health and
4 Human Services, shall provide assistance to enrollees
5 under group health plans (and health insurance coverage
6 offered in connection with such plans) to which the amend-
7 ments made by section 3 apply with any questions or prob-
8 lems with respect to compliance with the requirements of
9 such amendments.

10 (b) AUDITS.—The Secretary of Labor, in consulta-
11 tion with the Secretary of Health and Human Services,
12 shall provide for the conduct of random audits of group
13 health plans (and health insurance coverage offered in
14 connection with such plans) to ensure that such plans (or
15 coverage) are in compliance with the amendments made
16 by section 3.

17 (c) REGULATIONS.—Not later than 1 year after the
18 date of the enactment of this Act, the Secretary of Labor,
19 in consultation with the Secretary of Health and Human
20 Services, shall promulgate final regulations to carry out
21 this Act and the amendments made by this Act.

22 (d) DEFINITIONS.—In this section:

23 (1) GROUP HEALTH PLAN.—The term “group
24 health plan” has the meaning given such term in
25 section 733(a) of the Employee Retirement and In-
26 come Security Act of 1974 (29 U.S.C. 1191b(a)).

1 (2) HEALTH INSURANCE COVERAGE.—The term
2 “health insurance coverage” has the meaning given
3 such term in section 733(b)(1) of such Act (29
4 U.S.C. 1191b(b)(1)).

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