

117TH CONGRESS  
1ST SESSION

# H. R. 6117

To increase access to pre-exposure prophylaxis to reduce the transmission  
of HIV.

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## IN THE HOUSE OF REPRESENTATIVES

DECEMBER 1, 2021

Mr. SCHIFF (for himself, Mr. NADLER, Ms. TITUS, Mr. COHEN, Ms. LEE of California, Ms. PORTER, Ms. SPEIER, Mr. POCAN, Mrs. WATSON COLEMAN, Mr. WELCH, Mr. TONKO, Mr. CASTEN, Mr. TAKANO, Mr. RUSH, Ms. SEWELL, Mr. KHANNA, Ms. PRESSLEY, Mr. QUIGLEY, Mr. MOULTON, Mr. SOTO, Ms. MANNING, Ms. PINGREE, Mr. PAYNE, Ms. JACKSON LEE, Mr. LYNCH, Mr. CICILLINE, Mr. TORRES of New York, Ms. VELÁZQUEZ, Mr. JONES, Ms. TLAIB, Mr. SWALWELL, Ms. NORTON, and Mr. BLUMENAUER) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committees on Oversight and Reform, Ways and Means, Veterans' Affairs, Armed Services, Natural Resources, and Financial Services, 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

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## A BILL

To increase access to pre-exposure prophylaxis to reduce  
the transmission of HIV.

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 “PrEP Access and Cov-  
3 erage Act”.

4 **SEC. 2. FINDINGS; SENSE OF CONGRESS.**

5       (a) FINDINGS.—Congress finds as follows:

6           (1) The Centers for Disease Control and Pre-  
7 vention estimates that approximately 1,100,000 peo-  
8 ple in the United States are living with HIV.

9           (2) In 2019, there were 36,398 new diagnoses  
10 of HIV in the United States.

11           (3) HIV disproportionately impacts gay and bi-  
12 sexual men, transgender women, and, in particular,  
13 people of color. For example, in 2019, approximately  
14 66 percent of new HIV diagnoses were among gay  
15 and bisexual men, 42 percent of new HIV diagnoses  
16 were among Black people, and 22 percent of new  
17 HIV diagnoses were among Latinx people. Recent  
18 studies suggest that transgender women are up to  
19 49 times more likely to be diagnosed with HIV than  
20 the general population. Members of communities at  
21 the intersections of these groups are most heavily  
22 impacted.

23           (4) Pre-exposure prophylaxis (referred to in this  
24 section as “PrEP”) is a daily antiretroviral medica-  
25 tion that helps prevent individuals from acquiring  
26 HIV. Daily PrEP use reduces the risk of getting

1 HIV from sex by about 99 percent. It reduces the  
2 risk of getting HIV from injection drug use by at  
3 least 74 percent.

4 (5) Many individuals at risk of exposure to HIV  
5 do not use PrEP. Of the approximately 1,100,000  
6 people in the United States who could benefit from  
7 PrEP, only 23 percent, or nearly 285,000 individ-  
8 uals, filled prescriptions for the drug in 2019.

9 (6) PrEP usage is inconsistent across racial  
10 and gender lines. In 2019, only 8 percent of Black/  
11 African American and 14 percent of Hispanic/Latinx  
12 persons who were eligible for PrEP were prescribed  
13 it, compared to 63 percent of White persons. Addi-  
14 tionally, slightly less than 10 percent of women eligi-  
15 ble for PrEP received a prescription in 2019.

16 (7) There are currently 2 brand name drugs  
17 and 1 generic drug approved by the Food and Drug  
18 Administration for the use of PrEP on a daily basis.  
19 Other types of HIV prevention treatments, including  
20 a long-acting injectable, which is currently under  
21 FDA review, and long-acting oral pills, implants,  
22 and vaginal rings are in the research pipeline. These  
23 new innovations can increase widespread use of  
24 PrEP along with adherence, which can speed the

1 Nation’s goal to end HIV and address inequities in  
2 health care.

3 (8) Section 2713 of the Public Health Service  
4 Act (42 U.S.C. 300gg–13) requires most private  
5 health insurance plans to cover preventive services  
6 without cost-sharing, including such services with a  
7 rating of “A” or “B” under recommendations of the  
8 United States Preventive Services Task Force. On  
9 June 11, 2019, the United States Preventive Serv-  
10 ices Task Force issued a final recommendation giv-  
11 ing an “A” grade for PrEP for individuals at high  
12 risk of HIV; non-grandfathered private health insur-  
13 ance plans have to cover PrEP for such individuals  
14 without cost-sharing effective January 2021.

15 (9) Joint guidance issued by the Department of  
16 Labor, the Department of Health and Human Serv-  
17 ices, and the Department of the Treasury on July  
18 19, 2021, clarifies that ancillary services necessary  
19 to maintain the PrEP regime, including subsequent  
20 provider visits, clinical testing, and other services, is  
21 required to be covered by health insurers without  
22 cost-sharing.

23 (10) Permanently expanding access to cost-free  
24 PrEP and ancillary services for all individuals, in-  
25 cluding individuals who do not have health insur-

1       ance, through legislation, is a critical step towards  
2       eliminating HIV transmission.

3           (11) Post-exposure prophylaxis (referred to in  
4       this section as “PEP”) is a daily antiretroviral  
5       treatment which, when initiated promptly after a  
6       sexual or other exposure to blood or body fluids that  
7       is associated with a high risk of HIV transmission,  
8       is highly effective at preventing HIV infection.

9           (12) The Centers for Disease Control and Pre-  
10      vention recommends PEP for an individual who has  
11      experienced a high-risk exposure incident, provided  
12      that the individual tests HIV-negative, initiates such  
13      treatment no later than 72 hours after exposure,  
14      and continues the treatment for 28 days.

15          (13) Despite PEP’s proven effectiveness in pre-  
16      venting HIV infection after high-risk sexual expo-  
17      sures, awareness of PEP is low among individuals  
18      who would benefit from the treatment. Studies sug-  
19      gest that awareness of PEP and of the importance  
20      of its prompt initiation is particularly low among  
21      young gay and bisexual men of color, transgender  
22      persons, and women of all gender identities.

23          (14) Adequate knowledge of guidelines issued  
24      by the Centers for Disease Control and Prevention  
25      for assessing indications for PEP and for initiating

1 and sustaining PEP are low among health care pro-  
2 viders and staff. Because PEP is an emergency  
3 intervention, insufficient knowledge among providers  
4 and staff in hospital emergency rooms, urgent care  
5 centers, community health centers, and primary care  
6 physicians is of particular concern.

7 (15) Private and public health insurance plans  
8 and programs frequently impose requirements for  
9 coverage of PEP, including pre-authorization re-  
10 quirements and requirements to obtain the medica-  
11 tions through designated specialty pharmacies and  
12 mail-order programs that pose significant obstacles  
13 to timely initiation of treatment.

14 (16) Insurance deductibles and co-payments for  
15 PEP medications create significant barriers to PEP  
16 utilization by many individuals who have experienced  
17 high-risk incidents.

18 (b) SENSE OF CONGRESS.—It is the sense of Con-  
19 gress that the Department of Labor, the Department of  
20 Health and Human Services, and the Department of the  
21 Treasury should ensure compliance with the requirements  
22 described in paragraphs (8) and (9) of subsection (a).

23 **SEC. 3. COVERAGE OF HIV TESTING AND PREVENTION**  
24 **SERVICES.**

25 (a) PRIVATE INSURANCE.—

1           (1) IN GENERAL.—Section 2713(a) of the Public  
2   Health Service Act (42 U.S.C. 300gg–13(a)) is  
3   amended—

4           (A) in paragraph (2), by striking “; and”  
5   and inserting a semicolon;

6           (B) in paragraph (3), by striking the pe-  
7   riod and inserting a semicolon;

8           (C) in paragraph (4), by striking the pe-  
9   riod and inserting a semicolon;

10          (D) in paragraph (5), by striking the pe-  
11   riod and inserting “; and”; and

12          (E) by adding at the end the following:

13          “(6) any prescription drug approved by the  
14   Food and Drug Administration for the prevention of  
15   HIV (other than a drug subject to preauthorization  
16   requirements consistent with section 2729A), admin-  
17   istrative fees for such drugs, laboratory and other  
18   diagnostic procedures associated with the use of  
19   such drugs, and clinical follow up and monitoring,  
20   including any related services recommended in cur-  
21   rent United States Public Health Service clinical  
22   practice guidelines, without limitation.”.

23          (2) PROHIBITION ON PREAUTHORIZATION RE-  
24   QUIREMENTS.—Subpart II of part A of title XXVII  
25   of the Public Health Service Act (42 U.S.C. 300gg–

1 11 et seq.) is amended by adding at the end the fol-  
2 lowing:

3 **“SEC. 2729A. PROHIBITION ON PREAUTHORIZATION RE-**  
4 **QUIREMENTS WITH RESPECT TO CERTAIN**  
5 **SERVICES.**

6 “A group health plan or a health insurance issuer of-  
7 fering group or individual health insurance coverage shall  
8 not impose any preauthorization requirements with re-  
9 spect to coverage of the services described in section  
10 2713(a)(6), except that a plan or issuer may impose  
11 preauthorization requirements with respect to coverage of  
12 a particular drug approved under section 505(c) of the  
13 Federal Food, Drug, and Cosmetic Act or section 351(a)  
14 of this Act if such plan or issuer provides coverage without  
15 any preauthorization requirements for a drug that is ther-  
16 apeutically equivalent.”.

17 (b) COVERAGE UNDER FEDERAL EMPLOYEES  
18 HEALTH BENEFITS PROGRAM.—Section 8904 of title 5,  
19 United States Code, is amended by adding at the end the  
20 following:

21 “(c) Any health benefits plan offered under this chap-  
22 ter shall include benefits for, and may not impose any cost  
23 sharing requirements for, any prescription drug approved  
24 by the Food and Drug Administration for the prevention  
25 of HIV, administrative fees for such drugs, laboratory and



1 other diagnostic procedures associated with the use of  
 2 such drugs, and clinical follow up and monitoring, includ-  
 3 ing any related services recommended in current United  
 4 States Public Health Service clinical practice guidelines,  
 5 without limitation.”.

6 (c) MEDICAID.—

7 (1) IN GENERAL.—Section 1905 of the Social  
 8 Security Act (42 U.S.C. 1396d) is amended—

9 (A) in subsection (a)(4)—

10 (i) by striking “; and (D)” and insert-  
 11 ing “; (D)”;

12 (ii) by striking “; and (E)” and in-  
 13 serting “; (E)”;

14 (iii) by striking “; and (F)” and in-  
 15 serting “; (F)”;

16 (iv) by striking the semicolon at the  
 17 end and inserting “; and (G) HIV preven-  
 18 tion services;”;

19 (B) by adding at the end the following new  
 20 subsection:

21 “(jj) HIV PREVENTION SERVICES.—For purposes of  
 22 subsection (a)(4)(G), the term ‘HIV prevention services’  
 23 means prescription drugs for the prevention of HIV acqui-  
 24 sition, administrative fees for such drugs, laboratory and  
 25 other diagnostic procedures associated with the use of

1 such drugs, and clinical follow up and monitoring, includ-  
 2 ing any related services recommended in current United  
 3 States Public Health Service clinical practice guidelines,  
 4 without limitation.”.

5 (2) NO COST-SHARING.—Title XIX of the So-  
 6 cial Security Act (42 U.S.C. 1396 et seq.) is amend-  
 7 ed—

8 (A) in section 1916, by inserting “HIV  
 9 prevention services described in section  
 10 1905(a)(4)(G),” after “section 1905(a)(4)(C),”  
 11 each place it appears; and

12 (B) in section 1916A(b)(3)(B), by adding  
 13 at the end the following new clause:

14 “(xii) HIV prevention services de-  
 15 scribed in section 1905(a)(4)(G).”.

16 (3) INCLUSION IN BENCHMARK COVERAGE.—  
 17 Section 1937(b)(7) of the Social Security Act (42  
 18 U.S.C. 1396u–7(b)(7)) is amended—

19 (A) in the paragraph header, by inserting  
 20 “AND HIV PREVENTION SERVICES” after “SUP-  
 21 PLIES”; and

22 (B) by striking “includes for any individual  
 23 described in section 1905(a)(4)(C), medical as-  
 24 sistance for family planning services and sup-  
 25 plies in accordance with such section” and in-

1           serting “includes medical assistance for HIV  
 2           prevention services described in section  
 3           1905(a)(4)(G), and includes, for any individual  
 4           described in section 1905(a)(4)(C), medical as-  
 5           sistance for family planning services and sup-  
 6           plies in accordance with such section”.

7           (d) CHIP.—

8           (1) IN GENERAL.—Section 2103 of the Social  
 9           Security Act (42 U.S.C. 1397cc) is amended—

10                   (A) in subsection (a), by striking “and  
 11                   (8)” and inserting “(8), (10), (11), and (12)”;  
 12                   and

13                   (B) in subsection (c), by adding at the end  
 14                   the following new paragraph:

15                   “(12) HIV PREVENTION SERVICES.—Regard-  
 16                   less of the type of coverage elected by a State under  
 17                   subsection (a), the child health assistance provided  
 18                   for a targeted low-income child, and, in the case of  
 19                   a State that elects to provide pregnancy-related as-  
 20                   sistance pursuant to section 2112, the pregnancy-re-  
 21                   lated assistance provided for a targeted low-income  
 22                   pregnant woman (as such terms are defined for pur-  
 23                   poses of such section), shall include coverage of HIV  
 24                   prevention services (as defined in section 1905(jj)).”.

1           (2) NO COST-SHARING.—Section 2103(e)(2) of  
2     the Social Security Act (42 U.S.C. 1397cc(e)(2)) is  
3     amended by inserting “HIV prevention services de-  
4     scribed in subsection (c)(12),” before “or for preg-  
5     nancy-related assistance”.

6           (3) EFFECTIVE DATE.—

7           (A) IN GENERAL.—Subject to subpara-  
8     graph (A), the amendments made by subsection  
9     (c) and this subsection shall take effect on Jan-  
10    uary 1, 2023.

11          (B) DELAY PERMITTED IF STATE LEGISLA-  
12    TION REQUIRED.—In the case of a State plan  
13    approved under title XIX of the Social Security  
14    Act which the Secretary of Health and Human  
15    Services determines requires State legislation  
16    (other than legislation appropriating funds) in  
17    order for the plan to meet the additional re-  
18    quirements imposed by this section, the State  
19    plan shall not be regarded as failing to comply  
20    with the requirements of such title solely on the  
21    basis of the failure of the plan to meet such ad-  
22    ditional requirements before the 1st day of the  
23    1st calendar quarter beginning after the close  
24    of the 1st regular session of the State legisla-  
25    ture that ends after the 1-year period beginning

1 with the date of the enactment of this section.  
 2 For purposes of the preceding sentence, in the  
 3 case of a State that has a 2-year legislative ses-  
 4 sion, each year of the session is deemed to be  
 5 a separate regular session of the State legisla-  
 6 ture.

7 (e) COVERAGE AND ELIMINATION OF COST-SHARING  
 8 UNDER MEDICARE.—

9 (1) COVERAGE OF HIV PREVENTION SERVICES  
 10 UNDER PART B.—

11 (A) COVERAGE.—

12 (i) IN GENERAL.—Section 1861(s)(2)  
 13 of the Social Security Act (42 U.S.C.  
 14 1395x(s)(2)) is amended—

15 (I) in subparagraph (GG), by  
 16 striking “and” at the end;

17 (II) in subparagraph (HH), by  
 18 striking the period at the end and in-  
 19 serting “; and”; and

20 (III) by adding at the end the  
 21 following new subparagraph:

22 “(II) HIV prevention services (as defined in  
 23 subsection (III));”.

24 (ii) DEFINITION.—Section 1861 of  
 25 the Social Security Act (42 U.S.C. 1395x)

1 is amended by adding at the end the fol-  
2 lowing new subsection:

3 “(III) HIV PREVENTION SERVICES.—The term ‘HIV  
4 prevention services’ means—

5 “(1) drugs or biologicals approved by the Food  
6 and Drug Administration for the prevention of HIV;

7 “(2) administrative fees for such drugs;

8 “(3) laboratory and other diagnostic procedures  
9 associated with the use of such drugs; and

10 “(4) clinical follow up and monitoring, including  
11 any related services recommended in current United  
12 States Public Health Service clinical practice guide-  
13 lines, without limitation.”.

14 (B) ELIMINATION OF COINSURANCE.—Sec-  
15 tion 1833(a)(1) of the Social Security Act (42  
16 U.S.C. 1395l(a)(1)) is amended—

17 (i) by striking “and (DD)” and in-  
18 serting “(DD)”; and

19 (ii) by inserting before the semicolon  
20 at the end the following: “and (EE) with  
21 respect to HIV prevention services (as de-  
22 fined in section 1861(III)), the amount paid  
23 shall be 100 percent of (i) except as pro-  
24 vided in clause (ii), the lesser of the actual  
25 charge for the service or the amount deter-

1           mined under the fee schedule that applies  
2           to such services under this part, and (ii) in  
3           the case of such services that are covered  
4           OPD services (as defined in subsection  
5           (t)(1)(B)), the amount determined under  
6           subsection (t)”.  
7

8           (C) EXEMPTION FROM PART B DEDUCT-  
9           IBLE.—Section 1833(b) of the Social Security  
10           Act (42 U.S.C. 1395l(b)) is amended—  
11

12           (i) in paragraph (11), by striking  
13           “and” at the end; and  
14

15           (ii) in paragraph (12), by striking the  
16           period at the end and inserting “, and (13)  
17           such deductible shall not apply with re-  
18           spect to HIV prevention services (as de-  
19           fined in section 1861(l)).”.  
20

21           (D) EFFECTIVE DATE.—The amendments  
22           made by this paragraph shall apply to items  
23           and services furnished on or after January 1,  
24           2023.

25           (2) ELIMINATION OF COST-SHARING FOR  
26           DRUGS FOR THE PREVENTION OF HIV UNDER PART  
27           D.—  
28

(A) IN GENERAL.—Section 1860D–2(b) of the Social Security Act (42 U.S.C. 1395w–102(b)) is amended—

(i) in paragraph (1)(A), by striking “The coverage” and inserting “Subject to paragraph (8), the coverage”;

(ii) in paragraph (2)(A), by striking “and (D)” and inserting “and (D) and paragraph (8)”;

(iii) in paragraph (3)(A), by striking “and (4)” and inserting “(4), and (8)”;

(iv) in paragraph (4)(A)(i), by striking “The coverage” and inserting “Subject to paragraph (8), the coverage”; and

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

“(8) ELIMINATION OF COST-SHARING FOR DRUGS FOR THE PREVENTION OF HIV.—

“(A) IN GENERAL.—For plan year 2023 and each subsequent plan year, there shall be no cost-sharing under this part (including under section 1814D–14) for covered part D drugs that are for the prevention of HIV.



1           “(B) COST-SHARING.—For purposes of  
2           subparagraph (A), the elimination of cost-shar-  
3           ing shall include the following:

4                   “(i) NO APPLICATION OF DEDUCT-  
5                   IBLE.—The waiver of the deductible under  
6                   paragraph (1).

7                   “(ii) NO APPLICATION OF COINSUR-  
8                   ANCE.—The waiver of coinsurance under  
9                   paragraph (2).

10                  “(iii) NO APPLICATION OF INITIAL  
11                  COVERAGE LIMIT.—The initial coverage  
12                  limit under paragraph (3) shall not apply.

13                  “(iv) NO COST SHARING ABOVE AN-  
14                  NUAL OUT-OF-POCKET THRESHOLD.—The  
15                  waiver of cost sharing under paragraph  
16                  (4).”.

17           (B) CONFORMING AMENDMENTS TO COST-  
18           SHARING FOR LOW-INCOME INDIVIDUALS.—Sec-  
19           tion 1860D–14(a) of the Social Security Act  
20           (42 U.S.C. 1395w–114(a)) is amended—

21                   (i) in paragraph (1), in the matter  
22                   preceding subparagraph (A), by striking  
23                   “In the case” and inserting “Subject to  
24                   section 1860D–2(b)(8), in the case”; and

1 (ii) in paragraph (2), in the matter  
 2 preceding subparagraph (A), by striking  
 3 “In the case” and inserting “Subject to  
 4 section 1860D–2(b)(8), in the case”.

5 (f) COVERAGE OF HIV PREVENTION TREATMENT BY  
 6 DEPARTMENT OF VETERANS AFFAIRS.—

7 (1) ELIMINATION OF MEDICATION COPAY-  
 8 MENTS.—Section 1722A(a) of title 38, United  
 9 States Code, is amended by adding at the end the  
 10 following new paragraph:

11 “(5) Paragraph (1) does not apply to a medication  
 12 for the prevention of HIV.”.

13 (2) ELIMINATION OF HOSPITAL CARE AND MED-  
 14 ICAL SERVICES COPAYMENTS.—Section 1710 of such  
 15 title is amended—

16 (A) in subsection (f)—

17 (i) by redesignating paragraph (5) as  
 18 paragraph (6); and

19 (ii) by inserting after paragraph (4)  
 20 the following new paragraph (5):

21 “(5) A veteran shall not be liable to the United States  
 22 under this subsection for any amounts for laboratory and  
 23 other diagnostic procedures associated with the use of any  
 24 prescription drug approved by the Food and Drug Admin-  
 25 istration for the prevention of HIV, administrative fees for

1 such drugs, or for laboratory or other diagnostic proce-  
2 dures associated with the use of such drugs, or clinical  
3 follow up and monitoring, including any related services  
4 recommended in current United States Public Health  
5 Service clinical practice guidelines, without limitation.”;  
6 and

7 (B) in subsection (g)(3), by adding at the  
8 end the following new subparagraph:

9 “(C) Any prescription drug approved by the  
10 Food and Drug Administration for the prevention of  
11 HIV, administrative fees for such drugs, laboratory  
12 and other diagnostic procedures associated with the  
13 use of such drugs, and clinical follow up and moni-  
14 toring, including any related services recommended  
15 in current United States Public Health Service clin-  
16 ical practice guidelines, without limitation.”.

17 (3) INCLUSION AS PREVENTIVE HEALTH SERV-  
18 ICE.—Section 1701(9) of such title is amended—

19 (A) in subparagraph (K), by striking “;  
20 and” and inserting a semicolon;

21 (B) by redesignating subparagraph (L) as  
22 subparagraph (M); and

23 (C) by inserting after subparagraph (K)  
24 the following new subparagraph (L):

1           “(L) any prescription drug approved by  
 2           the Food and Drug Administration for the pre-  
 3           vention of HIV, administrative fees for such  
 4           drugs, laboratory and other diagnostic proce-  
 5           dures associated with the use of such drugs,  
 6           and clinical follow up and monitoring, including  
 7           any related services recommended in current  
 8           United States Public Health Service clinical  
 9           practice guidelines, without limitation; and”.

10       (g) COVERAGE OF HIV PREVENTION TREATMENT BY  
 11       DEPARTMENT OF DEFENSE.—

12           (1) IN GENERAL.—Chapter 55 of title 10,  
 13       United States Code, is amended by inserting after  
 14       section 1079c the following new section:

15       **“§ 1079d. Coverage of HIV prevention treatment**

16           “(a) IN GENERAL.—The Secretary of Defense shall  
 17       ensure coverage under the TRICARE program of HIV  
 18       prevention treatment described in subsection (b) for any  
 19       beneficiary under section 1074(a) of this title.

20           “(b) HIV PREVENTION TREATMENT DESCRIBED.—  
 21       HIV prevention treatment described in this subsection in-  
 22       cludes any prescription drug approved by the Food and  
 23       Drug Administration for the prevention of HIV, adminis-  
 24       trative fees for such drugs, laboratory and other diagnostic  
 25       procedures associated with the use of such drugs, and clin-

1 ical follow up and monitoring, including any related serv-  
 2 ices recommended in current United States Public Health  
 3 Service clinical practice guidelines, without limitation.

4 “(c) NO COST-SHARING.—Notwithstanding section  
 5 1075, 1075a, or 1074g(a)(6) of this title or any other pro-  
 6 vision of law, there is no cost-sharing requirement for HIV  
 7 prevention treatment covered under this section.”.

8 (2) CLERICAL AMENDMENT.—The table of sec-  
 9 tions at the beginning of such chapter is amended  
 10 by inserting after the item relating to section 1079c  
 11 the following new item:

“1079d. Coverage of HIV prevention treatment.”.

12 (h) INDIAN HEALTH SERVICE TESTING, MONI-  
 13 TORING, AND PRESCRIPTION DRUGS FOR THE PREVEN-  
 14 TION OF HIV.—The Indian Health Care Improvement Act  
 15 is amended by inserting after section 223 (25 U.S.C.  
 16 1621v) the following:

17 **“SEC. 224. TESTING, MONITORING, AND PRESCRIPTION**  
 18 **DRUGS FOR THE PREVENTION OF HIV.**

19 “(a) IN GENERAL.—The Secretary, acting through  
 20 the Service, Indian tribes, and tribal organizations, shall  
 21 provide funding for any prescription drug approved by the  
 22 Food and Drug Administration for the prevention of  
 23 human immunodeficiency virus (commonly known as  
 24 ‘HIV’), administrative fees for such a drug, laboratory and  
 25 other diagnostic procedures associated with the use of

1 such a drug, and clinical follow up and monitoring, includ-  
2 ing any related services recommended in current United  
3 States Public Health Service clinical practice guidelines,  
4 without limitation.

5 “(b) AUTHORIZATION OF APPROPRIATIONS.—There  
6 are authorized to be appropriated such sums as may be  
7 necessary to carry out this section.”.

8 (i) EFFECTIVE DATE.—The amendments made by  
9 subsections (a), (b), (e), (f), (g), and (h) shall take effect  
10 with respect to plan years beginning on or after January  
11 1, 2023.

12 **SEC. 4. PROHIBITION ON DENIAL OF COVERAGE OR IN-**  
13 **CREASE IN PREMIUMS OF LIFE, DISABILITY,**  
14 **OR LONG-TERM CARE INSURANCE FOR INDI-**  
15 **VIDUALS TAKING MEDICATION FOR THE PRE-**  
16 **VENTION OF HIV ACQUISITION.**

17 (a) PROHIBITION.—Notwithstanding any other provi-  
18 sion of law, it shall be unlawful to—

19 (1) decline or limit coverage of a person under  
20 any life insurance policy, disability insurance policy,  
21 or long-term care insurance policy, on account of the  
22 individual taking medication for the purpose of pre-  
23 venting the acquisition of HIV;

24 (2) preclude an individual from taking medica-  
25 tion for the purpose of preventing the acquisition of

1 HIV as a condition of receiving a life insurance pol-  
2 icy, disability insurance policy, or long-term care in-  
3 surance policy;

4 (3) consider whether an individual is taking  
5 medication for the purpose of preventing the acquisi-  
6 tion of HIV in determining the premium rate for  
7 coverage of such individual under a life insurance  
8 policy, disability insurance policy, or long-term care  
9 insurance policy; or

10 (4) otherwise discriminate in the offering,  
11 issuance, cancellation, amount of such coverage,  
12 price, or any other condition of a life insurance pol-  
13 icy, disability insurance policy, or long-term care in-  
14 surance policy for an individual, based solely and  
15 without any additional actuarial risks upon whether  
16 the individual is taking medication for the purpose  
17 of preventing the acquisition of HIV.

18 (b) ENFORCEMENT.—A State insurance regulator  
19 may take such actions to enforce subsection (a) as are spe-  
20 cifically authorized under the laws of such State.

21 (c) DEFINITIONS.—In this section:

22 (1) DISABILITY INSURANCE POLICY.—The term  
23 “disability insurance policy” means a contract under  
24 which an entity promises to pay a person a sum of

1 money in the event that an illness or injury resulting  
 2 in a disability prevents such person from working.

3 (2) LIFE INSURANCE POLICY.—The term “life  
 4 insurance policy” means a contract under which an  
 5 entity promises to pay a designated beneficiary a  
 6 sum of money upon the death of the insured.

7 (3) LONG-TERM CARE INSURANCE POLICY.—  
 8 The term “long-term care insurance policy” means  
 9 a contract for which the only insurance protection  
 10 provided under the contract is coverage of qualified  
 11 long-term care services (as defined in section  
 12 7702B(c) of the Internal Revenue Code of 1986).

13 **SEC. 5. PUBLIC EDUCATION CAMPAIGN.**

14 Part P of title III of the Public Health Service Act  
 15 (42 U.S.C. 280g et seq.) is amended by adding at the end  
 16 the following:

17 **“SEC. 399V-7. PRE-EXPOSURE PROPHYLAXIS AND POST-EX-**  
 18 **POSURE PROPHYLAXIS EDUCATION CAM-**  
 19 **PAIGNS.**

20 **“(a) PUBLIC EDUCATION CAMPAIGN.—**

21 **“(1) IN GENERAL.—**The Secretary, acting  
 22 through the Director of the Centers for Disease  
 23 Control and Prevention, in consultation with the Di-  
 24 rector of the Office of Infectious Disease and HIV/  
 25 AIDS Policy, shall establish a public health cam-



1       paign for the purpose of educating the public on  
2       medication for the prevention of HIV acquisition.

3               “(2) REQUIREMENTS.—In carrying out this  
4       subsection, the Secretary shall ensure cultural com-  
5       petency and efficacy within high-need communities  
6       in which PrEP or PEP are underutilized by devel-  
7       oping the campaign in collaboration with organiza-  
8       tions that are indigenous to communities that are  
9       overrepresented in the domestic HIV epidemic, in-  
10      cluding communities of color and the lesbian, gay,  
11      bisexual, transgender, and queer community. The  
12      Secretary shall ensure that the campaign is designed  
13      to increase awareness of the safety and effectiveness  
14      of PrEP and PEP, the recommended clinical prac-  
15      tices for providing PrEP-related and PEP-related  
16      clinical care, and the local availability of PrEP and  
17      PEP providers, and to counter stigma associated  
18      with the use of PrEP and PEP.

19              “(3) EVALUATION OF PROGRAM.—The Sec-  
20      retary shall develop measures to evaluate the effec-  
21      tiveness of activities conducted under this subsection  
22      that are aimed at reducing disparities in access to  
23      PrEP and PEP and supporting the local commu-  
24      nity. Such measures shall evaluate community out-  
25      reach activities, language services, workforce cultural

1 competence, and other areas as determined by the  
2 Secretary.

3 “(b) PROVIDER EDUCATION CAMPAIGN.—

4 “(1) IN GENERAL.—The Secretary, acting  
5 through the Director of the Centers for Disease  
6 Control and Prevention and the Administration of  
7 the Health Resources Services Administration and  
8 the Office of Infectious Disease and HIV/AIDS Pol-  
9 icy, shall establish a provider campaign for the pur-  
10 pose of educating prescribers and other associated  
11 health professionals on medication for the prevention  
12 of HIV acquisition.

13 “(2) REQUIREMENTS.—In carrying out this  
14 subsection, the Secretary shall increase awareness  
15 and readiness among health care providers to offer  
16 PrEP or PEP, as appropriate, with a focus on areas  
17 of high-need communities in which PrEP or PEP is  
18 underutilized by developing an educational campaign  
19 with input from health care providers and organiza-  
20 tions that are indigenous to communities that are  
21 overrepresented in the domestic HIV epidemic, in-  
22 cluding communities of color and the lesbian, gay,  
23 bisexual, transgender, and queer community. The  
24 Secretary shall ensure that the campaign is designed  
25 to increase awareness of the safety and effectiveness

1 of PrEP and PEP, the recommended clinical prac-  
2 tices for providing PrEP-related and PEP-related  
3 clinical care, cultural competency among PrEP and  
4 PEP prescribers, and to counter stigma associated  
5 with the use of PrEP and PEP.

6 “(3) EVALUATION OF PROGRAM.—The Sec-  
7 retary shall develop measures to evaluate the effec-  
8 tiveness of activities conducted under this subsection  
9 that are aimed at increasing the number of health  
10 care professionals offering PrEP and PEP and re-  
11 ducing disparities in access to PrEP and PEP. Such  
12 measures shall evaluate availability of PrEP and  
13 PEP services, education and outreach activities, lan-  
14 guage services, workforce cultural competence, and  
15 other areas as determined by the Secretary.

16 “(c) DEFINITIONS.—In this section and section  
17 399V–8—

18 “(1) the term ‘PEP’ means any drug or com-  
19 bination of drugs approved by the Food and Drug  
20 Administration for preventing HIV infection after a  
21 sexual or other exposure associated with a high risk  
22 of HIV transmission; and

23 “(2) the term ‘PrEP’ means any drug approved  
24 by the Food and Drug Administration for the pur-

1       pose of pre-exposure prophylaxis with respect to  
2       HIV.

3       “(d) AUTHORIZATION OF APPROPRIATIONS.—To  
4 carry out this section, there are authorized to be appro-  
5 priated such sums as may be necessary for each of fiscal  
6 years 2023 through 2028.”.

7       **SEC. 6. PATIENT CONFIDENTIALITY.**

8       The Secretary of Health and Human Services shall  
9 amend the regulations promulgated under section 264(c)  
10 of the Health Insurance Portability and Accountability  
11 Act of 1996 (42 U.S.C. 1320d–2 note), as necessary, to  
12 ensure that individuals are able to access the benefits de-  
13 scribed in section 2713(a)(6) under a family plan without  
14 any other individual enrolled in such family plan, including  
15 a primary subscriber of or policyholder, being informed of  
16 such use of such benefits.

17       **SEC. 7. PRE-EXPOSURE PROPHYLAXIS AND POST-EXPO-**  
18                               **SURE PROPHYLAXIS FUNDING.**

19       Part P of title III of the Public Health Service Act  
20 (42 U.S.C. 280g et seq.), as amended by section 5, is fur-  
21 ther amended by adding at the end the following:

22       **“SEC. 399V–8. PRE-EXPOSURE PROPHYLAXIS AND POST-EX-**  
23                               **POSURE PROPHYLAXIS FUNDING.**

24       “(a) IN GENERAL.—Not later than 1 year after the  
25 date of enactment of the PrEP Access and Coverage Act,

1 the Secretary shall establish a program that awards grants  
2 to States, territories, Indian Tribes, and directly eligible  
3 entities for the establishment and support of pre-exposure  
4 prophylaxis (referred to in this section as ‘PrEP’) and  
5 post-exposure prophylaxis (referred to in this section as  
6 ‘PEP’) programs.

7 “(b) APPLICATIONS.—To be eligible to receive a  
8 grant under subsection (a), a State, territory, Indian  
9 Tribe, or directly eligible entity shall—

10 “(1) submit an application to the Secretary at  
11 such time, in such manner, and containing such in-  
12 formation as the Secretary may require, including a  
13 plan describing how any funds awarded will be used  
14 to increase access to PrEP for uninsured and under-  
15 insured individuals and reduce disparities in access  
16 to PrEP and PEP for uninsured and underinsured  
17 individuals and reduce disparities in access to PrEP  
18 and PEP; and

19 “(2) appoint a PrEP and PEP grant adminis-  
20 trator to manage the program.

21 “(c) DIRECTLY ELIGIBLE ENTITY.—For purposes of  
22 this section, the term ‘directly eligible entity’—

23 “(1) means a Federally qualified health center  
24 or other nonprofit entity engaged in providing PrEP  
25 and PEP information and services; and

1 “(2) may include—

2 “(A) a Federally qualified health center  
3 (as defined in section 1861(aa)(4) of the Social  
4 Security Act (42 U.S.C. 1395x(aa)(4)));

5 “(B) a family planning grantee (other than  
6 States) funded under section 1001 of the Public  
7 Health Service Act (42 U.S.C. 300);

8 “(C) a rural health clinic (as defined in  
9 section 1861(aa)(2) of the Social Security Act  
10 (42 U.S.C. 1395x(aa)(2)));

11 “(D) a health facility operated by or pur-  
12 suant to a contract with the Indian Health  
13 Service;

14 “(E) a community-based organization, clin-  
15 ic, hospital, or other health facility that pro-  
16 vides services to individuals at risk for or living  
17 with HIV; and

18 “(F) a nonprofit private entity providing  
19 comprehensive primary care to populations at  
20 risk of HIV, including faith-based and commu-  
21 nity-based organizations.

22 “(d) AWARDS.—In determining whether to award a  
23 grant, and the grant amount for each grant awarded, the  
24 Secretary shall consider the grant application and the  
25 need for PrEP and PEP services in the area, the number

1 of uninsured and underinsured individuals in the area, and  
2 how the State, territory, or Indian Tribe coordinates  
3 PrEP and PEP activities with the directly funded entity,  
4 if the State, territory, or Indian Tribe applies for the  
5 funds.

6 “(e) USE OF FUNDS.—

7 “(1) IN GENERAL.—Any State, territory, Indian  
8 Tribe, or directly eligible entity that is awarded  
9 funds under subsection (a) shall use such funds for  
10 eligible PrEP and PEP expenses.

11 “(2) ELIGIBLE PREP EXPENSES.—The Sec-  
12 retary shall publish a list of expenses that qualify as  
13 eligible PrEP and PEP expenses for purposes of this  
14 section, which shall include—

15 “(A) any prescription drug approved by  
16 the Food and Drug Administration for the pre-  
17 vention of HIV, administrative fees for such  
18 drugs, laboratory and other diagnostic proce-  
19 dures associated with the use of such drugs,  
20 and clinical follow up and monitoring, including  
21 any related services recommended in current  
22 United States Public Health Service clinical  
23 practice guidelines, without limitation;

24 “(B) outreach and public education activi-  
25 ties directed toward populations overrepresented

1 in the domestic HIV epidemic that increase  
2 awareness about the existence of PrEP and  
3 PEP, provide education about access to and  
4 health care coverage of PrEP and PEP, PrEP  
5 and PEP adherence programs, and counter  
6 stigma associated with the use of PrEP and  
7 PEP; and

8 “(C) outreach activities directed toward  
9 physicians and other providers that provide  
10 education about PrEP and PEP.

11 “(f) REPORT TO CONGRESS.—The Secretary shall, in  
12 each of the first 5 years beginning one year after the date  
13 of the enactment of the PrEP Access and Coverage Act,  
14 submit to Congress, and make public on the internet  
15 website of Department of Health and Human Services, a  
16 report on the impact of any grants provided to States, ter-  
17 ritories, and Indian Tribes and directly eligible entities for  
18 the establishment and support of pre-exposure prophylaxis  
19 programs under this section.

20 “(g) AUTHORIZATION OF APPROPRIATIONS.—To  
21 carry out this section, there are authorized to be appro-  
22 priated such sums as may be necessary for each of fiscal  
23 years 2023 through 2028.”.



1   **SEC. 8. CLARIFICATION.**

2       This Act, including the amendments made by this  
3 Act, shall apply notwithstanding any other provision of  
4 law, including Public Law 103–141.

5   **SEC. 9. PRIVATE RIGHT OF ACTION.**

6       Any person aggrieved by a violation of this Act, in-  
7 cluding the amendments made by this Act, may commence  
8 a civil action in an appropriate United States District  
9 Court or other court of competent jurisdiction to obtain  
10 relief as allowed by law as either an individual or member  
11 of a class. If the plaintiff is the prevailing party in such  
12 an action, the court shall order the defendant to pay the  
13 costs and reasonable attorney fees of the plaintiff.

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