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118TH CONGRESS
1ST SESSION

H. R. 4775

To amend title XIX and XXI of the Social Security Act to provide coverage of comprehensive tobacco cessation services under such titles, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 20, 2023

Ms. BLUNT ROCHESTER (for herself and Mr. FITZPATRICK) introduced the following bill; which was referred to the Committee on Energy and Commerce

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A BILL

To amend title XIX and XXI of the Social Security Act to provide coverage of comprehensive tobacco cessation services under such titles, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Helping Tobacco Users Quit Act''.

SEC. 2. COVERAGE OF COMPREHENSIVE TOBACCO CESSATION SERVICES IN MEDICAID.

(a) REQUIRING MEDICAID COVERAGE OF COUNSELING AND PHARMACOTHERAPY FOR CESSATION OF TO-

BACCO USE AND TEMPORARY ENHANCED FMAP FOR COVERAGE OF TOBACCO CESSATION SERVICES.—Section 1905 of the Social Security Act (42 U.S.C. 1396d) is amended—

(1) by amending subsection (a)(4)(D) to read as follows: ''(D) counseling and pharmacotherapy for cessation of tobacco use by individuals who are eligible under the State plan (as defined in subsection (bb));'';

(2) in subsection (b), by inserting ''(bb)(2),'' after ''(aa),''; and

(3) by striking subsection (bb) and inserting the following:

''(bb) COUNSELING AND PHARMACOTHERAPY FOR CESSATION OF TOBACCO USE.—

''(1) IN GENERAL.—For purposes of this title, the term 'counseling and pharmacotherapy for cessation of tobacco use by individuals who are eligible under the State plan' means diagnostic, therapy, and counseling services and pharmacotherapy (including the coverage of prescription and nonprescription tobacco cessation agents approved by the Food and Drug Administration) for the cessation of tobacco use by individuals who use tobacco products or

who are being treated for tobacco use that is furnished—

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

"(B) by any other health care professional who—

"(i) is legally authorized to furnish such services under State law (or the State regulatory mechanism provided by State law) of the State in which the services are furnished; and

"(ii) is authorized to receive payment for other services under this title or is designated by the Secretary for this purpose,

which is recommended in the guideline entitled, 'Treating Tobacco Use and Dependence: 2008 Update: A Clinical Practice Guideline' published by the Public Health Service in May 2008 (or any subsequent modification of such guideline) or is recommended for the cessation of tobacco use by the U.S. Preventive Services Task Force or any additional intervention approved by the Food and Drug Administration as safe and effective in helping smokers quit.

''(2) TEMPORARY ENHANCED FMAP FOR COVERAGE OF TOBACCO CESSATION SERVICES.—Notwithstanding subsection (b), for calendar quarters occurring during the period beginning on the date of the enactment of this paragraph and ending 5 years after the date of enactment of this paragraph, the Federal medical assistance percentage with respect to amounts expended by a State for medical assistance for counseling and pharmacotherapy for cessation of tobacco use by individuals who are eligible under the State plan (as defined in paragraph (1)) shall be equal to 90 percent.''.

(b) NO COST SHARING.—

(1) IN GENERAL.—Subsections (a)(2) and (b)(2) of section 1916 of the Social Security Act (42 U.S.C. 1396o) are each amended—

(A) in subparagraph (B), by striking '', and counseling'' and all that follows through ''section 1905(bb)(2)(A)'';

(B) by adjusting the left margins of subparagraphs (H) and (I) so as to align with the left margin of subparagraph (G);

(C) in subparagraph (H), by striking ''or'' at the end;

(D) in subparagraph (I), by striking ''; and'' and inserting ''; or''; and

(E) by adding at the end the following new subparagraph:

''(J) counseling and pharmacotherapy for cessation of tobacco use by individuals who are eligible under the State plan (as defined in section 1905(bb)) and covered outpatient drugs (as defined in subsection (k)(2) of section 1927 and including nonprescription drugs described in subsection (d)(2) of such section) that are prescribed for purposes of promoting tobacco cessation in accordance with the guideline specified in section 1905(bb); and''.

(2) APPLICATION TO ALTERNATIVE COST SHARING.—Section 1916A(b)(3)(B) of the Social Security Act (42 U.S.C. 1396o–1(b)(3)(B)) is amended—

(A) in clause (iii), by striking '', and counseling and pharmacotherapy for cessation of tobacco use by pregnant women (as defined in section 1905(bb))'';

(B) by adjusting the left margins of clauses (xii) and (xiii) so as to align with the left margin of clause (xi); and

(C) by adding at the end the following new clause:

"(xiv) Counseling and pharmacotherapy for cessation of tobacco use by individuals who are eligible under the State plan (as defined in section 1905(bb)) and covered outpatient drugs (as defined in subsection (k)(2) of section 1927 and including nonprescription drugs described in subsection (d)(2) of such section) that are prescribed for purposes of promoting tobacco cessation in accordance with the guideline specified in section 1905(bb).".

(c) EXCEPTION FROM OPTIONAL RESTRICTION UNDER MEDICAID PRESCRIPTION DRUG COVERAGE.—Section 1927(d)(2)(F) of the Social Security Act (42 U.S.C. 1396r–8(d)(2)(F)) is amended to read as follows:

"(F) Nonprescription drugs, except, when recommended in accordance with the guideline referred to in section 1905(bb), agents approved by the Food and Drug Administration for purposes of promoting tobacco cessation.".

(d) STATE MONITORING AND PROMOTING OF COMPREHENSIVE TOBACCO CESSATION SERVICES UNDER

MEDICAID.—Section 1902(a) of the Social Security Act (42 U.S.C. 1396a) is amended—

(1) in paragraph (86), by striking at the end ''and'';

(2) in paragraph (87), by striking the period at the end and inserting ''; and''; and

(3) by inserting after paragraph (87) the following new paragraph:

''(88) provide for the State to monitor and promote the use of comprehensive tobacco cessation services under the State plan (including conducting an outreach campaign to increase awareness of the benefits of using such services) among—

''(A) individuals entitled to medical assistance under the State plan who use tobacco products; and

''(B) clinicians and others who provide services to individuals entitled to medical assistance under the State plan.''.

(e) FEDERAL REIMBURSEMENT FOR OUTREACH CAMPAIGN.—Section 1903(a) of the Social Security Act (42 U.S.C. 1396b(a)) is amended—

(1) in paragraph (7), by striking the period at the end and inserting ''; plus''; and

(2) by inserting after paragraph (7) the following new paragraph:

''(8) with respect to the development, implementation, and evaluation of an outreach campaign to—

''(A) increase awareness of comprehensive tobacco cessation services covered in the State plan among—

''(i) individuals who are likely to be eligible for medical assistance under the State plan; and

''(ii) clinicians and others who provide services to individuals who are likely to be eligible for medical assistance under the State plan; and

''(B) increase awareness of the benefits of using comprehensive tobacco cessation services covered in the State plan among—

''(i) individuals who are likely to be eligible for medical assistance under the State plan; and

''(ii) clinicians and others who provide services to individuals who are likely to be eligible for medical assistance under the

State plan about the benefits of using comprehensive tobacco cessation services,

for calendar quarters occurring during the period beginning on the date of the enactment of this paragraph and ending on 5 years after the date of enactment of this paragraph, an amount equal to 90 percent of the sums expended during each quarter which are attributable to such development, implementation, and evaluation, and for calendar quarters succeeding such period, an amount equal to Federal medical assistance percentage determined under section 1905(b) of the sums expended during each quarter which are so attributable.''.

(f) NO PRIOR AUTHORIZATION FOR TOBACCO CESSATION DRUGS UNDER MEDICAID.—Section 1927(d) of the Social Security Act (42 U.S.C. 1396r–8(d)) is amended—

(1) in paragraph (1)(A), by striking ''A State'' and inserting ''Subject to paragraph (8), a State''; and

(2) by adding at the end the following new paragraph:

''(8) NO PRIOR AUTHORIZATION PROGRAMS FOR TOBACCO CESSATION DRUGS.—A State plan may not

require, as a condition of coverage or payment for a covered outpatient drug, the approval of an agent to promote smoking cessation (including agents approved by the Food and Drug Administration) or tobacco cessation.''.

(g) EXCLUSION OF ENHANCED PAYMENTS FROM TERRITORIAL CAPS.—Notwithstanding any other provision of law, for purposes of section 1108 of the Social Security Act (42 U.S.C. 1308), with respect to any additional amount paid to a territory as a result of the application of section 1905(bb)(2) of the Social Security Act (42 U.S.C. 1396d(bb)(2))—

(1) the limitation on payments to territories under subsections (f) and (g) of such section 1108 shall not apply to such additional amounts; and

(2) such additional amounts shall be disregarded in applying such subsections.

(h) EFFECTIVE DATE.—The amendments made by this section shall take effect on the first day of the first fiscal year that begins on or after the date of enactment of this Act.

SEC. 3. COVERAGE OF COMPREHENSIVE TOBACCO CESSATION SERVICES IN CHIP.

(a) REQUIRING CHIP COVERAGE OF COUNSELING AND PHARMACOTHERAPY FOR CESSATION OF TOBACCO USE.—

(1) IN GENERAL.—Section 2103(c)(2) of the Social Security Act (42 U.S.C. 1397cc(c)(2)) is amended by adding at the end the following new subparagraph:

''(D) Counseling and pharmacotherapy for cessation of tobacco use by individuals who are eligible under the State child health plan.''.

(2) COUNSELING AND PHARMACOTHERAPY FOR CESSATION OF TOBACCO USE DEFINED.—Section 2110(c) of the Social Security Act (42 U.S.C. 1397jj(c)) is amended by adding at the end the following new paragraph:

''(10) COUNSELING AND PHARMACOTHERAPY FOR CESSATION OF TOBACCO USE.—The term 'counseling and pharmacotherapy for cessation of tobacco use' means diagnostic, therapy, and counseling services and pharmacotherapy (including the coverage of prescription and nonprescription tobacco cessation agents approved by the Food and Drug Administration) for the cessation of tobacco use by individuals

who use tobacco products or who are being treated for tobacco use that are furnished—

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

''(B) by any other health care professional who—

''(i) is legally authorized to furnish such services under State law (or the State regulatory mechanism provided by State law) of the State in which the services are furnished; and

''(ii) is authorized to receive payment for other services under this title or is designated by the Secretary for this purpose which is recommended in the guideline entitled, 'Treating Tobacco Use and Dependence: 2008 Update: A Clinical Practice Guideline' published by the Public Health Service in May 2008 (or any subsequent modification of such guideline) or is recommended for the cessation of tobacco use by the U.S. Preventive Services Task Force or any additional intervention approved by the Food and Drug Administration as safe and effective in helping smokers quit.''.

(b) NO COST SHARING.—Section 2103(e) of the Social Security Act (42 U.S.C. 1397cc(e)) is amended by adding at the end the following new paragraph:

''(5) NO COST SHARING ON BENEFITS FOR COUNSELING AND PHARMACOTHERAPY FOR CESSATION OF TOBACCO USE.—The State child health plan may not impose deductibles, coinsurance, or other cost sharing with respect to benefits for counseling and pharmacotherapy for cessation of tobacco use (as defined in section 2110(c)(10)) and prescription drugs that are covered under a State child health plan that are prescribed for purposes of promoting tobacco cessation in accordance with the guideline specified in section 2110(c)(10)(B).''.

(c) EXCEPTION FROM OPTIONAL RESTRICTION UNDER CHIP PRESCRIPTION DRUG COVERAGE.—Section 2103 of the Social Security Act (42 U.S.C. 1397cc) is amended by adding at the end the following new subsection:

''(g) EXCEPTION FROM OPTIONAL RESTRICTION UNDER CHIP PRESCRIPTION DRUG COVERAGE.—The State child health plan may exclude or otherwise restrict nonprescription drugs, except, in the case of—

''(1) pregnant women when recommended in accordance with the guideline specified in section

2110(c)(10)(B), agents approved by the Food and Drug Administration for purposes of promoting tobacco cessation; and

''(2) individuals who are eligible under the State child health plan when recommended in accordance with the Guideline referred to in section 2110(c)(10)(B), agents approved by the Food and Drug Administration for purposes of promoting tobacco cessation.''.

(d) STATE MONITORING AND PROMOTING OF COMPREHENSIVE TOBACCO CESSATION SERVICES UNDER CHIP.—Section 2102 of the Social Security Act (42 U.S.C. 1397bb) is amended by adding at the end the following new subsection:

''(d) STATE MONITORING AND PROMOTING OF COMPREHENSIVE TOBACCO CESSATION SERVICES UNDER CHIP.—A State child health plan shall include a description of the procedures to be used by the State to monitor and promote the use of comprehensive tobacco cessation services under the State plan (including conducting an outreach campaign to increase awareness of the benefits of using such services) among—

''(1) individuals entitled to medical assistance under the State child health plan who use tobacco products; and

''(2) clinicians and others who provide services to individuals entitled to medical assistance under the State child health plan.''.

(e) FEDERAL REIMBURSEMENT FOR CHIP COVERAGE AND OUTREACH CAMPAIGN.—

(1) IN GENERAL.—Section 2105(a) of the Social Security Act (42 U.S.C. 1397ee(a)) is amended by adding at the end the following new paragraph:

''(5) FEDERAL REIMBURSEMENT FOR CHIP COVERAGE OF COMPREHENSIVE TOBACCO CESSATION SERVICES AND OUTREACH CAMPAIGN.—In addition to the payments made under paragraph (1) for calendar quarters occurring during the period beginning on the date of the enactment of this paragraph and ending on 5 years after the date of enactment of this paragraph, the Secretary shall pay—

''(A) an amount equal to 90 percent of the sums expended during each quarter which are attributable to the cost of furnishing counseling and pharmacotherapy for cessation of tobacco use by individuals who are eligible under the State child health plan (net of any payments made to the State under paragraph (1) with respect to such counseling and pharmacotherapy); plus

"(B) an amount equal to 90 percent of the sums expended during each quarter which are attributable to the development, implementation, and evaluation of an outreach campaign to—

"(i) increase awareness of comprehensive tobacco cessation services covered in the State child health plan among—

"(I) individuals who are likely to be eligible for medical assistance under the State child health plan; and

"(II) clinicians and others who provide services to individuals who are likely to be eligible for medical assistance under the State child health plan; and

"(ii) increase awareness of the benefits of using comprehensive tobacco cessation services covered in the State child health plan among—

"(I) individuals who are likely to be eligible for medical assistance under the State child health plan; and

"(II) clinicians and others who provide services to individuals who are

likely to be eligible for medical assistance under the State child health plan about the benefits of using comprehensive tobacco cessation services.''.

(2) ADJUSTMENT OF CHIP ALLOTMENTS.—Section 2104(m) of the Social Security Act (42 U.S.C. 1397dd(m)) is amended—

(A) in paragraph (2)(B), by striking ''and (12)'' and inserting ''(12), and (13)''; and

(B) by adding at the end the following new paragraph:

''(13) ADJUSTING ALLOTMENTS TO ACCOUNT FOR FEDERAL PAYMENTS FOR CHIP COVERAGE OF COMPREHENSIVE TOBACCO CESSATION SERVICES AND OUTREACH CAMPAIGN.—If a State (including the District of Columbia and each commonwealth and territory) receives a payment for a fiscal year under section 2105(a)(5), the allotment determined for the State for such fiscal year shall be increased by the amount of such payment.''.

(f) NO PRIOR AUTHORIZATION FOR TOBACCO CESSATION DRUGS UNDER CHIP.—Section 2103 of the Social Security Act (42 U.S.C. 1397cc), as amended by subsection (c), is further amended—

(1) in subsection (c)(2)(A), by inserting ''(in accordance with subsection (h)'' after ''Coverage of prescription drugs''; and

(2) by adding at the end the following new subsection:

''(h) NO PRIOR AUTHORIZATION PROGRAMS FOR TOBACCO CESSATION DRUGS.—A State child health plan may not require, as a condition of coverage or payment for a prescription drugs, the approval of an agent to promote smoking cessation (including agents approved by the Food and Drug Administration) or tobacco cessation.''.

(g) EFFECTIVE DATE.—The amendments made by this section shall take effect on the first day of the first fiscal year that begins on or after the date of enactment of this Act.

SEC. 4. RULE OF CONSTRUCTION.

None of the amendments made by this Act shall be construed to limit coverage of any counseling or pharmacotherapy for individuals under 18 years of age.

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