

117TH CONGRESS
2D SESSION

H. R. 7702

To provide health insurance benefits for outpatient and inpatient items and services related to the diagnosis and treatment of a craniofacial, oral, or maxillofacial congenital anomaly or birth defect.

IN THE HOUSE OF REPRESENTATIVES

MAY 10, 2022

Mr. DUNN (for himself and Mr. GRIFFITH) 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

A BILL

To provide health insurance benefits for outpatient and inpatient items and services related to the diagnosis and treatment of a craniofacial, oral, or maxillofacial congenital anomaly or birth defect.

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 “Ensuring Lasting
5 Smiles Act”.

1 **SEC. 2. COVERAGE OF CRANIOFACIAL, ORAL, OR MAXILLO-**
2 **FACIAL CONGENITAL ANOMALY OR BIRTH**
3 **DEFECT.**

4 (a) PUBLIC HEALTH SERVICE ACT AMENDMENTS.—
5 Part D of title XXVII of the Public Health Service Act
6 (42 U.S.C. 300gg–111 et seq.) is amended by adding at
7 the end the following new section:

8 **“SEC. 2799A–11. STANDARDS RELATING TO BENEFITS FOR**
9 **CRANIOFACIAL, ORAL, OR MAXILLOFACIAL**
10 **CONGENITAL ANOMALY OR BIRTH DEFECT.**

11 “(a) REQUIREMENTS FOR CARE AND RECONSTRUC-
12 TIVE TREATMENT.—

13 “(1) IN GENERAL.—A group health plan, and a
14 health insurance issuer offering group or individual
15 health insurance coverage, shall provide coverage for
16 outpatient and inpatient items and services related
17 to the diagnosis and treatment of a craniofacial,
18 oral, or maxillofacial congenital anomaly or birth de-
19 fect.

20 “(2) REQUIREMENTS.—

21 “(A) IN GENERAL.—Coverage provided
22 under paragraph (1) shall include any medically
23 necessary item or service to functionally im-
24 prove, repair, or restore any body part to
25 achieve normal body functioning or appearance,
26 as determined by the treating physician (as de-

1 fined in section 1861(r) of the Social Security
2 Act), due to craniofacial, oral, or maxillofacial
3 congenital anomaly or birth defect.

4 “(B) FINANCIAL REQUIREMENTS AND
5 TREATMENT REQUIREMENTS.—Any coverage
6 provided under paragraph (1) under a group
7 health plan or individual or group health insur-
8 ance coverage offered by a health insurance
9 issuer may be subject to coverage limits (such
10 as medical necessity, pre-authorization, or pre-
11 certification) and cost-sharing requirements
12 (such as coinsurance, copayments, and
13 deductibles), as required by the plan or issuer,
14 that are no more restrictive than the predomi-
15 nant coverage limits and cost-sharing require-
16 ments, respectively, applied to substantially all
17 medical and surgical benefits covered by the
18 plan (or coverage).

19 “(3) TREATMENT DEFINED.—In this section:

20 “(A) IN GENERAL.—Except as provided in
21 subparagraph (B), the term ‘treatment’ in-
22 cludes, with respect to a group health plan or
23 group or individual health insurance coverage
24 offered by a health insurance issuer, inpatient
25 and outpatient items and services performed to

1 improve, repair, or restore bodily function (or
2 performed to approximate a normal appear-
3 ance), due to a craniofacial, oral, or maxillo-
4 facial congenital anomaly or birth defect, and
5 includes treatment to any and all missing or ab-
6 normal body parts (including teeth, the oral
7 cavity, and their associated structures) that
8 would otherwise be provided under the plan or
9 coverage for any other injury or sickness, in-
10 cluding—

11 “(i) any items or services, including
12 inpatient and outpatient care, reconstruc-
13 tive services and procedures, and complica-
14 tions thereof;

15 “(ii) adjunctive dental, orthodontic, or
16 prosthodontic support from birth until the
17 medical or surgical treatment of the defect
18 or anomaly has been completed, including
19 ongoing or subsequent treatment required
20 to maintain function or approximate a nor-
21 mal appearance;

22 “(iii) procedures that materially im-
23 prove, repair, or restore bodily function;
24 and

1 “(iv) procedures for secondary condi-
2 tions and follow-up treatment associated
3 with the underlying craniofacial, oral, or
4 maxillofacial congenital anomaly or birth
5 defect.

6 “(B) EXCEPTION.—The term ‘treatment’
7 shall not include cosmetic surgery performed to
8 reshape normal structures of the body to im-
9 prove appearance or self-esteem.

10 “(b) NOTICE.—Not later than one year after the date
11 of the enactment of this section and annually thereafter,
12 a group health plan, and a health insurance issuer offering
13 group or individual health insurance coverage, shall, in ac-
14 cordance with regulations or guidance issued by the Sec-
15 retary, provide to each enrollee under such plan or cov-
16 erage a written description of the terms of this section.
17 Such description shall be in language which is understand-
18 able to the typical enrollee.”.

19 (b) ERISA AMENDMENTS.—

20 (1) IN GENERAL.—Subpart B of part 7 of sub-
21 title B of title I of the Employee Retirement Income
22 Security Act of 1974 is amended by adding at the
23 end the following:

1 **“SEC. 726. STANDARDS RELATING TO BENEFITS FOR**
2 **CRANIOFACIAL, ORAL, OR MAXILLOFACIAL**
3 **CONGENITAL ANOMALY OR BIRTH DEFECT.**

4 “(a) **REQUIREMENTS FOR CARE AND RECONSTRUC-**
5 **TIVE TREATMENT.—**

6 “(1) **IN GENERAL.—**A group health plan, and a
7 health insurance issuer offering group health insur-
8 ance coverage, shall provide coverage for outpatient
9 and inpatient items and services related to the diag-
10 nosis and treatment of a craniofacial, oral, or maxil-
11 lofacial congenital anomaly or birth defect.

12 “(2) **REQUIREMENTS.—**

13 “(A) **IN GENERAL.—**Coverage provided
14 under paragraph (1) shall include any medically
15 necessary item or service to functionally im-
16 prove, repair, or restore any body part to
17 achieve normal body functioning or appearance,
18 as determined by the treating physician (as de-
19 fined in section 1861(r) of the Social Security
20 Act), due to craniofacial, oral, or maxillofacial
21 congenital anomaly or birth defect.

22 “(B) **FINANCIAL REQUIREMENTS AND**
23 **TREATMENT REQUIREMENTS.—**Any coverage
24 provided under paragraph (1) under a group
25 health plan or group health insurance coverage
26 offered by a health insurance issuer may be

1 subject to coverage limits (such as medical ne-
2 cessity, pre-authorization, or pre-certification)
3 and cost-sharing requirements (such as coinsur-
4 ance, copayments, and deductibles), as required
5 by the plan or issuer, that are no more restric-
6 tive than the predominant coverage limits and
7 cost-sharing requirements, respectively, applied
8 to substantially all medical and surgical benefits
9 covered by the plan (or coverage).

10 “(3) TREATMENT DEFINED.—In this section:

11 “(A) IN GENERAL.—Except as provided in
12 subparagraph (B), the term ‘treatment’ in-
13 cludes, with respect to a group health plan or
14 group health insurance coverage offered by a
15 health insurance issuer, inpatient and out-
16 patient items and services performed to im-
17 prove, repair, or restore bodily function (or per-
18 formed to approximate a normal appearance),
19 due to a craniofacial, oral, or maxillofacial con-
20 genital anomaly or birth defect, and includes
21 treatment to any and all missing or abnormal
22 body parts (including teeth, the oral cavity, and
23 their associated structures) that would other-
24 wise be provided under the plan or coverage for
25 any other injury or sickness, including—

1 “(i) any items or services, including
2 inpatient and outpatient care, reconstruc-
3 tive services and procedures, and complica-
4 tions thereof;

5 “(ii) adjunctive dental, orthodontic, or
6 prosthodontic support from birth until the
7 medical or surgical treatment of the defect
8 or anomaly has been completed, including
9 ongoing or subsequent treatment required
10 to maintain function or approximate a nor-
11 mal appearance;

12 “(iii) procedures that materially im-
13 prove, repair, or restore bodily function;
14 and

15 “(iv) procedures for secondary condi-
16 tions and follow-up treatment associated
17 with the underlying craniofacial, oral, or
18 maxillofacial congenital anomaly or birth
19 defect.

20 “(B) EXCEPTION.—The term ‘treatment’
21 shall not include cosmetic surgery performed to
22 reshape normal structures of the body to im-
23 prove appearance or self-esteem.

24 “(b) NOTICE.—Not later than one year after the date
25 of the enactment of this section and annually thereafter,

1 a group health plan, and a health insurance issuer offering
 2 group health insurance coverage, shall, in accordance with
 3 regulations or guidance issued by the Secretary, provide
 4 to each participant or beneficiary under such plan or cov-
 5 erage a written description of the terms of this section.
 6 Such description shall be in language which is understand-
 7 able to the typical participant or beneficiary.”.

8 (2) TECHNICAL AMENDMENT.—The table of
 9 contents in section 1 of such Act is amended by in-
 10 sserting after the item relating to section 725 the fol-
 11 lowing new item:

“Sec. 726. Standards relating to benefits for craniofacial, oral, or maxillofacial
 congenital anomaly or birth defect.”.

12 (c) INTERNAL REVENUE CODE AMENDMENTS.—

13 (1) IN GENERAL.—Subchapter B of chapter
 14 100 of the Internal Revenue Code of 1986 is amend-
 15 ed by adding at the end the following:

16 **“SEC. 9826. STANDARDS RELATING TO BENEFITS FOR**
 17 **CRANIOFACIAL, ORAL, OR MAXILLOFACIAL**
 18 **CONGENITAL ANOMALY OR BIRTH DEFECT.**

19 **“(a) REQUIREMENTS FOR CARE AND RECONSTRUC-**
 20 **TIVE TREATMENT.—**

21 **“(1) IN GENERAL.—**A group health plan shall
 22 provide coverage for outpatient and inpatient items
 23 and services related to the diagnosis and treatment

1 of a craniofacial, oral, or maxillofacial congenital
2 anomaly or birth defect.

3 “(2) REQUIREMENTS.—

4 “(A) IN GENERAL.—Coverage provided
5 under paragraph (1) shall include any medically
6 necessary item or service to functionally im-
7 prove, repair, or restore any body part to
8 achieve normal body functioning or appearance,
9 as determined by the treating physician (as de-
10 fined in section 1861(r) of the Social Security
11 Act), due to craniofacial, oral, or maxillofacial
12 congenital anomaly or birth defect.

13 “(B) FINANCIAL REQUIREMENTS AND
14 TREATMENT REQUIREMENTS.—Any coverage
15 provided under paragraph (1) under a group
16 health plan may be subject to coverage limits
17 (such as medical necessity, pre-authorization, or
18 pre-certification) and cost-sharing requirements
19 (such as coinsurance, copayments, and
20 deductibles), as required by the plan, that are
21 no more restrictive than the predominant cov-
22 erage limits and cost-sharing requirements, re-
23 spectively, applied to substantially all medical
24 and surgical benefits covered by the plan.

25 “(3) TREATMENT DEFINED.—In this section:

1 “(A) IN GENERAL.—Except as provided in
2 subparagraph (B), the term ‘treatment’ in-
3 cludes, with respect to a group health plan, in-
4 patient and outpatient items and services per-
5 formed to improve, repair, or restore bodily
6 function (or performed to approximate a normal
7 appearance), due to a craniofacial, oral, or max-
8 illofacial congenital anomaly or birth defect,
9 and includes treatment to any and all missing
10 or abnormal body parts (including teeth, the
11 oral cavity, and their associated structures) that
12 would otherwise be provided under the plan for
13 any other injury or sickness, including—

14 “(i) any items or services, including
15 inpatient and outpatient care, reconstruc-
16 tive services and procedures, and complica-
17 tions thereof;

18 “(ii) adjunctive dental, orthodontic, or
19 prosthodontic support from birth until the
20 medical or surgical treatment of the defect
21 or anomaly has been completed, including
22 ongoing or subsequent treatment required
23 to maintain function or approximate a nor-
24 mal appearance;

1 “(iii) procedures that materially im-
2 prove, repair, or restore bodily function;
3 and

4 “(iv) procedures for secondary condi-
5 tions and follow-up treatment associated
6 with the underlying craniofacial, oral, or
7 maxillofacial congenital anomaly or birth
8 defect.

9 “(B) EXCEPTION.—The term ‘treatment’
10 shall not include cosmetic surgery performed to
11 reshape normal structures of the body to im-
12 prove appearance or self-esteem.

13 “(b) NOTICE.—Not later than one year after the date
14 of the enactment of this section and annually thereafter,
15 a group health plan shall, in accordance with regulations
16 or guidance issued by the Secretary, provide to each en-
17 rollee under such plan a written description of the terms
18 of this section. Such description shall be in language which
19 is understandable to the typical enrollee.”.

20 (2) CLERICAL AMENDMENT.—The table of sec-
21 tions for such subchapter is amended by adding at
22 the end the following new item:

 “Sec. 9826. Standards relating to benefits for craniofacial, oral, or maxillofacial
 congenital anomaly or birth defect.”.

23 (d) RULE OF CONSTRUCTION.—A group health plan
24 or health insurance issuer shall provide the benefits de-

1 scribed in section 2799A–11 of the Public Health Service
2 Act (as added by subsection (a)), section 726 of the Em-
3 ployee Retirement Income Security Act of 1974 (as added
4 by subsection (b)), and section 9826 of the Internal Rev-
5 enue Code of 1986 (as added by subsection (c)) under the
6 terms of such plan or health insurance coverage offered
7 by such issuer.

8 (e) EFFECTIVE DATE.—The amendments made by
9 this section shall apply with respect to plan years begin-
10 ning on or after January 1, 2024.

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