

119TH CONGRESS
1ST SESSION

S. 864

To amend title XXVII of the Public Health Service Act to apply financial assistance towards the cost-sharing requirements of health insurance plans, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 5, 2025

Mr. MARSHALL (for himself, Mr. KAINE, Mr. TILLIS, Mr. MARKEY, Ms. MURKOWSKI, and Mr. MERKLEY) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To amend title XXVII of the Public Health Service Act to apply financial assistance towards the cost-sharing requirements of health insurance plans, 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 “Help Ensure Lower
5 Patient Copays Act” or the “HELP Copays Act”.

1 **SEC. 2. APPLICATION OF FINANCIAL ASSISTANCE TOWARD**
 2 **COST-SHARING REQUIREMENTS.**

3 (a) APPLICATION TOWARD COST-SHARING REQUIRE-
 4 MENTS.—Section 2715(g)(1) of the Public Health Service
 5 Act (42 U.S.C. 300gg–15(g)(1)) is amended by adding at
 6 the end the following: “In developing the standards for
 7 defining the terms ‘deductible’, ‘coinsurance’, ‘copayment’,
 8 and ‘out-of-pocket limit’ (as described in paragraph (2)),
 9 such standards shall provide that such terms include
 10 amounts paid by, or on behalf of, an individual enrolled
 11 in a group health plan or group or individual health insur-
 12 ance coverage, including financial assistance offered by
 13 non-profit organizations and prescription drug manufac-
 14 turers, and that such amounts shall be counted toward
 15 such deductible, coinsurance, copayment, or limit, respec-
 16 tively.”.

17 (b) CONFORMING AMENDMENTS.—

18 (1) PPACA.—Section 1302(c)(3) of the Patient
 19 Protection and Affordable Care Act (42 U.S.C.
 20 18022(c)(3)) is amended by adding at the end the
 21 following new subparagraph:

22 “(C) APPLICATION OF TERMS.—For pur-
 23 poses of subparagraph (A), the terms ‘deduct-
 24 ible’, ‘coinsurance’, ‘copayment’, or ‘similar
 25 charge’ and any other expenditure described in
 26 clause (ii) of such subparagraph shall include

1 amounts paid by, or on behalf of, an individual
 2 enrolled in a group health plan or group or in-
 3 dividual health insurance coverage, including fi-
 4 nancial assistance offered by non-profit organi-
 5 zations and prescription drug manufacturers,
 6 and such amounts shall be counted toward such
 7 deductible, co-insurance, co-payment, charge, or
 8 other expenditure, respectively.”.

9 (2) PHSA.—Section 2707(b) of the Public
 10 Health Service Act (42 U.S.C. 300gg-6(b)) is
 11 amended by adding at the end the following new
 12 sentence: “For purposes of the previous sentence,
 13 such limitation shall be applied to prescription drugs
 14 as if the reference to ‘essential health benefits’ in
 15 section 1302(c)(3) of the Patient Protection and Af-
 16 fordable Care Act were a reference to ‘any item or
 17 service covered under the plan included within the
 18 prescription drug category of essential health bene-
 19 fits as described in (b)(1)(F) of such section’.”.

20 (3) INTERNAL REVENUE CODE OF 1986 SAFE
 21 HARBOR FOR CERTAIN AMOUNTS APPLIED TO
 22 DEDUCTIBLES.—Section 223(c)(2) of the Internal
 23 Revenue Code of 1986 is amended by adding at the
 24 end the following new subparagraph:

1 “(H) SAFE HARBOR FOR CERTAIN
 2 AMOUNTS APPLIED TO DEDUCTIBLES.—In the
 3 case of plan years beginning after December
 4 31, 2025, a plan shall not fail to be treated as
 5 a high deductible health plan by reason of
 6 counting amounts paid by, or on behalf of, an
 7 individual, including financial assistance offered
 8 by non-profit organizations and prescription
 9 drug manufacturers for outpatient prescription
 10 drugs, when determining whether the minimum
 11 deductible under subparagraph (A) has been
 12 satisfied.”.

13 (c) RULE OF CONSTRUCTION.—The amendments
 14 made by this section shall —

15 (1) apply to standards relating to deductibles,
 16 coinsurance, copayments, or limits with respect to
 17 prescription drugs that are specialty drugs;

18 (2) apply to standards relating to deductibles,
 19 coinsurance, copayments, or limits with respect to
 20 drugs that are subject to utilization management;
 21 and

22 (3) not impact the use of utilization manage-
 23 ment tools, including prior authorization and step
 24 therapy.

1 (d) EFFECTIVE DATE.—This section, and the amend-
2 ments made by this section, shall apply to group health
3 plans and health insurance issuers for plan years begin-
4 ning on or after January 1, 2026.

○