

116TH CONGRESS
2D SESSION

H. R. 7286

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

JUNE 22, 2020

Ms. BLUNT ROCHESTER (for herself, Ms. DEGETTE, Mr. SOTO, Mr. ENGEL, and Ms. BARRAGÁN) 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”.

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

8 (a) **REQUIRING MEDICAID COVERAGE OF COUN-**
9 **SELING AND PHARMACOTHERAPY FOR CESSATION OF TO-**

1 BACCO USE.—Section 1905 of the Social Security Act (42
2 U.S.C. 1396d) is amended—

3 (1) in subsection (a)(4)—

4 (A) in subparagraph (D), by striking
5 “and”; and

6 (B) by inserting before the semicolon the
7 following: “; and (E) counseling and
8 pharmacotherapy for cessation of tobacco use
9 by individuals who are eligible under the State
10 plan (as defined in subsection (gg)) during the
11 period beginning on the first day of the emer-
12 gency period described in section 1135(g)(1)(B)
13 and ending on the last day of the 2-year period
14 after the last day of such emergency period”;

15 (2) by adding at the end the following new sub-
16 section:

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

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

2 or

3 “(2) by any other health care professional

4 who—

5 “(A) is legally authorized to furnish such

6 services under State law (or the State regu-

7 latory mechanism provided by State law) of the

8 State in which the services are furnished; and

9 “(B) is authorized to receive payment for

10 other services under this title or is designated

11 by the Secretary for this purpose;

12 which is recommended in the guideline entitled,

13 ‘Treating Tobacco Use and Dependence: 2008 Up-

14 date: A Clinical Practice Guideline’ published by the

15 Public Health Service in May 2008 (or any subse-

16 quent modification of such guideline) or is rec-

17 ommended for the cessation of tobacco use by the

18 U.S. Preventive Services Task Force or any addi-

19 tional intervention approved by the Food and Drug

20 Administration as safe and effective in helping

21 smokers quit.”.

22 (b) NO COST SHARING.—

23 (1) IN GENERAL.—Subsections (a)(2) and

24 (b)(2) of section 1916 of the Social Security Act (42

25 U.S.C. 1396o) are each amended—

1 (A) in subparagraph (F), by striking “or”
2 at the end;

3 (B) in subparagraph (G), by striking “;
4 and” and inserting “, or” ; and

5 (C) by adding at the end the following new
6 subparagraph:

7 “(H) counseling and pharmacotherapy for
8 cessation of tobacco use (as defined in section
9 1905(gg)) and covered outpatient drugs (as de-
10 fined in subsection (k)(2) of section 1927 and
11 including nonprescription drugs described in
12 subsection (d)(2) of such section) that are pre-
13 scribed for purposes of promoting tobacco ces-
14 sation in accordance with the guideline specified
15 in section 1905(gg)(2)(A) furnished during the
16 period beginning on the first day of the emer-
17 gency period described in section 1135(g)(1)(B)
18 and ending on the last day of the 2-year period
19 after the last day of such emergency period;
20 and”.

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

1 “(xii) Counseling and
2 pharmacotherapy for cessation of tobacco
3 use (as defined in section 1905(gg)) and
4 covered outpatient drugs (as defined in
5 subsection (k)(2) of section 1927 and in-
6 cluding nonprescription drugs described in
7 subsection (d)(2) of such section) that are
8 prescribed for purposes of promoting to-
9 bacco cessation in accordance with the
10 guideline specified in section
11 1905(gg)(2)(A) furnished during the pe-
12 riod beginning on the first day of the
13 emergency period described in section
14 1135(g)(1)(B) and ending on the last day
15 of the 2-year period after the last day of
16 such emergency period.”.

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

21 “(F) Nonprescription drugs, except, in the
22 case of—

23 “(i) pregnant women when rec-
24 ommended in accordance with the guide-
25 line specified in section 1905(bb)(2)(A),

1 agents approved by the Food and Drug
2 Administration under the over-the-counter
3 monograph process for purposes of pro-
4 moting tobacco cessation; and

5 “(ii) individuals who are eligible under
6 the State plan when recommended in ac-
7 cordance with the Guideline referred to in
8 section 1905(gg)(2)(A), agents approved
9 by the Food and Drug Administration
10 under the over-the-counter monograph
11 process for purposes of promoting tobacco
12 cessation (as defined in subsection (bb)
13 during the period beginning on the first
14 day of the emergency period described in
15 section 1135(g)(1)(B) and ending on the
16 last day of the 2-year period after the last
17 day of such emergency period.”.

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) during the period beginning on the first
4 day of the emergency period described in section
5 1135(g)(1)(B) and ending on the last day of the 2-
6 year period after the last day of such emergency pe-
7 riod, provide for the State to monitor and promote
8 the use of comprehensive tobacco cessation services
9 under the State plan (including conducting an out-
10 reach campaign to increase awareness of the benefits
11 of using such services) among—

12 “(A) individuals entitled to medical assist-
13 ance under the State plan who use tobacco
14 products; and

15 “(B) clinicians and others who provide
16 services to individuals entitled to medical assist-
17 ance under the State plan.”.

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

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

24 (2) by inserting after paragraph (7) the fol-
25 lowing new paragraphs:

1 “(8) during the period beginning on the first
2 day of the emergency period described in section
3 1135(g)(1)(B) and ending on the last day of the 2-
4 year period after the last day of such emergency pe-
5 riod, an amount equal to 100 percent of the sums
6 expended during each quarter which are attributable
7 to the cost of furnishing counseling and
8 pharmacotherapy for cessation of tobacco use by in-
9 dividuals who are eligible under the State plan as
10 described in section 1905(a)(4)(E); plus

11 “(9) during the period described in paragraph
12 (8), an amount equal to 100 percent of the sums ex-
13 pended during each quarter which are attributable
14 to the development, implementation, and evaluation
15 of an outreach campaign to—

16 “(A) increase awareness of comprehensive
17 tobacco cessation services covered in the State
18 plan among—

19 “(i) individuals who are likely to be el-
20 igible for medical assistance under the
21 State plan; and

22 “(ii) clinicians and others who provide
23 services to individuals who are likely to be
24 eligible for medical assistance under the
25 State plan; and

1 “(B) increase awareness of the benefits of
2 using comprehensive tobacco cessation services
3 covered in the State plan among—

4 “(i) individuals who are likely to be el-
5 igible for medical assistance under the
6 State plan; and

7 “(ii) clinicians and others who provide
8 services to individuals who are likely to be
9 eligible for medical assistance under the
10 State plan about the benefits of using com-
11 prehensive tobacco cessation services.”.

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

16 (1) in paragraph (1)(A), by striking “A State”
17 and inserting “Subject to paragraph (8), a State”;
18 and

19 (2) by adding at the end the following new
20 paragraph:

21 “(8) NO PRIOR AUTHORIZATION PROGRAMS FOR
22 TOBACCO CESSATION DRUGS.—During the period be-
23 ginning on the first day of the emergency period de-
24 scribed in section 1135(g)(1)(B) and ending on the
25 last day of the 2-year period after the last day of

1 such emergency period, a State plan may not re-
2 quire, as a condition of coverage or payment for a
3 covered outpatient drug, the approval of an agent to
4 promote smoking cessation (including agents ap-
5 proved by the Food and Drug Administration) or to-
6 bacco cessation.”.

7 **SEC. 3. COVERAGE OF COMPREHENSIVE TOBACCO CES-**
8 **SATION SERVICES IN CHIP.**

9 (a) **REQUIRING CHIP COVERAGE OF COUNSELING**
10 **AND PHARMACOTHERAPY FOR CESSATION OF TOBACCO**
11 **USE.—**

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

16 “(D) Counseling and pharmacotherapy for
17 cessation of tobacco use by individuals who are
18 eligible under the State child health plan during
19 the period beginning on the first day of the
20 emergency period described in section
21 1135(g)(1)(B) and ending on the last day of
22 the 2-year period after the last day of such
23 emergency period.”.

24 (2) **COUNSELING AND PHARMACOTHERAPY FOR**
25 **CESSATION OF TOBACCO USE DEFINED.—**Section

1 2110(e) of the Social Security Act (42 U.S.C.
2 1397jj(c)) is amended by adding at the end the fol-
3 lowing new paragraph:

4 “(10) COUNSELING AND PHARMACOTHERAPY
5 FOR CESSATION OF TOBACCO USE.—The term ‘coun-
6 seling and pharmacotherapy for cessation of tobacco
7 use’ means diagnostic, therapy, and counseling serv-
8 ices and pharmacotherapy (including the coverage of
9 prescription and nonprescription tobacco cessation
10 agents approved by the Food and Drug Administra-
11 tion) for the cessation of tobacco use by individuals
12 who use tobacco products or who are being treated
13 for tobacco use that are furnished—

14 “(A) by or under the supervision of a phy-
15 sician; or

16 “(B) by any other health care professional
17 who—

18 “(i) is legally authorized to furnish
19 such services under State law (or the State
20 regulatory mechanism provided by State
21 law) of the State in which the services are
22 furnished; and

23 “(ii) is authorized to receive payment
24 for other services under this title or is des-
25 ignated by the Secretary for this purpose;

1 which is recommended in the guideline entitled,
2 ‘Treating Tobacco Use and Dependence: 2008
3 Update: A Clinical Practice Guideline’ pub-
4 lished by the Public Health Service in May
5 2008 (or any subsequent modification of such
6 guideline) or is recommended for the cessation
7 of tobacco use by the U.S. Preventive Services
8 Task Force or any additional intervention ap-
9 proved by the Food and Drug Administration
10 as safe and effective in helping smokers quit.”.

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

14 “(5) NO COST SHARING ON BENEFITS FOR
15 COUNSELING AND PHARMACOTHERAPY FOR CES-
16 SATION OF TOBACCO USE.—The State child health
17 plan may not impose deductibles, coinsurance, or
18 other cost sharing with respect to benefits for coun-
19 seling and pharmacotherapy for cessation of tobacco
20 use (as defined in section 2110(c)(10)) and prescrip-
21 tion drugs that are covered under a State child
22 health plan that are prescribed for purposes of pro-
23 moting tobacco cessation in accordance with the
24 guideline specified in section 2110(c)(10)(B) fur-
25 nished during the period beginning on the first day

1 of the emergency period described in section
2 1135(g)(1)(B) and ending on the last day of the 2-
3 year period after the last day of such emergency pe-
4 riod.”.

5 (c) EXCEPTION FROM OPTIONAL RESTRICTION
6 UNDER CHIP PRESCRIPTION DRUG COVERAGE.—Section
7 2103 of the Social Security Act (42 U.S.C. 1397cc) is
8 amended by adding at the end the following new sub-
9 section:

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

14 “(1) pregnant women when recommended in ac-
15 cordance with the guideline specified in section
16 2110(e)(10)(B), agents approved by the Food and
17 Drug Administration under the over-the-counter
18 monograph process for purposes of promoting to-
19 bacco cessation; and

20 “(2) individuals who are eligible under the
21 State child health plan when recommended in ac-
22 cordance with the Guideline referred to in section
23 2110(e)(10)(B), agents approved by the Food and
24 Drug Administration under the over-the-counter
25 monograph process for purposes of promoting to-

1 bacco cessation during the period beginning on the
2 first day of the emergency period described in sec-
3 tion 1135(g)(1)(B) and ending on the last day of the
4 2-year period after the last day of such emergency
5 period.”.

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

11 “(d) STATE MONITORING AND PROMOTING OF COM-
12 PREHENSIVE TOBACCO CESSATION SERVICES UNDER
13 CHIP.—A State child health plan shall include a descrip-
14 tion of the procedures to be used by the State during the
15 period beginning on the first day of the emergency period
16 described in section 1135(g)(1)(B) and ending on the last
17 day of the 2-year period after the last day of such emer-
18 gency period to monitor and promote the use of com-
19 prehensive tobacco cessation services under the State plan
20 (including conducting an outreach campaign to increase
21 awareness of the benefits of using such services) among—

22 “(1) individuals entitled to medical assistance
23 under the State child health plan who use tobacco
24 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 during the period beginning on the first day of the
13 emergency period described in section 1135(g)(1)(B)
14 and ending on the last day of the 2-year period after
15 the last day of such emergency period, the Secretary
16 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.—During the period beginning
14 on the first day of the emergency period described in sec-
15 tion 1135(g)(1)(B) and ending on the last day of the 2-
16 year period after the last day of such emergency period,
17 a State child health plan may not require, as a condition
18 of coverage or payment for a prescription drugs, the ap-
19 proval of an agent to promote smoking cessation (includ-
20 ing agents approved by the Food and Drug Administra-
21 tion) or tobacco cessation.”.

1 **SEC. 4. RULE OF CONSTRUCTION.**

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

○