

107TH CONGRESS
2^D SESSION

H. R. 3676

To amend titles V, XVIII, and XIX of the Social Security Act to promote tobacco use cessation under the Medicare Program, the Medicaid Program, and the maternal and child health program.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 5, 2002

Ms. DEGETTE (for herself and Mrs. BONO) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on 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 titles V, XVIII, and XIX of the Social Security Act to promote tobacco use cessation under the Medicare Program, the Medicaid Program, and the maternal and child health program.

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 the “Medicare, Medicaid,
5 and MCH Tobacco Use Cessation Promotion Act of
6 2001”.

1 **SEC. 2. COVERAGE OF COUNSELING FOR CESSATION OF**
2 **TOBACCO USE UNDER THE MEDICARE PRO-**
3 **GRAM.**

4 (a) **COVERAGE.**—Section 1861(s)(2) of the Social Se-
5 curity Act (42 U.S.C. 1395x(s)(2)) is amended—

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

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

10 (3) by adding at the end the following new sub-
11 paragraph:

12 “(W) counseling for cessation of tobacco use (as
13 defined in section 1861(ww));”.

14 (b) **SERVICES DESCRIBED.**—Section 1861 of such
15 Act (42 U.S.C. 1395x) is further amended by adding at
16 the end the following new subsection:

17 “Counseling for Cessation of Tobacco Use

18 “(ww)(1) Subject to paragraph (2), the term ‘coun-
19 seling for cessation of tobacco use’ means diagnostic, ther-
20 apy, and counseling services for cessation of tobacco use,
21 for individuals who use tobacco products or are being
22 treated for tobacco use, furnished—

23 “(A) by or under the supervision of a physician;

24 or

25 “(B) by any other health care professional
26 who—

1 “(i) is legally authorized to furnish such
2 services under State law (or the State regu-
3 latory mechanism provided by State law) of the
4 State in which the services are furnished; and

5 “(ii) is authorized to receive payment for
6 other services under this title or is designated
7 by the Secretary for this purpose.

8 “(2) Such term is limited to—

9 “(A) services that are included in the most cur-
10 rent clinical practice guidelines on treating tobacco
11 use and dependence issued by the Public Health
12 Service; and

13 “(B) such other services that the Secretary rec-
14 ognizes to be effective.”.

15 (c) PAYMENT AND ELIMINATION OF COST-SHAR-
16 ING.—

17 (1) ELIMINATION OF COINSURANCE.—Section
18 1833(a)(1) of such Act (42 U.S.C. 1395l(a)(1)) is
19 amended—

20 (A) by striking “and” before “(U)”; and

21 (B) by inserting before the semicolon at
22 the end the following: “, and (V) with respect
23 to counseling for cessation of tobacco use (as
24 defined in section 1861(ww)), the amount paid
25 shall be 100 percent of the lesser of the actual

1 charge for the service or the amount determined
2 by a fee schedule established by the Secretary
3 for purposes of this clause”.

4 (2) ELIMINATION OF DEDUCTIBLE.—The first
5 sentence of section 1833(b) of such Act (42 U.S.C.
6 1395l(b)) is amended—

7 (A) by striking “and” before “(6)”; and

8 (B) by inserting before the period the fol-
9 lowing: “, and (7) such deductible shall not
10 apply with respect to counseling for cessation of
11 tobacco use (as defined in section 1861(ww))”.

12 (3) ELIMINATION OF COINSURANCE IN OUT-
13 PATIENT HOSPITAL SETTINGS.—The third sentence
14 of section 1866(a)(2)(A) of such Act (42 U.S.C.
15 1395cc(a)(2)(A)) is amended by inserting after
16 “1861(s)(10)(A)” the following: “, with respect to
17 counseling for cessation of tobacco use (as defined in
18 section 1861(ww))”.

19 (d) EFFECTIVE DATE.—The amendments made by
20 this section shall apply to services furnished on or after
21 January 1 of the first calendar year that begins at least
22 6 months after the date of the enactment of this Act.

1 **SEC. 3. COVERAGE OF COUNSELING FOR CESSATION OF**
2 **TOBACCO USE UNDER THE MEDICAID PRO-**
3 **GRAM.**

4 (a) DROPPING EXCEPTION FROM MEDICAID PRE-
5 SCRIPTON DRUG COVERAGE FOR TOBACCO USE CES-
6 SATION MEDICATIONS.—Section 1927(d)(2) of the Social
7 Security Act (42 U.S.C. 1396r–8(d)(2)) is amended—

8 (1) by striking subparagraph (E);

9 (2) by redesignating subparagraph (F) through
10 (J) as subparagraphs (E) through (I), respectively;
11 and

12 (3) in subparagraph (F), as so redesignated, by
13 inserting before the period at the end the following:
14 “except agents approved by the Food and Drug Ad-
15 ministration for purposes of promoting, and when
16 used to promote, tobacco use cessation”.

17 (b) REQUIRING COVERAGE OF TOBACCO USE CES-
18 SATION COUNSELING FOR PREGNANT WOMEN.—Section
19 1905(a)(4) of such Act (42 U.S.C. 1396d(a)(4)) is
20 amended—

21 (1) by striking “and” before “(C)”; and

22 (2) by adding at the end the following: “and
23 (D) counseling for cessation of tobacco use (as de-
24 fined in section 1861(ww)) for pregnant women;”.

25 (c) REMOVAL OF COST-SHARING FOR TOBACCO USE
26 CESSATION COUNSELING SERVICES FOR PREGNANT

1 WOMEN.—Section 1916 of such Act (42 U.S.C. 1396o)
2 is amended, in each of subsections (a)(2)(B) and
3 (b)(2)(B), by striking “(B)” and inserting “(B)(i) coun-
4 seling for cessation of tobacco use (as defined in section
5 1861(ww)) furnished to pregnant women and (ii) other”.

6 (d) EFFECTIVE DATE.—The amendments made by
7 this section shall apply to services furnished on or after
8 January 1 of the first calendar year that begins at least
9 6 months after the date of the enactment of this Act.

10 **SEC. 4. PROMOTING CESSATION OF TOBACCO USE UNDER**

11 **THE MATERNAL AND CHILD HEALTH PRO-**

12 **GRAM.**

13 (a) QUALITY MATERNAL AND CHILD HEALTH SERV-
14 ICES INCLUDES TOBACCO USE CESSATION COUNSELING
15 AND MEDICATIONS.—Section 501 of the Social Security
16 Act (42 U.S.C. 701) is amended by adding at the end the
17 following new subsection:

18 “(c) For purposes of this title, counseling for ces-
19 sation of tobacco use (as defined in section 1861(ww)),
20 drugs and biologicals used to promote tobacco use ces-
21 sation, and the inclusion of antitobacco messages in health
22 promotion counseling shall be considered to be part of
23 quality maternal and child health services.”.

1 (b) EFFECTIVE DATE.—The amendment made by
2 subsection (a) shall take effect on the date of the enact-
3 ment of this Act.

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