

107TH CONGRESS  
1ST SESSION

# H. R. 1229

To amend titles V, XVIII, and XIX of the Social Security Act to promote smoking cessation under the Medicare Program, the Medicaid Program, and the maternal and child health program.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 27, 2001

Ms. DEGETTE introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, 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 amend titles V, XVIII, and XIX of the Social Security Act to promote smoking cessation under the Medicare Program, the Medicaid Program, and the maternal and child health program.

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 “Medicare, Medicaid,  
5 and MCH Smoking Cessation Promotion Act of 2001”.

1 **SEC. 2. COVERAGE OF COUNSELING FOR CESSATION OF**  
 2 **TOBACCO USE UNDER THE MEDICARE PRO-**  
 3 **GRAM.**

4 (a) **COVERAGE.**—Section 1861(s)(2) of the Social Se-  
 5 curity Act (42 U.S.C. 1395x(s)(2)), as amended by sec-  
 6 tions 102(a) and 105(a) of the Medicare, Medicaid, and  
 7 SCHIP Benefits Improvement and Protection Act of 2000  
 8 (as enacted into law by section 1(a)(6) of Public Law 106–  
 9 554), is amended—

10 (1) in subparagraph (U), by striking “and” at  
 11 the end;

12 (2) in subparagraph (V), by adding “and” at  
 13 the end; and

14 (3) by adding at the end the following new sub-  
 15 paragraph:

16 “(W) counseling for cessation of tobacco use (as  
 17 defined in section 1861(vv));”.

18 (b) **COUNSELING DESCRIBED.**—Section 1861 of such  
 19 Act (42 U.S.C. 1395x), as amended by section 102(b) of  
 20 the Medicare, Medicaid, and SCHIP Benefits Improve-  
 21 ment and Protection Act of 2000 (as enacted into law by  
 22 section 1(a)(6) of Public Law 106–554), is further amend-  
 23 ed by adding at the end the following new subsection:

24 “Counseling for Cessation of Tobacco Use

25 “(vv)(1) Except as provided in paragraph (2), the  
 26 term ‘counseling for cessation of tobacco use’ may include

1 diagnostic, therapy, and counseling services for cessation  
 2 of tobacco use but only for individuals who have a history  
 3 of tobacco use and only if the services are furnished—

4 “(A) by or under the supervision of a physician;  
 5 or

6 “(B) by any other health care professional who  
 7 (i) is legally authorized to furnish such services  
 8 under State law (or the State regulatory mechanism  
 9 provided by State law) of the State in which the  
 10 services are furnished and (ii) is authorized to re-  
 11 ceive payment for other services under this title or  
 12 is designated by the Secretary for this purpose.

13 “(2) Such term does not include counseling services  
 14 that have not been shown (or recognized by the Secretary)  
 15 to be effective.”.

16 (c) ELIMINATION OF COST-SHARING.—

17 (1) ELIMINATION OF COINSURANCE.—Section  
 18 1833(a)(1) of such Act (42 U.S.C. 1395l(a)(1)), as  
 19 amended by sections 105(c) and 201(b) of the Medi-  
 20 care, Medicaid, and SCHIP Benefits Improvement  
 21 and Protection Act of 2000 (as enacted into law by  
 22 section 1(a)(6) of Public Law 106–554), is  
 23 amended—

24 (A) by striking “and” before “(U)”; and

(B) by inserting before the semicolon at the end the following: “, and (V) with respect to counseling for cessation of tobacco use (as defined in section 1861(vv), the amount paid shall be 100 percent of the lesser of the actual charge for the services or the amount determined by a fee schedule established by the Secretary for purposes of this clause”.

(2) **ELIMINATION OF DEDUCTIBLE.**—The first sentence of section 1833(b)(1) of such Act (42 U.S.C. 1395l(b)(1)) is amended—

(A) by striking “and” before “(6)”; and

(B) by inserting before the period the following: “, and (7) such deductible shall not apply with respect to counseling for cessation of tobacco use (as defined in section 1861(vv))”.

(d) **EFFECTIVE DATE.**—The amendments made by this section shall apply to services furnished on or after January 1, 2002.

**SEC. 3. MEDICAID PROGRAM.**

(a) **DROPPING EXCEPTION FROM MEDICAID PRESCRIPTION DRUG COVERAGE FOR SMOKING CESSATION MEDICATIONS.**—Section 1927(d)(2) of the Social Security Act (42 U.S.C. 1396r–8(d)(2)) is amended—

(1) by striking subparagraph (E); and

1           (2) in subparagraph (F), by inserting before the  
2           period at the end the following: “except agents ap-  
3           proved by the Food and Drug Administration for  
4           purposes of promoting, and when used to promote,  
5           smoking cessation”.

6           (b) REQUIRING COVERAGE OF SMOKING CESSATION  
7           COUNSELING IN SERVICES FOR PREGNANT WOMEN.—  
8           Section 1902(a)(10)(C)(ii)(II) of such Act (42 U.S.C.  
9           1396a(a)(10)(C)(ii)(II)) is amended by inserting “and  
10          counseling for cessation of tobacco use (as defined in sec-  
11          tion 1861(vv))” after “prenatal care and delivery serv-  
12          ices”.

13          (c) REMOVAL OF COST-SHARING FOR SMOKING CES-  
14          SATION COUNSELING SERVICES FOR PREGNANT  
15          WOMEN.—Section 1916 of such Act (42 U.S.C. 1396o)  
16          is amended, in each of subsections (a)(2)(B) and  
17          (b)(2)(B), by inserting “counseling for cessation of to-  
18          bacco use (as defined in section 1861(vv)) furnished to  
19          pregnant women and other” after “(B)”.

20          (d) EFFECTIVE DATE.—The amendments made by  
21          this section shall apply to services furnished on or after  
22          January 1, 2002.

23       **SEC. 4. MATERNAL AND CHILD HEALTH PROGRAM.**

24           (a) QUALITY MATERNAL AND CHILD HEALTH SERV-  
25          ICES INCLUDES SMOKING CESSATION COUNSELING AND

1 MEDICATIONS.—Section 501 of the Social Security Act  
2 (42 U.S.C. 701) is amended by adding at the end the fol-  
3 lowing new subsection:

4 “(c) For purposes of this title, counseling for ces-  
5 sation of tobacco use (as defined in section 1861(vv)),  
6 medications used to promote smoking cessation, and the  
7 inclusion of anti-tobacco messages in health promotion  
8 counseling shall be considered to be part of quality mater-  
9 nal and child health services.”.

10 (b) EFFECTIVE DATE.—The amendment made by  
11 subsection (a) shall take effect on the date of the enact-  
12 ment of this Act.

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