

119TH CONGRESS  
1ST SESSION

# S. 2756

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.

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## IN THE SENATE OF THE UNITED STATES

SEPTEMBER 10, 2025

Ms. ALSOBROOKS (for herself and Mr. VAN HOLLEN) introduced the following bill; which was read twice and referred to the Committee on Finance

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## 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,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Affordable Inhalers  
5       and Nebulizers Act of 2025”.

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

6 (a) COVERAGE AND COST-SHARING REQUIRE-  
 7 MENTS.—

8 (1) PRIVATE INSURANCE.—

9 (A) PHSA.—Part D of title XXVII of the  
 10 Public Health Service Act (42 U.S.C. 300gg–  
 11 111 et seq.) is amended by adding at the end  
 12 the following new section:

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

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

20 “(1) apply any deductible; or

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

23 “(b) COUNTING COST-SHARING TOWARDS DEDUCT-  
 24 IBLE AND OUT-OF-POCKET MAXIMUM.—A group health  
 25 plan, and a health insurance issuer offering group or indi-  
 26 vidual health insurance coverage, shall count any cost-

1 sharing requirement described in subsection (a)(2) in-  
 2 curred by a participant, beneficiary, or enrollee of such  
 3 plan or coverage with respect to a specified inhaler product  
 4 towards any out-of-pocket maximum and any deductible  
 5 that, but for application of subsection (a), would have ap-  
 6 plied to such participant, beneficiary, or enrollee with re-  
 7 spect to such product.

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

20 (B) IRC.—

21 (i) IN GENERAL.—Subchapter B of  
 22 chapter 100 of the Internal Revenue Code  
 23 of 1986 is amended by adding at the end  
 24 the following new section:

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

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

6 “(1) apply any deductible; or

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

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

18 “(c) SPECIFIED INHALER PRODUCT DEFINED.—For  
 19 purposes of this section, the term ‘specified inhaler prod-  
 20 uct’ means any maintenance or reliever or rescue inhala-  
 21 tion drug (including inhalation aerosols, metered dose in-  
 22 halers, dry powder inhalers, inhalation solutions,  
 23 bronchodilators, and corticosteroids) with a medically ac-  
 24 cepted indication (as defined in section 1927(k)(6) of the  
 25 Social Security Act (42 U.S.C. 13964–8(k)(6))) for the  
 26 treatment of asthma or of chronic obstructive pulmonary

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

4 (ii) CLERICAL AMENDMENT.—The  
 5 table of sections for subchapter B of chap-  
 6 ter 100 of the Internal Revenue Code of  
 7 1986 is amended by adding at the end the  
 8 following 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 with  
 10      respect to such 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) of the  
 18      Social Security Act (42 U.S.C. 13964–8(k)(6))) for the  
 19      treatment of asthma or of chronic obstructive pulmonary  
 20      disease. Such term includes any equipment used in the ad-  
 21      ministration of such drug (such as masks and tubing,  
 22      spacers, nebulizers, and valve-holding chambers).”.

23                               (ii) CLERICAL AMENDMENT.—The  
 24                               table of contents in section 1 of the Em-  
 25                               ployee Retirement Income Security Act of

1                   1974 (29 U.S.C. 1001 note) is amended by  
 2                   inserting after the item relating to section  
 3                   725 the following new item:

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

4                   (D) CONFORMING AMENDMENTS.—

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

9                   “(I) SAFE HARBOR FOR ABSENCE OF DE-  
 10                  DUCTIBLE FOR SPECIFIED INHALER PROD-  
 11                  UCTS.—For plan years beginning on or after  
 12                  January 1, 2026, a plan shall not fail to be  
 13                  treated as a high deductible health plan by rea-  
 14                  son of failing to have a deductible for specified  
 15                  inhaler products (as defined in section 2799A–  
 16                  11 of the Public Health Service Act).”.

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

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

4 (2) MEDICARE.—

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

7 (i) in subsection (a)(1)(S)—

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

10 (II) by adding at the end the fol-  
 11 lowing new clause: “and (iii) with re-  
 12 spect to a specified inhaler product  
 13 (as defined in section 2799A–11 of  
 14 the Public Health Service Act) fur-  
 15 nished on or after January 1, 2026,  
 16 the amounts paid shall be 100 percent  
 17 of the lesser of the actual charge or  
 18 the payment amount established in  
 19 section 1842(o) (or, if applicable,  
 20 under section 1847, 1847A, or  
 21 1847B), less, per 30-day supply of  
 22 such product, \$15,”; and

23 (ii) in subsection (b), in the first sen-  
 24 tence—



1 (I) in paragraph (12), by striking  
2 “, and”; and

3 (II) by striking “..” and inserting  
4 “, and (14) such deductible shall not  
5 apply with respect to a specified in-  
6 haler product (as defined in section  
7 2799A–11 of the Public Health Serv-  
8 ice Act) furnished on or after January  
9 1, 2026.”.

10 (B) PART D.—

11 (i) IN GENERAL.—Section 1860D–  
12 2(b) of the Social Security Act (42 U.S.C.  
13 1395w–102(b)) is amended—

14 (I) in paragraph (1)(A), by strik-  
15 ing “paragraphs (8) and (9)” and in-  
16 serting “paragraphs (8), (9), and  
17 (10)”;

18 (II) in paragraph (2)(A), by  
19 striking “paragraphs (8) and (9)” and  
20 inserting “paragraphs (8), (9), and  
21 (10)”;

22 (III) in paragraph (4)(A)(i), by  
23 striking “paragraphs (8) and (9)” and  
24 inserting “paragraphs (8), (9), and  
25 (10)”;

1 (IV) by adding at the end the fol-  
2 lowing new paragraph:

3 “(10) TREATMENT OF COST-SHARING FOR  
4 SPECIFIED INHALER PRODUCTS.—

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

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

15 “(C) DEFINITION.—For purposes of this  
16 paragraph, the term ‘specified inhaler product’  
17 has the meaning given such term in section  
18 2799A–11 of the Public Health Service Act.”.

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

1           “(7) TREATMENT OF COST-SHARING FOR SPEC-  
2       IFIED INSULIN PRODUCTS.—The coverage in pro-  
3       vided in accordance with subsection (b)(10).”.

4                       (iii) CONFORMING AMENDMENTS TO  
5       COST-SHARING FOR LOW-INCOME INDIVID-  
6       UALS.—Section 1860D–14(a)(1) of the So-  
7       cial Security Act (42 U.S.C. 1395w–  
8       114(a)(1)) is amended—

9                       (I) in subparagraph (D)(iii), by  
10           adding at the end the following new  
11           sentence: “For plan year 2026 and  
12           subsequent plan years, the copayment  
13           amount applicable under the pre-  
14           ceding sentence to a month’s supply  
15           of a specified inhaler product (as de-  
16           fined in section 1860D–2(b)(10)) dis-  
17           pensed to the individual may not ex-  
18           ceed \$15.”; and

19                      (II) in subparagraph (E), by in-  
20           serting “or under section 1860D–  
21           2(b)(10) in the case of a specified in-  
22           haler product (as defined in such sec-  
23           tion)” after “(as defined in subpara-  
24           graph (C) of such section)”.

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

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

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

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

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

17 “(b) DEFINITIONS.—In this section:

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

21 “(A) is licensed or otherwise authorized to  
 22 administer or dispense specified inhaler prod-  
 23 ucts in the State in which such provider so ad-  
 24 ministers or dispenses such products under the  
 25 program established under this section; and

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

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

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

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

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

24           “(C) a health plan offered under chapter  
25           89 of title 5, United States Code.”.

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

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