

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

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.

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 “Helping Tobacco Users
5 Quit Act”.

6 **SEC. 2. COVERAGE OF COMPREHENSIVE TOBACCO CES-**
7 **SATION SERVICES IN MEDICAID.**

8 (a) REQUIRING MEDICAID COVERAGE OF COUN-
9 SELING AND PHARMACOTHERAPY FOR CESSATION OF TO-

1 BACCO USE AND TEMPORARY ENHANCED FMAP FOR
2 COVERAGE OF TOBACCO CESSATION SERVICES.—Section
3 1905 of the Social Security Act (42 U.S.C. 1396d) is
4 amended—

5 (1) by amending subsection (a)(4)(D) to read
6 as follows: “(D) counseling and pharmacotherapy for
7 cessation of tobacco use by individuals who are eligi-
8 ble under the State plan (as defined in subsection
9 (bb));”;

10 (2) in subsection (b), by inserting “(bb)(2),”
11 after “(aa),”; and

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

14 “(bb) COUNSELING AND PHARMACOTHERAPY FOR
15 CESSATION OF TOBACCO USE.—

16 “(1) IN GENERAL.—For purposes of this title,
17 the term ‘counseling and pharmacotherapy for ces-
18 sation of tobacco use by individuals who are eligible
19 under the State plan’ means diagnostic, therapy,
20 and counseling services and pharmacotherapy (in-
21 cluding the coverage of prescription and nonprescrip-
22 tion tobacco cessation agents approved by the Food
23 and Drug Administration) for the cessation of to-
24 bacco use by individuals who use tobacco products or

1 who are being treated for tobacco use that is fur-
2 nished—

3 “(A) by or under the supervision of a phy-
4 sician; or

5 “(B) by any other health care professional
6 who—

7 “(i) is legally authorized to furnish
8 such services under State law (or the State
9 regulatory mechanism provided by State
10 law) of the State in which the services are
11 furnished; and

12 “(ii) is authorized to receive payment
13 for other services under this title or is des-
14 ignated by the Secretary for this purpose,
15 which is recommended in the guideline entitled,
16 ‘Treating Tobacco Use and Dependence: 2008
17 Update: A Clinical Practice Guideline’ pub-
18 lished by the Public Health Service in May
19 2008 (or any subsequent modification of such
20 guideline) or is recommended for the cessation
21 of tobacco use by the U.S. Preventive Services
22 Task Force or any additional intervention ap-
23 proved by the Food and Drug Administration
24 as safe and effective in helping smokers quit.

1 “(2) TEMPORARY ENHANCED FMAP FOR COV-
 2 ERAGE OF TOBACCO CESSATION SERVICES.—Not-
 3 withstanding subsection (b), for calendar quarters
 4 occurring during the period beginning on the date of
 5 the enactment of this paragraph and ending 5 years
 6 after the date of enactment of this paragraph, the
 7 Federal medical assistance percentage with respect
 8 to amounts expended by a State for medical assist-
 9 ance for counseling and pharmacotherapy for ces-
 10 sation of tobacco use by individuals who are eligible
 11 under the State plan (as defined in paragraph (1))
 12 shall be equal to 90 percent.”.

13 (b) NO COST SHARING.—

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

17 (A) in subparagraph (B), by striking “,
 18 and counseling” and all that follows through
 19 “section 1905(bb)(2)(A)”;

20 (B) by adjusting the left margins of sub-
 21 paragraphs (H) and (I) so as to align with the
 22 left margin of subparagraph (G);

23 (C) in subparagraph (H), by striking “or”
 24 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

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

3 “(xiv) Counseling and
 4 pharmacotherapy for cessation of tobacco
 5 use by individuals who are eligible under
 6 the State plan (as defined in section
 7 1905(bb)) and covered outpatient drugs
 8 (as defined in subsection (k)(2) of section
 9 1927 and including nonprescription drugs
 10 described in subsection (d)(2) of such sec-
 11 tion) that are prescribed for purposes of
 12 promoting tobacco cessation in accordance
 13 with the guideline specified in section
 14 1905(bb).”.

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

19 “(F) Nonprescription drugs, except, when
 20 recommended in accordance with the guideline
 21 referred to in section 1905(bb), agents ap-
 22 proved by the Food and Drug Administration
 23 for purposes of promoting tobacco cessation.”.

24 (d) STATE MONITORING AND PROMOTING OF COM-
 25 PREHENSIVE TOBACCO CESSATION SERVICES UNDER

1 MEDICAID.—Section 1902(a) of the Social Security Act
2 (42 U.S.C. 1396a) is amended—

3 (1) in paragraph (86), by striking at the end
4 “and”;

5 (2) in paragraph (87), by striking the period at
6 the end and inserting “; and”; and

7 (3) by inserting after paragraph (87) the fol-
8 lowing new paragraph:

9 “(88) provide for the State to monitor and pro-
10 mote the use of comprehensive tobacco cessation
11 services under the State plan (including conducting
12 an outreach campaign to increase awareness of the
13 benefits of using such services) among—

14 “(A) individuals entitled to medical assist-
15 ance under the State plan who use tobacco
16 products; and

17 “(B) clinicians and others who provide
18 services to individuals entitled to medical assist-
19 ance under the State plan.”.

20 (e) FEDERAL REIMBURSEMENT FOR OUTREACH
21 CAMPAIGN.—Section 1903(a) of the Social Security Act
22 (42 U.S.C. 1396b(a)) is amended—

23 (1) in paragraph (7), by striking the period at
24 the end and inserting “; plus”; and

1 (2) by inserting after paragraph (7) the fol-
2 lowing new paragraph:

3 “(8) with respect to the development, imple-
4 mentation, and evaluation of an outreach campaign
5 to—

6 “(A) increase awareness of comprehensive
7 tobacco cessation services covered in the State
8 plan among—

9 “(i) individuals who are likely to be el-
10 igible for medical assistance under the
11 State plan; and

12 “(ii) clinicians and others who provide
13 services to individuals who are likely to be
14 eligible for medical assistance under the
15 State plan; and

16 “(B) increase awareness of the benefits of
17 using comprehensive tobacco cessation services
18 covered in the State plan among—

19 “(i) individuals who are likely to be el-
20 igible for medical assistance under the
21 State plan; and

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

1 State plan about the benefits of using com-
2 prehensive tobacco cessation services,
3 for calendar quarters occurring during the pe-
4 riod beginning on the date of the enactment of
5 this paragraph and ending on 5 years after the
6 date of enactment of this paragraph, an amount
7 equal to 90 percent of the sums expended dur-
8 ing each quarter which are attributable to such
9 development, implementation, and evaluation,
10 and for calendar quarters succeeding such pe-
11 riod, an amount equal to Federal medical as-
12 sistance percentage determined under section
13 1905(b) of the sums expended during each
14 quarter which are so attributable.”.

15 (f) NO PRIOR AUTHORIZATION FOR TOBACCO CES-
16 SATION DRUGS UNDER MEDICAID.—Section 1927(d) of
17 the Social Security Act (42 U.S.C. 1396r–8(d)) is amend-
18 ed—

19 (1) in paragraph (1)(A), by striking “A State”
20 and inserting “Subject to paragraph (8), a State”;
21 and

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

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

1 require, as a condition of coverage or payment for
2 a covered outpatient drug, the approval of an agent
3 to promote smoking cessation (including agents ap-
4 proved by the Food and Drug Administration) or to-
5 bacco cessation.”.

6 (g) EXCLUSION OF ENHANCED PAYMENTS FROM
7 TERRITORIAL CAPS.—Notwithstanding any other provi-
8 sion of law, for purposes of section 1108 of the Social Se-
9 curity Act (42 U.S.C. 1308), with respect to any addi-
10 tional amount paid to a territory as a result of the applica-
11 tion of section 1905(bb)(2) of the Social Security Act (42
12 U.S.C. 1396d(bb)(2))—

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

16 (2) such additional amounts shall be dis-
17 regarded in applying such subsections.

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

1 **SEC. 3. COVERAGE OF COMPREHENSIVE TOBACCO CES-**
2 **SATION SERVICES IN CHIP.**

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

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

10 “(D) Counseling and pharmacotherapy for
11 cessation of tobacco use by individuals who are
12 eligible under the State child health plan.”.

13 (2) COUNSELING AND PHARMACOTHERAPY FOR
14 CESSATION OF TOBACCO USE DEFINED.—Section
15 2110(c) of the Social Security Act (42 U.S.C.
16 1397jj(c)) is amended by adding at the end the fol-
17 lowing new paragraph:

18 “(10) COUNSELING AND PHARMACOTHERAPY
19 FOR CESSATION OF TOBACCO USE.—The term ‘coun-
20 seling and pharmacotherapy for cessation of tobacco
21 use’ means diagnostic, therapy, and counseling serv-
22 ices and pharmacotherapy (including the coverage of
23 prescription and nonprescription tobacco cessation
24 agents approved by the Food and Drug Administra-
25 tion) for the cessation of tobacco use by individuals

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

3 “(A) by or under the supervision of a phy-
4 sician; or

5 “(B) by any other health care professional
6 who—

7 “(i) is legally authorized to furnish
8 such services under State law (or the State
9 regulatory mechanism provided by State
10 law) of the State in which the services are
11 furnished; and

12 “(ii) is authorized to receive payment
13 for other services under this title or is des-
14 ignated by the Secretary for this purpose
15 which is recommended in the guideline entitled,
16 ‘Treating Tobacco Use and Dependence: 2008
17 Update: A Clinical Practice Guideline’ pub-
18 lished by the Public Health Service in May
19 2008 (or any subsequent modification of such
20 guideline) or is recommended for the cessation
21 of tobacco use by the U.S. Preventive Services
22 Task Force or any additional intervention ap-
23 proved by the Food and Drug Administration
24 as safe and effective in helping smokers quit.”.

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

4 “(5) NO COST SHARING ON BENEFITS FOR
5 COUNSELING AND PHARMACOTHERAPY FOR CES-
6 SATION OF TOBACCO USE.—The State child health
7 plan may not impose deductibles, coinsurance, or
8 other cost sharing with respect to benefits for coun-
9 seling and pharmacotherapy for cessation of tobacco
10 use (as defined in section 2110(c)(10)) and prescrip-
11 tion drugs that are covered under a State child
12 health plan that are prescribed for purposes of pro-
13 moting tobacco cessation in accordance with the
14 guideline specified in section 2110(c)(10)(B).”.

15 (c) EXCEPTION FROM OPTIONAL RESTRICTION
16 UNDER CHIP PRESCRIPTION DRUG COVERAGE.—Section
17 2103 of the Social Security Act (42 U.S.C. 1397cc) is
18 amended by adding at the end the following new sub-
19 section:

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

24 “(1) pregnant women when recommended in ac-
25 cordance with the guideline specified in section

1 2110(c)(10)(B), agents approved by the Food and
2 Drug Administration for purposes of promoting to-
3 bacco cessation; and

4 “(2) individuals who are eligible under the
5 State child health plan when recommended in ac-
6 cordance with the Guideline referred to in section
7 2110(c)(10)(B), agents approved by the Food and
8 Drug Administration for purposes of promoting to-
9 bacco cessation.”.

10 (d) STATE MONITORING AND PROMOTING OF COM-
11 PREHENSIVE TOBACCO CESSATION SERVICES UNDER
12 CHIP.—Section 2102 of the Social Security Act (42
13 U.S.C. 1397bb) is amended by adding at the end the fol-
14 lowing new subsection:

15 “(d) STATE MONITORING AND PROMOTING OF COM-
16 PREHENSIVE TOBACCO CESSATION SERVICES UNDER
17 CHIP.—A State child health plan shall include a descrip-
18 tion of the procedures to be used by the State to monitor
19 and promote the use of comprehensive tobacco cessation
20 services under the State plan (including conducting an
21 outreach campaign to increase awareness of the benefits
22 of using such services) among—

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

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

4 (e) FEDERAL REIMBURSEMENT FOR CHIP COV-
5 ERAGE AND OUTREACH CAMPAIGN.—

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

9 “(5) FEDERAL REIMBURSEMENT FOR CHIP
10 COVERAGE OF COMPREHENSIVE TOBACCO CES-
11 SATION SERVICES AND OUTREACH CAMPAIGN.—In
12 addition to the payments made under paragraph (1)
13 for calendar quarters occurring during the period be-
14 ginning on the date of the enactment of this para-
15 graph and ending on 5 years after the date of enact-
16 ment of this paragraph, the Secretary shall pay—

17 “(A) an amount equal to 90 percent of the
18 sums expended during each quarter which are
19 attributable to the cost of furnishing counseling
20 and pharmacotherapy for cessation of tobacco
21 use by individuals who are eligible under the
22 State child health plan (net of any payments
23 made to the State under paragraph (1) with re-
24 spect to such counseling and pharmacotherapy);
25 plus

1 “(B) an amount equal to 90 percent of the
2 sums expended during each quarter which are
3 attributable to the development, implementa-
4 tion, and evaluation of an outreach campaign
5 to—

6 “(i) increase awareness of comprehen-
7 sive tobacco cessation services covered in
8 the State child health plan among—

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

12 “(II) clinicians and others who
13 provide services to individuals who are
14 likely to be eligible for medical assist-
15 ance under the State child health
16 plan; and

17 “(ii) increase awareness of the bene-
18 fits of using comprehensive tobacco ces-
19 sation services covered in the State child
20 health plan among—

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

24 “(II) clinicians and others who
25 provide services to individuals who are

1 likely to be eligible for medical assist-
2 ance under the State child health plan
3 about the benefits of using com-
4 prehensive tobacco cessation serv-
5 ices.”.

6 (2) ADJUSTMENT OF CHIP ALLOTMENTS.—Sec-
7 tion 2104(m) of the Social Security Act (42 U.S.C.
8 1397dd(m)) is amended—

9 (A) in paragraph (2)(B), by striking “and
10 (12)” and inserting “(12), and (13)”; and

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

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

22 (f) NO PRIOR AUTHORIZATION FOR TOBACCO CES-
23 SATION DRUGS UNDER CHIP.—Section 2103 of the So-
24 cial Security Act (42 U.S.C. 1397cc), as amended by sub-
25 section (c), is further amended—

1 (1) in subsection (c)(2)(A), by inserting “(in ac-
2 cordance with subsection (h))” after “Coverage of
3 prescription drugs”; and

4 (2) by adding at the end the following new sub-
5 section:

6 “(h) NO PRIOR AUTHORIZATION PROGRAMS FOR TO-
7 BACCO CESSATION DRUGS.—A State child health plan
8 may not require, as a condition of coverage or payment
9 for a prescription drugs, the approval of an agent to pro-
10 mote smoking cessation (including agents approved by the
11 Food and Drug Administration) or tobacco cessation.”.

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

16 **SEC. 4. RULE OF CONSTRUCTION.**

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

○