

117TH CONGRESS  
2D SESSION

# H. R. 9336

To amend title XIX of the Social Security Act to require coverage under State plans under the Medicaid program for annual lung cancer screening with no cost sharing for individuals for whom screening is recommended by U.S. Preventive Services Task Force guidelines, to expand coverage under Medicaid of counseling and pharmacotherapy for cessation of tobacco use, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 17, 2022

Mr. HIGGINS of New York (for himself and Ms. CASTOR of Florida) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, 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 amend title XIX of the Social Security Act to require coverage under State plans under the Medicaid program for annual lung cancer screening with no cost sharing for individuals for whom screening is recommended by U.S. Preventive Services Task Force guidelines, to expand coverage under Medicaid of counseling and pharmacotherapy for cessation of tobacco use, 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,*

1 **SECTION 1. SHORT TITLE.**

2       This Act may be cited as the “Increasing Access to  
3 Lung Cancer Screening Act”.

4 **SEC. 2. MEDICAID COVERAGE OF ANNUAL LUNG CANCER**  
5 **SCREENING WITH NO COST SHARING FOR IN-**  
6 **DIVIDUALS FOR WHOM SCREENING IS REC-**  
7 **OMMENDED BY U.S. PREVENTIVE SERVICES**  
8 **TASK FORCE GUIDELINES.**

9       (a) IN GENERAL.—Section 1905(a)(4) of the Social  
10 Security Act (42 U.S.C. 1396d(a)(4)) is amended—

11           (1) by striking “and” before “(F)”;

12           (2) by inserting before the semicolon at the end  
13 the following: “; and (G) an annual lung cancer  
14 screening for individuals who are eligible under the  
15 plan and for whom screening is recommended by the  
16 U.S. Preventive Services Task Force guidelines,  
17 without regard to prior authorization”.

18       (b) NO COST SHARING.—

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

22           (A) in subparagraph (G), by adding at the  
23 end “, or”;

24           (B) by adding at the end the following new  
25 subparagraph:

1 “(H) lung cancer screening for which pay-  
2 ment may be made under the State plan pursu-  
3 ant section to 1905(a)(4)(G);”.

4 (2) APPLICATION TO ALTERNATIVE COST SHAR-  
5 ING.—Section 1916A(b)(3)(B) of the Social Security  
6 Act (42 U.S.C. 1396o–1(b)(3)(B)) is amended by  
7 adding at the end the following new clause:

8 “(xiv) Lung cancer screening for  
9 which payment may be made under the  
10 State plan pursuant to section  
11 1905(a)(4)(G).”.

12 (c) APPLICATION TO MEDICAID MANAGED CARE OR-  
13 GANIZATIONS.—Section 1932(b) of the Social Security Act  
14 (42 U.S.C. 1396u–2(b)) is amended by adding at the end  
15 the following new paragraph:

16 “(9) LUNG CANCER SCREENING.—Each con-  
17 tract with a medicaid managed care organization  
18 under section 1903(m) shall require the organization  
19 to provide coverage for lung cancer screening for  
20 which payment may be made under the State plan  
21 pursuant to section 1905(a)(4)(G) without regard to  
22 prior authorization.”.

23 (d) EFFECTIVE DATE.—

24 (1) IN GENERAL.—Subject to paragraph (2),  
25 the amendments made by this section shall apply

1 with respect to items and services furnished on or  
2 after January 1, 2023.

3 (2) EXCEPTION IF STATE LEGISLATION RE-  
4 QUIRED.—In the case of a State plan for medical as-  
5 sistance under title XIX of the Social Security Act  
6 which the Secretary of Health and Human Services  
7 determines requires State legislation (other than leg-  
8 islation appropriating funds) in order for the plan to  
9 meet the additional requirements imposed by the  
10 amendments made by this section, the State plan  
11 shall not be regarded as failing to comply with the  
12 requirements of such title solely on the basis of its  
13 failure to meet such additional requirements before  
14 the first day of the first calendar quarter beginning  
15 after the close of the first regular session of the  
16 State legislature that begins after the date of the en-  
17 actment of this Act. For purposes of the previous  
18 sentence, in the case of a State that has a 2-year  
19 legislative session, each year of such session shall be  
20 deemed to be a separate regular session of the State  
21 legislature.

1 **SEC. 3. EXPANDING COVERAGE UNDER MEDICAID OF**  
2 **COUNSELING AND PHARMACOTHERAPY FOR**  
3 **CESSATION OF TOBACCO USE TO ALL MED-**  
4 **ICAID INDIVIDUALS.**

5 (a) IN GENERAL.—Section 1905 of the Social Secu-  
6 rity Act (42 U.S.C. 1396d) is amended—

7 (1) in subsection (a)(4)(D)—

8 (A) by striking “by pregnant women”; and

9 (B) by inserting “without regard to prior  
10 authorization” after “(as defined in subsection  
11 (bb))”; and

12 (2) in subsection (bb)—

13 (A) in paragraph (1)—

14 (i) by striking the first place it ap-  
15 pears “by pregnant women”; and

16 (ii) by striking “by pregnant women  
17 who” and inserting “by individuals who”;

18 (B) in paragraph (2)(A), by striking “with  
19 respect to pregnant women”; and

20 (C) in paragraph (2)(B), by striking “by  
21 pregnant women”.

22 (b) CONFORMING AMENDMENTS.—

23 (1) Section 1927(d)(2)(F) of the Social Secu-  
24 rity Act (42 U.S.C. 1396r–8(d)(2)(F)) is amended  
25 by striking “, in the case of pregnant women”.

(2) Section 1916 of the Social Security Act (42 U.S.C. 1396o), as amended by section 1, is further amended—

(A) in each of subsections (a)(2) and (b)(2)—

(i) in subparagraph (B), by striking “, and counseling and pharmacotherapy for cessation of tobacco use by pregnant women (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, and when used to promote, tobacco cessation by pregnant women in accordance with the Guideline referred to in section 1905(bb)(2)(A)”;

(ii) in subparagraph (H), at the end by adding “or”; and

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

“(I) counseling and pharmacotherapy for cessation of tobacco use (as defined in section 1905(bb)) and covered outpatient drugs (as de-

1            fined in subsection (k)(2) of section 1927 and  
 2            including nonprescription drugs described in  
 3            subsection (d)(2) of such section) that are pre-  
 4            scribed for purposes of promoting, and when  
 5            used to promote, tobacco cessation in accord-  
 6            ance with the Guideline referred to in section  
 7            1905(bb)(2)(A); and”.

8            (3) Section 1916A(b)(3)(B) of such Act (42  
 9            U.S.C. 1396o–1(b)(3)(B)), as amended by section 1,  
 10          is further amended—

11                  (A) in clause (iii), by striking “, and coun-  
 12                  seling and pharmacotherapy for cessation of to-  
 13                  bacco use by pregnant women (as defined in  
 14                  section 1905(bb))”; and

15                  (B) by adding at the end the following new  
 16                  clause:

17                          “(xv)                  Counseling                  and  
 18                          pharmacotherapy for cessation of tobacco  
 19                          use (as defined in section 1905(bb)).”.

20          (c) APPLICATION TO MEDICAID MANAGED CARE OR-  
 21          GANIZATIONS.—Section 1932(b) of the Social Security Act  
 22          (42 U.S.C. 1396u–2(b)), as amended by section 1, is fur-  
 23          ther amended by adding at the end the following new para-  
 24          graph:

1           “(10) CESSATION OF TOBACCO USE.—Each  
2           contract with a medicaid managed care organization  
3           under section 1903(m) shall require the organization  
4           to provide coverage for counseling and  
5           pharmacotherapy for cessation of tobacco use with-  
6           out regard to prior authorization.”.

7           (d) EFFECTIVE DATE.—

8           (1) IN GENERAL.—Subject to paragraph (2),  
9           the amendments made by this section shall apply  
10          with respect to items and services furnished on or  
11          after January 1, 2023.

12          (2) EXCEPTION IF STATE LEGISLATION RE-  
13          QUIRED.—In the case of a State plan for medical as-  
14          sistance under title XIX of the Social Security Act  
15          which the Secretary of Health and Human Services  
16          determines requires State legislation (other than leg-  
17          islation appropriating funds) in order for the plan to  
18          meet the additional requirements imposed by the  
19          amendments made by this section, the State plan  
20          shall not be regarded as failing to comply with the  
21          requirements of such title solely on the basis of its  
22          failure to meet such additional requirements before  
23          the first day of the first calendar quarter beginning  
24          after the close of the first regular session of the  
25          State legislature that begins after the date of the en-



1 actment of this Act. For purposes of the previous  
2 sentence, in the case of a State that has a 2-year  
3 legislative session, each year of such session shall be  
4 deemed to be a separate regular session of the State  
5 legislature.

6 **SEC. 4. COVERAGE UNDER MEDICARE AND PRIVATE**  
7 **HEALTH INSURANCE OF ANNUAL LUNG CAN-**  
8 **CER SCREENING WITHOUT UTILIZATION**  
9 **MANAGEMENT REQUIREMENTS.**

10 (a) MEDICARE.—

11 (1) IN GENERAL.—Section 1834 of the Social  
12 Security Act (42 U.S.C. 1395m) is amended by add-  
13 ing at the end the following new subsection:

14 “(z) SPECIAL RULE FOR ANNUAL LUNG CANCER  
15 SCREENING.—Notwithstanding any other provision of this  
16 title, in the case of an annual lung cancer screening for  
17 which benefits are provided under this part for any indi-  
18 vidual for whom such screening is recommended in accord-  
19 ance with guidelines issued by the Secretary, such benefits  
20 shall be provided without application of any prior author-  
21 ization.”.

22 (2) APPLICATION UNDER MEDICARE ADVAN-  
23 TAGE.—Section 1852(a)(1)(B) of the Social Security  
24 Act (42 U.S.C. 1395w–22(a)(1)(B)) is amended by  
25 adding at the end the following new clause:

1                   “(vii) PROHIBITION OF APPLICATION  
 2                   OF CERTAIN REQUIREMENTS FOR ANNUAL  
 3                   LUNG CANCER SCREENING.—In the case of  
 4                   an annual lung cancer screening for which  
 5                   benefits are provided under part B for any  
 6                   individual for whom such screening is rec-  
 7                   ommended in accordance with guidelines  
 8                   issued by the Secretary for purposes of  
 9                   section 1834(z), an MA plan may not im-  
 10                  pose any prior authorization with respect  
 11                  to the coverage of such screening under  
 12                  such plan.”.

13               (3) EFFECTIVE DATE.—The amendments made  
 14               by this subsection shall apply with respect to serv-  
 15               ices furnished on or after January 1, 2023.

16               (b) INDIVIDUAL AND GROUP HEALTH INSURANCE  
 17               MARKETS.—

18               (1) IN GENERAL.—Section 2713 of the Public  
 19               Health Service Act (42 U.S.C. 300gg–(3)) is amend-  
 20               ed by adding at the end the following new sub-  
 21               section:

22               “(d) PROHIBITION OF APPLICATION OF CERTAIN RE-  
 23               QUIREMENTS FOR ANNUAL LUNG CANCER SCREENING.—  
 24               A group health plan and a health insurance issuer offering  
 25               group or individual health insurance coverage may not im-

1 pose any prior authorization with respect to the benefits  
2 under such plan or coverage for an annual lung cancer  
3 screening for any individual for whom such screening is  
4 recommended by the United States Preventive Services  
5 Task Force.”.

6 (2) EFFECTIVE DATE.—The amendments made  
7 by this subsection shall apply with respect to plan  
8 years beginning on or after January 1, 2023.

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