

117TH CONGRESS
2D SESSION

S. 4905

To amend the Employee Retirement Income Security Act of 1974, title XXVII of the Public Health Service Act, and the Internal Revenue Code of 1986 to require group health plans and health insurance issuers offering group or individual health insurance coverage to provide for 3 primary care visits and 3 behavioral health care visits without application of any cost-sharing requirement.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 21, 2022

Mr. KING introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Employee Retirement Income Security Act of 1974, title XXVII of the Public Health Service Act, and the Internal Revenue Code of 1986 to require group health plans and health insurance issuers offering group or individual health insurance coverage to provide for 3 primary care visits and 3 behavioral health care visits without application of any cost-sharing requirement.

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 “Primary and Behav-
3 ioral Health Care Access Act of 2022”.

4 **SEC. 2. PROHIBITION ON APPLICATION OF COST SHARING**
5 **FOR CERTAIN PRIMARY CARE AND BEHAV-**
6 **IORAL HEALTH CARE VISITS.**

7 (a) ERISA.—

8 (1) IN GENERAL.—Subpart B of part 7 of sub-
9 title B of title I of the Employee Retirement Income
10 Security Act of 1974 (29 U.S.C. 1185 et seq.) is
11 amended by inserting after section 720 the following
12 new section:

13 **“SEC. 721. COVERAGE OF CERTAIN PRIMARY CARE AND BE-**
14 **HAVIORAL HEALTH CARE VISITS.**

15 “(a) IN GENERAL.—In addition to any item or serv-
16 ice described in section 2713(a) of the Public Health Serv-
17 ice Act, a group health plan, and a health insurance issuer
18 offering group health insurance coverage, shall at a min-
19 imum provide coverage for and shall not impose any cost-
20 sharing requirements for, with respect to a plan year—

21 “(1) 3 primary care visits; and

22 “(2) 3 behavioral health care visits.

23 “(b) LIMITATIONS.—A group health plan, and a
24 health insurance issuer offering group health insurance
25 coverage, shall ensure that—

1 “(1) the treatment limitations applicable to the
2 3 primary care visits described in paragraph (1) of
3 subsection (a) and the 3 behavioral health care visits
4 described in paragraph (2) of such subsection are no
5 more restrictive than the treatment limitations ap-
6 plied to any other primary care visit or behavioral
7 health care visit covered by the plan or coverage and
8 that there are no separate treatment limitations that
9 are applicable only with respect to such 3 primary
10 or such 3 behavioral health care visits; and

11 “(2) the reimbursement rates under such plan
12 or such coverage for such 3 primary and such 3 be-
13 havioral health care visits are the same as such rates
14 for any other primary care visit or behavioral health
15 care visit covered by the plan or coverage.

16 “(c) DEFINITIONS.—For purposes of this section:

17 “(1) BEHAVIORAL HEALTH CARE VISIT.—The
18 term ‘behavioral health care visit’ means a visit by
19 an individual to a qualified provider during which
20 services are provided with respect to the diagnosis,
21 treatment, screening, or prevention of a behavioral
22 health condition.

23 “(2) PRIMARY CARE SERVICE.—The term ‘pri-
24 mary care service’ means a service identified, as of
25 January 1, 2009, by one of HCPCS codes 99201

1 through 99215 (and as subsequently modified by the
2 Secretary).

3 “(3) PRIMARY CARE VISIT.—The term ‘primary
4 care visit’ means an in-person visit by an individual
5 to a qualified provider who is designated by such in-
6 dividual as the primary care provider for such indi-
7 vidual, during which such individual receives pri-
8 mary care services.

9 “(4) QUALIFIED PROVIDER.—The term ‘quali-
10 fied provider’ means—

11 “(A) with respect to a primary care visit,
12 a general practitioner, family physician, general
13 internist, obstetrician-gynecologist, pediatrician,
14 geriatric physician, or physician assistant or ad-
15 vanced practice registered nurse acting in ac-
16 cordance with State law (including a nurse
17 practitioner, clinical nurse specialist, and cer-
18 tified nurse midwife); and

19 “(B) with respect to a behavioral health
20 care visit, an individual employed in a full-time
21 position (including a fellowship) where the pri-
22 mary intent and function of such position is the
23 direct treatment or recovery support of individ-
24 uals with, or in recovery from, a behavioral
25 health disorder, such as a physician, physician

1 “(1) 3 primary care visits; and

2 “(2) 3 behavioral health care visits.

3 “(b) LIMITATIONS.—A group health plan, and a
4 health insurance issuer offering group or individual health
5 insurance coverage, shall ensure that—

6 “(1) the treatment limitations applicable to the
7 3 primary care visits described in paragraph (1) of
8 subsection (a) and the 3 behavioral health care visits
9 described in paragraph (2) of such subsection are no
10 more restrictive than the treatment limitations ap-
11 plied to any other primary care visit or behavioral
12 health care visit covered by the plan or coverage and
13 that there are no separate treatment limitations that
14 are applicable only with respect to such 3 primary
15 or such 3 behavioral health care visits; and

16 “(2) the reimbursement rates under such plan
17 or such coverage for such 3 primary and such 3 be-
18 havioral health care visits are the same as such rates
19 for any other primary care visit or behavioral health
20 care visit covered by the plan or coverage.

21 “(c) DEFINITIONS.—For purposes of this section:

22 “(1) BEHAVIORAL HEALTH CARE VISIT.—The
23 term ‘behavioral health care visit’ means a visit by
24 an individual to a qualified provider during which
25 services are provided with respect to the diagnosis,

1 treatment, screening, or prevention of a behavioral
2 health condition.

3 “(2) PRIMARY CARE SERVICE.—The term ‘pri-
4 mary care service’ means a service identified, as of
5 January 1, 2009, by one of HCPCS codes 99201
6 through 99215 (and as subsequently modified by the
7 Secretary).

8 “(3) PRIMARY CARE VISIT.—The term ‘primary
9 care visit’ means an in-person visit by an individual
10 to a qualified provider who is designated by such in-
11 dividual as the primary care provider for such indi-
12 vidual, during which such individual receives pri-
13 mary care services.

14 “(4) QUALIFIED PROVIDER.—The term ‘quali-
15 fied provider’ means—

16 “(A) with respect to a primary care visit,
17 a general practitioner, family physician, general
18 internist, obstetrician-gynecologist, pediatrician,
19 geriatric physician, or physician assistant or ad-
20 vanced practice registered nurse acting in ac-
21 cordance with State law (including a nurse
22 practitioner, clinical nurse specialist, and cer-
23 tified nurse midwife); and

24 “(B) with respect to a behavioral health
25 care visit, an individual employed in a full-time

1 position (including a fellowship) where the pri-
 2 mary intent and function of such position is the
 3 direct treatment or recovery support of individ-
 4 uals with, or in recovery from, a behavioral
 5 health disorder, such as a physician, physician
 6 assistant or advanced practice registered nurse
 7 acting in accordance with State law (including
 8 a nurse practitioner, clinical nurse specialist,
 9 and certified nurse midwife), psychiatric nurse,
 10 social worker, marriage and family therapist,
 11 mental health counselor, occupational therapist,
 12 psychologist, psychiatrist, child and adolescent
 13 psychiatrist, or neurologist.”.

14 (c) IRC.—

15 (1) IN GENERAL.—Subchapter B of chapter
 16 100 of subtitle K of the Internal Revenue Code of
 17 1986 is amended by inserting after section 9820 the
 18 following new section:

19 **“SEC. 9821. COVERAGE OF CERTAIN PRIMARY CARE AND**
 20 **BEHAVIORAL HEALTH CARE VISITS.**

21 “(a) IN GENERAL.—In addition to any item or serv-
 22 ice described in section 2713(a) of the Public Health Serv-
 23 ice Act, a group health plan shall at a minimum provide
 24 coverage for and shall not impose any cost-sharing re-
 25 quirements for, with respect to a plan year—

1 “(1) 3 primary care visits; and

2 “(2) 3 behavioral health care visits.

3 “(b) LIMITATIONS.—A group health plan shall ensure
4 that—

5 “(1) the treatment limitations applicable to the
6 3 primary care visits described in paragraph (1) of
7 subsection (a) and the 3 behavioral health care visits
8 described in paragraph (2) of such subsection are no
9 more restrictive than the treatment limitations ap-
10 plied to any other primary care visit or behavioral
11 health care visit covered by the plan and that there
12 are no separate treatment limitations that are appli-
13 cable only with respect to such 3 primary or such 3
14 behavioral health care visits; and

15 “(2) the reimbursement rates under such plan
16 for such 3 primary and such 3 behavioral health
17 care visits are the same as such rates for any other
18 primary care visit or behavioral health care visit cov-
19 ered by the plan.

20 “(c) DEFINITIONS.—For purposes of this section:

21 “(1) BEHAVIORAL HEALTH CARE VISIT.—The
22 term ‘behavioral health care visit’ means a visit by
23 an individual to a qualified provider during which
24 services are provided with respect to the diagnosis,

1 treatment, screening, or prevention of a behavioral
2 health condition.

3 “(2) PRIMARY CARE SERVICE.—The term ‘pri-
4 mary care service’ means a service identified, as of
5 January 1, 2009, by one of HCPCS codes 99201
6 through 99215 (and as subsequently modified by the
7 Secretary).

8 “(3) PRIMARY CARE VISIT.—The term ‘primary
9 care visit’ means an in-person visit by an individual
10 to a qualified provider who is designated by such in-
11 dividual as the primary care provider for such indi-
12 vidual, during which such individual receives pri-
13 mary care services.

14 “(4) QUALIFIED PROVIDER.—The term ‘quali-
15 fied provider’ means—

16 “(A) with respect to a primary care visit,
17 a general practitioner, family physician, general
18 internist, obstetrician-gynecologist, pediatrician,
19 geriatric physician, or physician assistant or ad-
20 vanced practice registered nurse acting in ac-
21 cordance with State law (including a nurse
22 practitioner, clinical nurse specialist, and cer-
23 tified nurse midwife); and

24 “(B) with respect to a behavioral health
25 care visit, an individual employed in a full-time

1 position (including a fellowship) where the pri-
 2 mary intent and function of such position is the
 3 direct treatment or recovery support of individ-
 4 uals with, or in recovery from, a behavioral
 5 health disorder, such as a physician, physician
 6 assistant or advanced practice registered nurse
 7 acting in accordance with State law (including
 8 a nurse practitioner, clinical nurse specialist,
 9 and certified nurse midwife), psychiatric nurse,
 10 social worker, marriage and family therapist,
 11 mental health counselor, occupational therapist,
 12 psychologist, psychiatrist, child and adolescent
 13 psychiatrist, or neurologist.”.

14 (2) HIGH DEDUCTIBLE HEALTH PLANS.—Sec-
 15 tion 223(c)(2)(C) of the Internal Revenue Code of
 16 1986 is amended by inserting “or for the visits de-
 17 scribed in section 9821” before the period.

18 (3) CONFORMING AMENDMENT.—The table of
 19 sections for subchapter B of chapter 100 of the In-
 20 ternal Revenue Code of 1986 is amended by insert-
 21 ing after the item relating to section 9820 the fol-
 22 lowing new item:

“Sec. 9821. Coverage of certain primary care and behavioral health care vis-
 its.”.

23 (d) EFFECTIVE DATE.—The amendments made by
 24 this section shall apply with respect to plan years begin-

1 ning on or after the date that is 2 years after the date
2 of the enactment of this Act.

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