

119TH CONGRESS
1ST SESSION

H. R. 5278

To amend title XXVII of the Public Health Service Act, the Internal Revenue Code of 1986, and the Employee Retirement Income Security Act of 1974 to reduce patient cost sharing for prescription drug inhaler products used to treat breathing disorders such as asthma and chronic obstructive pulmonary disease, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 10, 2025

Mr. MFUME (for himself, Mr. JOHNSON of Georgia, Ms. NORTON, Mr. THANEDAR, Ms. ELFRETH, Mrs. MCIVER, Mr. FIELDS, Mr. DAVIS of Illinois, Mr. FIGURES, Mr. OLSZEWSKI, Mr. IVEY, and Mrs. MCCLAIN DELANEY) 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 Workforce, 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 amend title XXVII of the Public Health Service Act, the Internal Revenue Code of 1986, and the Employee Retirement Income Security Act of 1974 to reduce patient cost sharing for prescription drug inhaler products used to treat breathing disorders such as asthma and chronic obstructive pulmonary disease, 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 “Affordable Inhalers
3 and Nebulizers Act of 2025”.

4 **SEC. 2. REDUCING PATIENT COST SHARING FOR PRESCRIP-**
5 **TION DRUG INHALER PRODUCTS USED TO**
6 **TREAT BREATHING DISORDERS SUCH AS**
7 **ASTHMA AND CHRONIC OBSTRUCTIVE PUL-**
8 **MONARY DISEASE.**

9 (a) COVERAGE AND COST-SHARING REQUIRE-
10 MENTS.—

11 (1) PRIVATE INSURANCE.—

12 (A) PHSA.—Part D of title XXVII of the
13 Public Health Service Act (42 U.S.C. 300gg–
14 111 et seq.) is amended by adding at the end
15 the following new section:

16 **“SEC. 2799A–11. COVERAGE AND COST-SHARING REQUIRE-**
17 **MENTS FOR SPECIFIED INHALER PRODUCTS.**

18 “(a) IN GENERAL.—A group health plan, and a
19 health insurance issuer offering group or individual health
20 insurance coverage, shall provide benefits under such plan
21 or coverage (as applicable) for all specified inhaler prod-
22 ucts and, with respect to such a product, may not—

23 “(1) apply any deductible; or

24 “(2) impose any cost-sharing requirement in ex-
25 cess of \$15 per 30-day supply of such product.

1 “(b) COUNTING COST SHARING TOWARDS DEDUCT-
 2 IBLE AND OUT-OF-POCKET MAXIMUM.—A group health
 3 plan, and a health insurance issuer offering group or indi-
 4 vidual health insurance coverage, shall count any cost-
 5 sharing requirement described in subsection (a)(2) in-
 6 curred by an individual enrolled under such plan with re-
 7 spect to a specified inhaler product towards any out-of-
 8 pocket maximum and any deductible that, but for applica-
 9 tion of subsection (a), would have applied to such indi-
 10 vidual and product.

11 “(c) SPECIFIED INHALER PRODUCT DEFINED.—For
 12 purposes of this section, the term ‘specified inhaler prod-
 13 uct’ means any maintenance or reliever or rescue inhala-
 14 tion drug (including inhalation aerosols, metered dose in-
 15 halers, dry powder inhalers, inhalation solutions, broncho-
 16 dilators, and corticosteroids) with a medically accepted in-
 17 dication (as defined in section 1927(k)(6)) for the treat-
 18 ment for lung diseases such as asthma and chronic ob-
 19 structive pulmonary disease. Such term includes any
 20 equipment used in the administration of such drug (such
 21 as masks and tubing, spacers, nebulizers, and valve-hold-
 22 ing chambers).”.

23 (B) IRC.—

24 (i) IN GENERAL.—Subchapter B of
 25 chapter 100 of the Internal Revenue Code

1 of 1986 is amended by adding at the end
2 the following new section:

3 **“SEC. 9826. COVERAGE AND COST-SHARING REQUIRE-**
4 **MENTS FOR SPECIFIED INHALER PRODUCTS.**

5 “(a) IN GENERAL.—A group health plan shall pro-
6 vide benefits under such plan for all specified inhaler prod-
7 ucts and, with respect to such a product, may not—

8 “(1) apply any deductible; or

9 “(2) impose any cost-sharing requirement in ex-
10 cess of \$15 per 30-day supply of such product.

11 “(b) COUNTING COST SHARING TOWARDS DEDUCT-
12 IBLE AND OUT-OF-POCKET MAXIMUM.—A group health
13 plan shall count any cost-sharing requirement described
14 in subsection (a)(2) incurred by a participant or bene-
15 ficiary of such plan with respect to a specified inhaler
16 product towards any out-of-pocket maximum and any de-
17 ductible that, but for application of subsection (a), would
18 have applied to such participant or beneficiary.

19 “(c) SPECIFIED INHALER PRODUCT DEFINED.—For
20 purposes of this section, the term ‘specified inhaler prod-
21 uct’ means any maintenance or reliever or rescue inhala-
22 tion drug (including inhalation aerosols, metered dose in-
23 halers, dry powder inhalers, inhalation solutions,
24 bronchodilators, and corticosteroids) with a medically ac-
25 cepted indication (as defined in section 1927(k)(6)) for the

1 treatment of asthma or of chronic obstructive pulmonary
 2 disease. Such term includes any equipment used in the ad-
 3 ministration of such drug (such as masks and tubing,
 4 spacers, nebulizers, and valve-holding chambers).”.

5 (ii) CLERICAL AMENDMENT.—The
 6 table of sections for such subchapter is
 7 amended by adding at the end the fol-
 8 lowing new item:

“Sec. 9826. Coverage and cost-sharing requirements for specified inhaler prod-
 ucts.”.

9 (C) ERISA.—

10 (i) IN GENERAL.—Subpart B of part
 11 7 of subtitle B of title I of the Employee
 12 Retirement Income Security Act of 1974 is
 13 amended by adding at the end the fol-
 14 lowing new section:

15 **“SEC. 726. COVERAGE AND COST-SHARING REQUIREMENTS**
 16 **FOR SPECIFIED INHALER PRODUCTS.**

17 “(a) IN GENERAL.—A group health plan, and a
 18 health insurance issuer offering group health insurance
 19 coverage, shall provide benefits under such plan or cov-
 20 erage (as applicable) for all specified inhaler products and,
 21 with respect to such a product, may not—

22 “(1) apply any deductible; or

23 “(2) impose any cost-sharing requirement in ex-
 24 cess of \$15 per 30-day supply of such product.

1 “(b) COUNTING COST SHARING TOWARDS DEDUCT-
 2 IBLE AND OUT-OF-POCKET MAXIMUM.—A group health
 3 plan, and a health insurance issuer offering group health
 4 insurance coverage, shall count any cost-sharing require-
 5 ment described in subsection (a)(2) incurred by a partici-
 6 pant or beneficiary of such plan with respect to a specified
 7 inhaler product towards any out-of-pocket maximum and
 8 any deductible that, but for application of subsection (a),
 9 would have applied to such participant or beneficiary and
 10 product.

11 “(c) SPECIFIED INHALER PRODUCT DEFINED.—For
 12 purposes of this section, the term ‘specified inhaler prod-
 13 uct’ means any maintenance or reliever or rescue inhala-
 14 tion drug (including inhalation aerosols, metered dose in-
 15 halers, dry powder inhalers, inhalation solutions,
 16 bronchodilators, and corticosteroids) with a medically ac-
 17 cepted indication (as defined in section 1927(k)(6)) for the
 18 treatment of asthma or of chronic obstructive pulmonary
 19 disease. Such term includes any equipment used in the ad-
 20 ministration of such drug (such as masks and tubing,
 21 spacers, nebulizers, and valve-holding chambers).’.”

22 (ii) CLERICAL AMENDMENT.—The
 23 table of contents in section 1 of such Act
 24 is amended by inserting after the item re-

1 lating to section 725 the following new
2 item:

“Sec. 726. Coverage and cost-sharing requirements for specified inhaler products.”.

3 (D) CONFORMING AMENDMENTS.—

4 (i) HDHP SAFE HARBOR.—Section
5 223(c)(2) of the Internal Revenue Code of
6 1986 is amended by adding at the end the
7 following new subparagraph:

8 “(H) SAFE HARBOR FOR ABSENCE OF DE-
9 DUCTIBLE FOR SPECIFIED INHALER PROD-
10 UCTS.—For plan years beginning on or after
11 January 1, 2026, a plan shall not fail to be
12 treated as a high deductible health plan by rea-
13 son of failing to have a deductible for specified
14 inhaler products (as defined in section 2799A–
15 11 of the Public Health Service Act).”.

16 (ii) CATASTROPHIC PLAN SAFE HAR-
17 BOR.—Section 1302(e)(1)(B)(i) of the Pa-
18 tient Protection and Affordable Care Act
19 (42 U.S.C. 18022(e)(1)(B)(i)) is amended
20 by inserting “or 2799A–11 of the Public
21 Health Service Act” after “section 2713”.

22 (E) EFFECTIVE DATE.—The amendments
23 made by this paragraph shall apply to plan
24 years beginning on or after January 1, 2026.

1 (2) MEDICARE.—

2 (A) PART B.—Section 1833 of the Social
3 Security Act (42 U.S.C. 1395l) is amended—

4 (i) in subsection (a)(1)(S)—

5 (I) in clause (i), by inserting “or
6 (iii)” after “clause (ii)”; and

7 (II) by adding at the end the fol-
8 lowing new clause: “and (iii) with re-
9 spect to a specified inhaler product
10 (as defined in section 2799A–11 of
11 the Public Health Service Act) fur-
12 nished on or after January 1, 2026,
13 the amounts paid shall be 100 percent
14 of the lesser of the actual charge or
15 the payment amount established in
16 section 1842(o) (or, if applicable,
17 under section 1847, 1847A, or
18 1847B), less, per 30-day supply of
19 such product, \$15,”; and

20 (ii) in subsection (b), in the first sen-
21 tence—

22 (I) in paragraph (12), by striking
23 “, and”; and

24 (II) by striking “..” and inserting
25 “, and (14) such deductible shall not

1 apply with respect to a specified in-
2 haler product (as defined in section
3 2799A–11 of the Public Health Serv-
4 ice Act) furnished on or after January
5 1, 2026.”.

6 (B) PART D.—

7 (i) IN GENERAL.—Section 1860D–
8 2(b) of the Social Security Act (42 U.S.C.
9 1395w–102(b)) is amended—

10 (I) in paragraph (1)(A), by strik-
11 ing “paragraphs (8) and (9)” and in-
12 serting “paragraphs (8), (9), and
13 (10)”;

14 (II) in paragraph (2)(A), by
15 striking “paragraphs (8) and (9)” and
16 inserting “paragraphs (8), (9), and
17 (10)”;

18 (III) in paragraph (4)(A)(i), by
19 striking “paragraphs (8) and (9)” and
20 inserting “paragraphs (8), (9), and
21 (10)”;

22 (IV) by adding at the end the fol-
23 lowing new paragraph:

24 “(10) TREATMENT OF COST SHARING FOR
25 SPECIFIED INHALER PRODUCTS.—

1 “(A) NO APPLICATION OF DEDUCTIBLE.—
2 For plan year 2026 and subsequent plan years,
3 the deductible under paragraph (1) shall not
4 apply with respect to any specified inhaler prod-
5 uct.

6 “(B) APPLICATION OF COST SHARING.—
7 For plan year 2026 and subsequent plan years,
8 the coverage provides benefits for any specified
9 inhaler product with cost sharing for a month’s
10 supply that does not exceed \$15.

11 “(C) DEFINITION.—For purposes of this
12 paragraph, the term ‘specified inhaler product’
13 has the meaning given such term in section
14 2799A–11 of the Public Health Service Act.”.

15 (ii) CONFORMING AMENDMENT FOR
16 ALTERNATIVE PRESCRIPTION DRUG COV-
17 ERAGE.—Section 1860D–2(c) of the Social
18 Security Act (42 U.S.C. 1395w–102(c)) is
19 amended by adding at the end the fol-
20 lowing new paragraph:

21 “(7) TREATMENT OF COST SHARING FOR SPEC-
22 IFIED INSULIN PRODUCTS.—The coverage to pro-
23 vided in accordance with subsection (b)(10).”.

24 (iii) CONFORMING AMENDMENTS TO
25 COST SHARING FOR LOW-INCOME INDIVID-

UALS.—Section 1860D–14(a) of the Social Security Act (42 U.S.C. 1395w–114(a)) is amended—

(I) in paragraph (1)—

(aa) in subparagraph (D)(iii), by adding at the end the following new sentence: “For plan year 2026 and subsequent plan years, the copayment amount applicable under the preceding sentence to a month’s supply of a specified inhaler product (as defined in section 1860D–2(b)(10)) dispensed to the individual may not exceed \$15.”; and

(bb) in subparagraph (E), by inserting “or under section 1860D–2(b)(10) in the case of a specified inhaler product (as defined in such section)” after “(as defined in subparagraph (C) of such section)”;

(II) in paragraph (2)(B), by striking “paragraphs (8) and (9)” and

1 inserting “paragraphs (8), (9), and
2 (10)”.

3 (b) PAYMENT PROGRAM FOR UNINSURED INDIVID-
4 UALS.—Part P of title III of the Public Health Service
5 Act (42 U.S.C. 280g et seq.) is amended by adding at
6 the end the following new section:

7 **“SEC. 399V-8. SPECIFIED INHALER PRODUCT PAYMENT**
8 **PROGRAM.**

9 “(a) IN GENERAL.—Beginning January 1, 2026, the
10 Secretary shall establish a program under which—

11 “(1) program-registered providers submit
12 claims to the Secretary with respect to the fur-
13 nishing of specified inhaler products (as defined in
14 subsection (b)) to uninsured individuals; and

15 “(2) the Secretary, subject to the availability of
16 appropriations, pays each such provider for such
17 products in an amount determined appropriate by
18 the Secretary.

19 “(b) DEFINITIONS.—In this section:

20 “(1) PROGRAM-REGISTERED PROVIDER.—The
21 term ‘program-registered provider’ means a health
22 care provider that—

23 “(A) is licensed or otherwise authorized to
24 administer or dispense specified inhaler prod-
25 ucts in the State in which such provider so ad-

1 ministers or dispenses such products under the
2 program established under this section; and

3 “(B) enters into an agreement with the
4 Secretary under which the provider agrees not
5 to hold an uninsured individual liable for the
6 cost of any such product administered or dis-
7 pensed to such individual in an amount exceed-
8 ing \$15 for a month’s supply of such product
9 if a payment is made under subsection (a)(2)
10 with respect to such product so administered or
11 dispensed.

12 “(2) SPECIFIED INHALER PRODUCT.—The term
13 ‘specified inhaler product’ has the meaning given
14 such term in section 2799A–11.

15 “(3) UNINSURED INDIVIDUAL.—The term ‘un-
16 insured individual’ means, with respect to an indi-
17 vidual furnished a specified inhaler product, an indi-
18 vidual who is not enrolled in—

19 “(A) a Federal health care program (as
20 defined in section 1128B(f) of the Social Secu-
21 rity Act);

22 “(B) a group health plan or health insur-
23 ance coverage offered by a health insurance
24 issuer in the group or individual market (as
25 such terms are defined in section 2791); or

1 “(C) a health plan offered under chapter
2 89 of title 5, United States Code.”.

3 (c) IMPLEMENTATION.—The Secretary of Health and
4 Human Services may implement the amendments made by
5 this section by program instruction, subregulatory guid-
6 ance, or otherwise.

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