

117TH CONGRESS  
1ST SESSION

# H. R. 898

To require group health plans and health insurance issuers offering group or individual health insurance coverage to provide coverage without any cost sharing for certain items and services furnished during any portion of such emergency period, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 5, 2021

Mr. RUIZ (for himself and Ms. UNDERWOOD) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committees on Ways and Means, and Education and Labor, 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 require group health plans and health insurance issuers offering group or individual health insurance coverage to provide coverage without any cost sharing for certain items and services furnished during any portion of such emergency period, 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 “Care for COVID–19  
5 Act of 2021”.

1 **SEC. 2. COVERAGE OF COVID-19 RELATED TREATMENT AT**  
2 **NO COST SHARING.**

3 (a) IN GENERAL.—A group health plan and a health  
4 insurance issuer offering group or individual health insur-  
5 ance coverage (including a grandfathered health plan (as  
6 defined in section 1251(e) of the Patient Protection and  
7 Affordable Care Act)) shall provide coverage, and shall not  
8 impose any cost sharing (including deductibles, copay-  
9 ments, and coinsurance) requirements, for the following  
10 items and services furnished during any portion of the  
11 emergency period defined in paragraph (1)(B) of section  
12 1135(g) of the Social Security Act (42 U.S.C. 1320b-  
13 5(g)) beginning on or after the date of the enactment of  
14 this Act:

15 (1) Medically necessary items and services (in-  
16 cluding in-person or telehealth visits in which such  
17 items and services are furnished) that are furnished  
18 to an individual who has been diagnosed with (or  
19 after provision of the items and services is diagnosed  
20 with) COVID-19 to treat or mitigate the effects of  
21 COVID-19.

22 (2) Medically necessary items and services (in-  
23 cluding in-person or telehealth visits in which such  
24 items and services are furnished) that are furnished  
25 to an individual who is presumed to have COVID-

1 19 but is never diagnosed as such, if the following  
2 conditions are met:

3 (A) Such items and services are furnished  
4 to the individual to treat or mitigate the effects  
5 of COVID–19 or to mitigate the impact of  
6 COVID–19 on society.

7 (B) Health care providers have taken ap-  
8 propriate steps under the circumstances to  
9 make a diagnosis, or confirm whether a diag-  
10 nosis was made, with respect to such individual,  
11 for COVID–19, if possible.

12 (b) ITEMS AND SERVICES RELATED TO COVID–  
13 19.—For purposes of this section—

14 (1) not later than one week after the date of  
15 the enactment of this section, the Secretary of  
16 Health and Human Services, Secretary of Labor,  
17 and Secretary of the Treasury shall jointly issue  
18 guidance specifying applicable diagnoses and medi-  
19 cally necessary items and services related to  
20 COVID–19; and

21 (2) such items and services shall include all  
22 items or services that are relevant to the treatment  
23 or mitigation of COVID–19, regardless of whether  
24 such items or services are ordinarily covered under  
25 the terms of a group health plan or group or indi-

1       vidual health insurance coverage offered by a health  
2       insurance issuer.

3       (c) REIMBURSEMENT TO PLANS AND COVERAGE FOR  
4       WAIVING COST SHARING.—

5           (1) IN GENERAL.—A group health plan or a  
6       health insurance issuer offering group or individual  
7       health insurance coverage (including a grandfathered  
8       health plan (as defined in section 1251(e) of the Pa-  
9       tient Protection and Affordable Care Act)) that does  
10      not impose cost sharing requirements as described in  
11      subsection (a) shall notify the Secretary of Health  
12      and Human Services, Secretary of Labor, and Sec-  
13      retary of the Treasury (through a joint process es-  
14      tablished jointly by the Secretaries) of the total dol-  
15      lar amount of cost sharing that, but for the applica-  
16      tion of subsection (a), would have been required  
17      under such plans and coverage for items and serv-  
18      ices related to COVID–19 furnished during the pe-  
19      riod to which subsection (a) applies to enrollees, par-  
20      ticipants, and beneficiaries in the plan or coverage to  
21      whom such subsection applies, but which was not  
22      imposed for such items and services so furnished  
23      pursuant to such subsection and the Secretary of  
24      Health and Human Services, in coordination with  
25      the Secretary of Labor and the Secretary of the

1 Treasury, shall make payments in accordance with  
2 this subsection to the plan or issuer equal to such  
3 total dollar amount.

4 (2) METHODOLOGY FOR PAYMENTS.—The Sec-  
5 retary of Health and Human Services, in coordina-  
6 tion with the Secretary of Labor and the Secretary  
7 of the Treasury shall establish a payment system for  
8 making payments under this subsection. Any such  
9 system shall make payment for the value of cost  
10 sharing not imposed by the plan or issuer involved.

11 (3) TIMING OF PAYMENTS.—Payments made  
12 under paragraph (1) shall be made no later than  
13 May 1, 2022, for amounts of cost sharing waivers  
14 with respect to 2021. Payments under this sub-  
15 section with respect to such waivers with respect to  
16 a year subsequent to 2021 that begins during the  
17 period to which subsection (a) applies shall be made  
18 no later than May of the year following such subse-  
19 quent year.

20 (4) APPROPRIATIONS.—There is authorized to  
21 be appropriated, and there is appropriated, out of  
22 any monies in the Treasury not otherwise appro-  
23 priated, such funds as are necessary to carry out  
24 this subsection.

25 (d) ENFORCEMENT.—

1           (1) APPLICATION WITH RESPECT TO PHSA,  
2           ERISA, AND IRC.—The provisions of this section  
3           shall be applied by the Secretary of Health and  
4           Human Services, Secretary of Labor, and Secretary  
5           of the Treasury to group health plans and health in-  
6           surance issuers offering group or individual health  
7           insurance coverage as if included in the provisions of  
8           part A of title XXVII of the Public Health Service  
9           Act, part 7 of the Employee Retirement Income Se-  
10          curity Act of 1974, and subchapter B of chapter 100  
11          of the Internal Revenue Code of 1986, as applicable.

12          (2) PRIVATE RIGHT OF ACTION.—An individual  
13          with respect to whom an action is taken by a group  
14          health plan or health insurance issuer offering group  
15          or individual health insurance coverage in violation  
16          of subsection (a) may commence a civil action  
17          against the plan or issuer for appropriate relief. The  
18          previous sentence shall not be construed as limiting  
19          any enforcement mechanism otherwise applicable  
20          pursuant to paragraph (1).

21          (e) IMPLEMENTATION.—The Secretary of Health and  
22          Human Services, Secretary of Labor, and Secretary of the  
23          Treasury may implement the provisions of this section  
24          through sub-regulatory guidance, program instruction, or  
25          otherwise.

1           (f) TERMS.—The terms “group health plan”, “health  
2 insurance issuer”, “group health insurance coverage”, and  
3 “individual health insurance coverage” have the meanings  
4 given such terms in section 2791 of the Public Health  
5 Service Act (42 U.S.C. 300gg–91), section 733 of the Em-  
6 ployee Retirement Income Security Act of 1974 (29  
7 U.S.C. 1191b), and section 9832 of the Internal Revenue  
8 Code of 1986, as applicable.

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