

117TH CONGRESS
2D SESSION

H. R. 7322

To require coverage for scalp cooling items under group health plans and group and individual health insurance coverage, specified Federal health care programs, and the Federal Employees Health Benefits Program.

IN THE HOUSE OF REPRESENTATIVES

MARCH 31, 2022

Ms. DELAURO introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committees on Ways and Means, Armed Services, Veterans' Affairs, and Oversight and Reform, 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

A BILL

To require coverage for scalp cooling items under group health plans and group and individual health insurance coverage, specified Federal health care programs, and the Federal Employees Health Benefits Program.

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 “Access to Scalp Cool-
5 ing Therapy Act of 2022”.

1 **SEC. 2. REQUIRING COVERAGE FOR SCALP COOLING ITEMS**
 2 **UNDER GROUP HEALTH PLANS AND GROUP**
 3 **AND INDIVIDUAL HEALTH INSURANCE COV-**
 4 **ERAGE, SPECIFIED FEDERAL HEALTH CARE**
 5 **PROGRAMS, AND THE FEDERAL EMPLOYEES**
 6 **HEALTH BENEFITS PROGRAM.**

7 (a) GROUP HEALTH PLANS AND HEALTH INSUR-
 8 ANCE COVERAGE.—Subpart II of part A of title XXVII
 9 of the Public Health Service Act (42 U.S.C. 300gg–11 et
 10 seq.) is amended by adding at the end the following new
 11 section:

12 **“SEC. 2730. REQUIRED COVERAGE OF SCALP COOLING**
 13 **ITEMS.**

14 “(a) IN GENERAL.—With respect to a plan year be-
 15 ginning on or after January 1, 2023, a group health plan
 16 and a health insurance issuer offering group or individual
 17 health insurance coverage shall provide benefits under
 18 such plan or such coverage for scalp cooling items (as de-
 19 fined in subsection (c)) in accordance with the require-
 20 ment described in subsection (b).

21 “(b) COVERAGE REQUIREMENT.—For purposes of
 22 subsection (a), the requirement described in this sub-
 23 section is, with respect to the imposition or application of
 24 any financial requirement (as defined in subsection (c))
 25 with respect to coverage of scalp cooling items under a
 26 group health plan or group or individual health insurance

1 coverage, the requirement that such financial requirement
 2 be the same as such requirement applicable to intravenous
 3 or injection anticancer drugs furnished under such plan
 4 or such coverage for which benefits are provided under
 5 such plan or such coverage.

6 “(c) DEFINITIONS.—In this section:

7 “(1) FINANCIAL REQUIREMENT.—The term ‘fi-
 8 nancial requirement’ means, with respect to an item
 9 or service furnished under a group health plan or
 10 group or individual health insurance coverage, any
 11 copayment, coinsurance, deductible, annual limit,
 12 lifetime limit, or out-of-pocket maximum applied
 13 under such plan or such coverage with respect to
 14 such item or service.

15 “(2) SCALP COOLING ITEM.—The term ‘scalp
 16 cooling item’ means a cooling cap, hypothermia cap,
 17 cold cap, or any other therapeutic device used to cool
 18 the scalp of an individual to prevent or reduce hair
 19 loss during chemotherapy.”.

20 (b) MEDICARE.—

21 (1) COVERAGE.—

22 (A) IN GENERAL.—Section 1861 of the So-
 23 cial Security Act (42 U.S.C. 1395x) is amend-
 24 ed—

25 (i) in subsection (s)(2)—

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

3 (II) in subparagraph (HH), by
4 striking the period and inserting “;
5 and”; and

6 (III) by adding at the end the
7 following new subparagraph:

8 “(II) scalp cooling items (as defined in sub-
9 section (III));”; and

10 (ii) by adding at the end the following
11 new subsection:

12 “(III) SCALP COOLING ITEMS.—The term ‘scalp cool-
13 ing item’ means a cooling cap, hypothermia cap, cold cap,
14 or any other therapeutic device used to cool the scalp of
15 an individual to prevent or reduce hair loss during chemo-
16 therapy furnished on or after January 1, 2023.”.

17 (B) EXCLUSION MODIFICATION.—Section
18 1862(a)(1) of the Social Security Act (42
19 U.S.C. 1395y(a)(1)) is amended—

20 (i) in subparagraph (O), by striking
21 “and” at the end;

22 (ii) in subparagraph (P), by striking
23 the semicolon and inserting “, and”; and

24 (iii) by adding at the end the fol-
25 lowing new subparagraph:

1 “(Q) in the case of scalp cooling items (as de-
2 fined in section 1861(l)), which are not furnished
3 to prevent or reduce hair loss during chemo-
4 therapy;”.

5 (2) PAYMENT.—Section 1833(a)(1) of the So-
6 cial Security Act (42 U.S.C. 1395l(a)(1)) is amend-
7 ed—

8 (A) by striking “and (DD)” and inserting
9 “(DD)”; and

10 (B) by inserting before the semicolon at
11 the end the following: “and (EE) with respect
12 to scalp cooling items (as defined in section
13 1861(l)), the amount paid shall be equal to 80
14 percent of the lesser of the actual charge or an
15 amount determined appropriate by the Sec-
16 retary;”.

17 (c) MEDICAID.—

18 (1) IN GENERAL.—Title XIX of the Social Se-
19 curity Act (42 U.S.C. 1396 et seq.) is amended—

20 (A) in section 1902(a)(10)(A), by striking
21 “and (30)” and inserting “(30), and (31)”; and

22 (B) in section 1905(a)—

23 (i) in paragraph (30), by striking
24 “and” at the end;

1 (ii) by redesignating paragraph (31)
 2 as paragraph (32); and

3 (iii) by inserting after paragraph (30)
 4 the following new paragraph:

5 “(31) cooling caps, hypothermia caps, cold caps,
 6 and any other therapeutic devices used to cool the
 7 scalp of an individual to prevent or reduce hair loss
 8 during chemotherapy.”.

9 (2) EFFECTIVE DATE.—

10 (A) IN GENERAL.—Subject to subpara-
 11 graph (B), the amendments made by this sub-
 12 section shall apply with respect to medical as-
 13 sistance furnished in calendar quarters begin-
 14 ning on or after January 1, 2023.

15 (B) EXCEPTION FOR STATE LEGISLA-
 16 TION.—In the case of a State plan under title
 17 XIX of the Social Security Act (or a waiver of
 18 such plan), which the Secretary of Health and
 19 Human Services determines requires State leg-
 20 islation in order for the respective plan (or
 21 waiver) to meet any requirement imposed by
 22 the amendments made by this subsection, the
 23 respective plan (or waiver) shall not be re-
 24 garded as failing to comply with the require-
 25 ments of such title solely on the basis of its fail-

1 ure to meet such an additional requirement be-
2 fore the first day of the first calendar quarter
3 beginning after the close of the first regular
4 session of the State legislature that begins after
5 the date of enactment of this subsection. For
6 purposes of the previous sentence, in the case
7 of a State that has a 2-year legislative session,
8 each year of the session shall be considered to
9 be a separate regular session of the State legis-
10 lature.

11 (d) CHIP.—

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

14 (A) in subsection (a), by striking “para-
15 graphs (5), (6), (7) and (8) of”; and

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

18 “(11) COVERAGE OF SCALP COOLING ITEMS.—

19 The child health assistance provided to a targeted
20 low-income child shall include cooling caps, hypo-
21 thermia caps, cold caps, and any other therapeutic
22 devices used to cool the scalp of an individual to pre-
23 vent or reduce hair loss during chemotherapy.”.

24 (2) EFFECTIVE DATE.—

1 (A) IN GENERAL.—Subject to subpara-
2 graph (B), the amendments made by this sub-
3 section shall take effect with respect to child
4 health assistance provided on or after January
5 1, 2023.

6 (B) EXCEPTION FOR STATE LEGISLA-
7 TION.—In the case of a State child health plan
8 under title XXI of the Social Security Act (or
9 a waiver of such plan), which the Secretary of
10 Health and Human Services determines re-
11 quires State legislation in order for the respec-
12 tive plan (or waiver) to meet any requirement
13 imposed by the amendments made by this sec-
14 tion, the respective plan (or waiver) shall not be
15 regarded as failing to comply with the require-
16 ments of such title solely on the basis of its fail-
17 ure to meet such an additional requirement be-
18 fore the first day of the first calendar quarter
19 beginning after the close of the first regular
20 session of the State legislature that begins after
21 the date of enactment of this section. For pur-
22 poses of the previous sentence, in the case of a
23 State that has a 2-year legislative session, each
24 year of the session shall be considered to be a
25 separate regular session of the State legislature.

1 (e) FEHBP.—Section 8902 of title 5, United States
2 Code, is amended by adding at the end the following new
3 subsection:

4 “(p) A contract may not be made or a plan approved
5 which does not provide for the coverage required under
6 section 2730 of the Public Health Service Act.”.

7 (f) TRICARE.—Section 1077(a) of title 10, United
8 States Code, is amended by adding at the end the fol-
9 lowing new paragraph:

10 “(19) A cooling cap, hypothermia cap, cold cap,
11 or any other therapeutic device used to cool the
12 scalp of an individual to prevent or reduce hair loss
13 during chemotherapy.”.

14 (g) VA.—

15 (1) IN GENERAL.—Chapter 17 of title 38,
16 United States Code, is amended by inserting after
17 section 1720I the following new section:

18 **“§ 1720J. Provision of scalp cooling items**

19 “The Secretary shall make available to a veteran who
20 receives chemotherapy pursuant to this chapter a cooling
21 cap, hypothermia cap, cold cap, or any other therapeutic
22 device used to cool the scalp of an individual to prevent
23 or reduce hair loss during chemotherapy.”.

24 (2) CLERICAL AMENDMENT.—The table of sec-
25 tions at the beginning of such chapter is amended

- 1 by inserting after the item relating to section 1720I
- 2 the following new item:

“1720J. Provision of scalp cooling items.”.

