

117TH CONGRESS
1ST SESSION

H. R. 2185

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

MARCH 26, 2021

Ms. BLUNT ROCHESTER (for herself, Ms. LEE of California, Ms. KELLY of Illinois, Ms. WILLIAMS of Georgia, and Mrs. HAYES) 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 “Quit Because of
5 COVID–19 Act”.

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

3 (a) REQUIRING MEDICAID COVERAGE OF COUN-
4 SELING AND PHARMACOTHERAPY FOR CESSATION OF TO-
5 BACCO USE.—Section 1905 of the Social Security Act (42
6 U.S.C. 1396d) is amended—

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

12 (2) by adding at the end the following new sub-
13 section:

14 “(hh) For purposes of this title, the term ‘counseling
15 and pharmacotherapy for cessation of tobacco use’ means
16 diagnostic, therapy, and counseling services and
17 pharmacotherapy (including the coverage of prescription
18 and nonprescription tobacco cessation agents approved by
19 the Food and Drug Administration) for the cessation of
20 tobacco use by individuals who use tobacco products or
21 who are being treated for tobacco use that are furnished—

22 “(1) by or under the supervision of a physician;
23 or

24 “(2) by any other health care professional
25 who—

1 “(A) is legally authorized to furnish such
2 services under State law (or the State regu-
3 latory mechanism provided by State law) of the
4 State in which the services are furnished; and

5 “(B) is authorized to receive payment for
6 other services under this title or is designated
7 by the Secretary for this purpose;

8 which is recommended in the guideline entitled,
9 ‘Treating Tobacco Use and Dependence: 2008 Up-
10 date: A Clinical Practice Guideline’ published by the
11 Public Health Service in May 2008 (or any subse-
12 quent modification of such guideline) or is rec-
13 ommended for the cessation of tobacco use by the
14 U.S. Preventive Services Task Force or any addi-
15 tional intervention approved by the Food and Drug
16 Administration as safe and effective in helping
17 smokers quit.”.

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) by repealing subparagraph (B);

23 (B) in subparagraph (F), by striking “or”
24 at the end;

(C) in subparagraph (G), by striking “; and” and inserting “, or”; and

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

“(H) counseling and pharmacotherapy for cessation of tobacco use (as defined in section 1905(hh)) 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(hh); 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) by repealing clause (iii); and

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

“(xii) Counseling and pharmacotherapy for cessation of tobacco use (as defined in section 1905(hh)) and covered outpatient drugs (as defined in subsection (k)(2) of section 1927 and including nonprescription drugs described in

1 subsection (d)(2) of such section) that are
2 prescribed for purposes of promoting to-
3 bacco cessation in accordance with the
4 guideline specified in section 1905(hh).”.

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

9 “(F) Nonprescription drugs, except, in the
10 case of individuals who are eligible under the
11 State plan when recommended in accordance
12 with the Guideline referred to in section
13 1905(hh), agents approved by the Food and
14 Drug Administration under the over-the-counter
15 monograph process for purposes of promoting
16 tobacco cessation (as defined in subsection
17 (hh)).”.

18 (d) STATE MONITORING AND PROMOTING OF COM-
19 PREHENSIVE TOBACCO CESSATION SERVICES UNDER
20 MEDICAID.—Section 1902(a) of the Social Security Act
21 (42 U.S.C. 1396a) is amended—

22 (1) in paragraph (85), by striking at the end
23 “and”;

24 (2) in paragraph (86), by striking the period at
25 the end and inserting “; and”; and

1 (3) by inserting after paragraph (86) the fol-
2 lowing new paragraph:

3 “(87) provide for the State to monitor and pro-
4 mote the use of comprehensive tobacco cessation
5 services under the State plan (including conducting
6 an outreach campaign to increase awareness of the
7 benefits of using such services) among—

8 “(A) individuals entitled to medical assist-
9 ance under the State plan who use tobacco
10 products; and

11 “(B) clinicians and others who provide
12 services to individuals entitled to medical assist-
13 ance under the State plan.”.

14 (e) FEDERAL REIMBURSEMENT FOR MEDICAID COV-
15 ERAGE AND OUTREACH CAMPAIGN.—Section 1903(a) of
16 the Social Security Act (42 U.S.C. 1396b(a)) is amend-
17 ed—

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

20 (2) by inserting after paragraph (7) the fol-
21 lowing new paragraphs:

22 “(8) with respect to counseling and
23 pharmacotherapy for cessation of tobacco use by in-
24 dividuals who are eligible under the State plan—

1 “(A) for calendar quarters occurring dur-
2 ing the period beginning on the date of the en-
3 actment of this paragraph and ending 2 years
4 after the last day of the emergency period de-
5 scribed in section 1135(g)(1)(B), an amount
6 equal to 100 percent of the sums expended dur-
7 ing each quarter which are attributable to the
8 cost of furnishing such counseling and
9 pharmacotherapy; and

10 “(B) for calendar quarters occurring after
11 the period described in subparagraph (A), an
12 amount equal to Federal medical assistance
13 percentage determined under section 1905(b) of
14 the sums expended during each quarter which
15 are so attributable; plus

16 “(9) with respect to the development, imple-
17 mentation, and evaluation of an outreach campaign
18 to—

19 “(A) increase awareness of comprehensive
20 tobacco cessation services covered in the State
21 plan among—

22 “(i) individuals who are likely to be el-
23 igible for medical assistance under the
24 State plan; and

1 “(ii) clinicians and others who provide
2 services to individuals who are likely to be
3 eligible for medical assistance under the
4 State plan; and

5 “(B) increase awareness of the benefits of
6 using comprehensive tobacco cessation services
7 covered in the State plan among—

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

11 “(ii) clinicians and others who provide
12 services to individuals who are likely to be
13 eligible for medical assistance under the
14 State plan about the benefits of using com-
15 prehensive tobacco cessation services;

16 for calendar quarters occurring during the pe-
17 riod beginning on the date of the enactment of
18 this paragraph and ending on 2 years after the
19 last day of the emergency period described in
20 section 1135(g)(1)(B), an amount equal to 100
21 percent of the sums expended during each quar-
22 ter which are attributable to such development,
23 implementation, and evaluation, and for cal-
24 endar quarters succeeding such period, an
25 amount equal to Federal medical assistance

1 percentage determined under section 1905(b) of
 2 the sums expended during each quarter which
 3 are so attributable.”.

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

8 (1) in paragraph (1)(A), by striking “A State”
 9 and inserting “Subject to paragraph (8), a State”;
 10 and

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

13 “(8) NO PRIOR AUTHORIZATION PROGRAMS FOR
 14 TOBACCO CESSATION DRUGS.—A State plan may not
 15 require, as a condition of coverage or payment for
 16 a covered outpatient drug, the approval of an agent
 17 to promote smoking cessation (including agents ap-
 18 proved by the Food and Drug Administration) or to-
 19 bacco cessation.”.

20 **SEC. 3. COVERAGE OF COMPREHENSIVE TOBACCO CES-**
 21 **SATION SERVICES IN CHIP.**

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

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

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

8 (2) COUNSELING AND PHARMACOTHERAPY FOR
9 CESSATION OF TOBACCO USE DEFINED.—Section
10 2110(c) of the Social Security Act (42 U.S.C.
11 1397jj(c)) is amended by adding at the end the fol-
12 lowing new paragraph:

13 “(10) COUNSELING AND PHARMACOTHERAPY
14 FOR CESSATION OF TOBACCO USE.—The term ‘coun-
15 seling and pharmacotherapy for cessation of tobacco
16 use’ means diagnostic, therapy, and counseling serv-
17 ices and pharmacotherapy (including the coverage of
18 prescription and nonprescription tobacco cessation
19 agents approved by the Food and Drug Administra-
20 tion) for the cessation of tobacco use by individuals
21 who use tobacco products or who are being treated
22 for tobacco use that are furnished—

23 “(A) by or under the supervision of a phy-
24 sician; or

1 “(B) by any other health care professional
2 who—

3 “(i) is legally authorized to furnish
4 such services under State law (or the State
5 regulatory mechanism provided by State
6 law) of the State in which the services are
7 furnished; and

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

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

24 “(5) NO COST SHARING ON BENEFITS FOR
25 COUNSELING AND PHARMACOTHERAPY FOR CES-

1 SATION OF TOBACCO USE.—The State child health
2 plan may not impose deductibles, coinsurance, or
3 other cost sharing with respect to benefits for coun-
4 seling and pharmacotherapy for cessation of tobacco
5 use (as defined in section 2110(c)(10)) and prescrip-
6 tion drugs that are covered under a State child
7 health plan that are prescribed for purposes of pro-
8 moting tobacco cessation in accordance with the
9 guideline specified in section 2110(c)(10)(B).”.

10 (c) EXCEPTION FROM OPTIONAL RESTRICTION
11 UNDER CHIP PRESCRIPTION DRUG COVERAGE.—Section
12 2103 of the Social Security Act (42 U.S.C. 1397cc) is
13 amended by adding at the end the following new sub-
14 section:

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

19 “(1) pregnant women when recommended in ac-
20 cordance with the guideline specified in section
21 2110(c)(10)(B), agents approved by the Food and
22 Drug Administration under the over-the-counter
23 monograph process for purposes of promoting to-
24 bacco cessation; and

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

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

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

21 “(1) individuals entitled to medical assistance
22 under the State child health plan who use tobacco
23 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.—Section 2105(a) of
6 the Social Security Act (42 U.S.C. 1397ee(a)) is amended
7 by adding at the end the following new paragraph:

8 “(5) FEDERAL REIMBURSEMENT FOR CHIP
9 COVERAGE OF COMPREHENSIVE TOBACCO CES-
10 SATION SERVICES AND OUTREACH CAMPAIGN.—In
11 addition to the payments made under paragraph (1)
12 for calendar quarters occurring during the period be-
13 ginning on the date of the enactment of this para-
14 graph and ending on 2 years after the last day of
15 the emergency period described in section
16 1135(g)(1)(B), the Secretary shall pay—

17 “(A) an amount equal to 100 percent of
18 the sums expended during each quarter which
19 are attributable to the cost of furnishing coun-
20 seling and pharmacotherapy for cessation of to-
21 bacco use by individuals who are eligible under
22 the State child health plan; plus

23 “(B) an amount equal to 100 percent of
24 the sums expended during each quarter which
25 are attributable to the development, implemen-

1 tation, and evaluation of an outreach campaign
2 to—

3 “(i) increase awareness of comprehen-
4 sive tobacco cessation services covered in
5 the State child health plan among—

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

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

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

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

21 “(II) clinicians and others who
22 provide services to individuals who are
23 likely to be eligible for medical assist-
24 ance under the State child health plan
25 about the benefits of using com-

1 prehensive tobacco cessation serv-
2 ices.”.

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

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

10 (2) by adding at the end the following new sub-
11 section:

12 “(h) NO PRIOR AUTHORIZATION PROGRAMS FOR TO-
13 BACCO CESSATION DRUGS.—A State child health plan
14 may not require, as a condition of coverage or payment
15 for a prescription drug, the approval of an agent to pro-
16 mote smoking cessation (including agents approved by the
17 Food and Drug Administration) or tobacco cessation.”.

18 **SEC. 4. EXCLUSION OF ENHANCED PAYMENTS FROM TER-**
19 **RITORIAL CAPS.**

20 Notwithstanding any other provision of law, for pur-
21 poses of section 1108 of the Social Security Act (42
22 U.S.C. 1308), with respect to any additional amount paid
23 to a territory as a result of the application of paragraph
24 (8) of section 1903(a) or subsection (gg)(3) of section

1 1905 of the Social Security Act (42 U.S.C. 1396b(a),
2 1396d)—

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

6 (2) such additional amounts shall be dis-
7 regarded in applying such subsections.

8 **SEC. 5. RULE OF CONSTRUCTION.**

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

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