

117TH CONGRESS  
1ST SESSION

# H. R. 3461

To amend title XXVII of the Public Health Service Act to improve health care coverage under vision and dental plans, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 21, 2021

Ms. CLARKE of New York (for herself, Mr. CARTER of Georgia, Mr. SOTO, and Mr. MCKINLEY) introduced the following bill; which was referred to the Committee on Energy and Commerce

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## A BILL

To amend title XXVII of the Public Health Service Act to improve health care coverage under vision and dental plans, 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 “Dental and Optometric  
5 Care Access Act of 2021” or the “DOC Access Act of  
6 2021”.

1 **SEC. 2. IMPROVING HEALTH CARE COVERAGE UNDER VI-**  
2 **SION AND DENTAL PLANS.**

3 (a) IN GENERAL.—Title XXVII of the Public Health  
4 Service Act is amended by inserting after section 2719A  
5 (42 U.S.C. 300gg–19a) the following new section:

6 **“SEC. 2719B. IMPROVING COVERAGE UNDER VISION AND**  
7 **DENTAL PLANS.**

8 “(a) IN GENERAL.—Under a group health plan or in-  
9 dividual or group health insurance coverage (including  
10 such a plan or coverage offering limited scope dental or  
11 vision benefits), the following shall apply:

12 “(1) PAYMENT AMOUNTS FROM COVERED PER-  
13 SONS.—

14 “(A) IN GENERAL.—The plan or coverage  
15 shall provide that, with respect to a doctor of  
16 optometry, doctor of dental surgery, or doctor  
17 of dental medicine that has an agreement to  
18 participate in the plan or coverage and that  
19 provides items or services that are not covered  
20 services under the plan or coverage to a person  
21 enrolled under such plan or coverage, the doctor  
22 may charge the enrollee for such items or serv-  
23 ices any amount determined by the doctor that  
24 is equal to, or less than, the usual and cus-  
25 tomary amount that the doctor charges individ-

1 uals who are not so enrolled for such items or  
2 services.

3 “(B) ITEMS OR SERVICES CONSIDERED  
4 COVERED BY A PLAN.—For purposes of sub-  
5 paragraph (A), an item or service shall be con-  
6 sidered, with respect to a plan or coverage, to  
7 be covered services under the plan or coverage  
8 only if the item or service is an item or service  
9 with respect to which the plan or coverage is  
10 obligated to pay an amount that is reasonable  
11 and is not nominal or de minimis.

12 “(C) EXCEPTION FOR DENTAL CLEAN-  
13 ING.—For purposes of subparagraph (A), a  
14 doctor of dental surgery or doctor of dental  
15 medicine that has an agreement to participate  
16 in the plan or coverage may charge an enrollee  
17 only the contracted network fee for any dental  
18 cleaning, including any dental cleaning that ex-  
19 ceeds the annual maximum under the enrollee’s  
20 plan or coverage.

21 “(2) DURATION OF LIMITED SCOPE VISION AND  
22 DENTAL PLANS.—In the case of an agreement be-  
23 tween such a doctor and such a plan or coverage  
24 that offers limited scope dental or vision benefits—

1           “(A) the agreement may be extended for a  
2           term longer than 2 years only with the prior ac-  
3           ceptance of the doctor for each such term ex-  
4           tension; and

5           “(B) the agreement may be extended for  
6           unlimited terms, subject to subparagraph (A).

7           “(3) NO RESTRICTIONS ON CHOICE OF LABORA-  
8           TORIES.—The plan or coverage may not, directly or  
9           indirectly, restrict or limit, such a doctor’s choice of  
10          laboratories or choice of source and suppliers of  
11          services or materials provided by the doctor to an in-  
12          dividual who is enrolled under the plan or coverage.

13          “(b) PRIVATE RIGHT OF ACTION.—In addition to  
14          any other remedies under State or Federal law, a person  
15          adversely affected by a violation of this subsection may  
16          bring action for injunctive relief against a plan described  
17          in subsection (a) and, upon prevailing, in addition to such  
18          injunctive relief shall recover monetary damages of no  
19          more than \$1,000 for each day found to be in violation  
20          plus attorney’s fees and costs. The district courts of the  
21          United States shall have exclusive jurisdiction of civil ac-  
22          tions brought under this subsection.

23          “(c) RELATIONSHIP TO EXCEPTION FOR LIMITED,  
24          EXCEPTED BENEFITS.—Section 2722(c)(1) shall not  
25          apply with respect to the requirements of this section.

1 “(d) ELECTION TO BE EXCLUDED.—

2 “(1) IN GENERAL.—If a doctor of optometry,  
3 doctor of dental surgery, or doctor of dental medi-  
4 cine to which the provisions of paragraphs (1) and  
5 (3) of subsection (a) otherwise apply makes an elec-  
6 tion under this paragraph (in such form and manner  
7 as the Secretary may by regulations prescribe), the  
8 requirements of such paragraphs insofar as they  
9 apply directly to the plan or coverage shall not apply  
10 to such plan or coverage for such period, as de-  
11 scribed in paragraph (2).

12 “(2) PERIOD OF ELECTION.—An election under  
13 paragraph (1)—

14 “(A) shall apply for a single specified plan  
15 year;

16 “(B) may be extended through subsequent  
17 elections under this subsection; and

18 “(C) shall not be available with respect to  
19 the requirements concerning the duration of  
20 limited scope vision and dental plans under sub-  
21 section (a)(2).

22 “(e) DEFINITIONS.—In this section:

23 “(1) The term ‘covered services’ means dental  
24 care or vision care services for which reimbursement  
25 is available under a plan or coverage contract, or for

1       which reimbursement would be available but for the  
2       application of contractual limitations, including  
3       deductibles, copayments, coinsurance, waiting peri-  
4       ods, lifetime maximum, frequency limitations, and  
5       alternative benefit payments.

6               “(2) The terms ‘doctor of dental surgery’ and  
7       ‘doctor of dental medicine’ mean a doctor of dental  
8       surgery or of dental medicine, as applicable, who is  
9       legally authorized to practice dentistry by the State  
10      in which the doctor performs such function and who  
11      is acting within the scope of the license of the doctor  
12      when performing such functions.

13              “(3) The term ‘doctor of optometry’ means a  
14      doctor of optometry who is legally authorized to  
15      practice optometry by the State in which the doctor  
16      so practices.”.

17      (b) CONFORMING AMENDMENT.—Section 2722(c)(1)  
18      of the Public Health Service Act (42 U.S.C. 300gg–  
19      21(c)(1)) is amended by striking “The requirements” and  
20      inserting “Subject to section 2719B, the requirements”.

21      (c) EXCLUSIVE APPLICABILITY OF STATE LAW.—  
22      Notwithstanding any amendment made by this Act, State  
23      law that directly affects any standard or requirement re-  
24      lating to health insurance issuers and dental or vision ben-  
25      efit plans, shall have exclusive application and the amend-

1 ments made by this Act shall not apply to the extent that  
2 such State law conflicts with such amendments. The State  
3 shall retain exclusive jurisdiction over health insurance  
4 issuers and limited scope dental or vision benefit plans  
5 that are directly governed by such State.

