

115TH CONGRESS
2D SESSION

S. 3742

To amend the Public Health Service Act to require group and individual health insurance coverage and group health plans to provide for cost sharing for oral anticancer drugs on terms no less favorable than the cost sharing provided for anticancer medications administered by a health care provider.

IN THE SENATE OF THE UNITED STATES

DECEMBER 12, 2018

Ms. SMITH (for herself, Mr. MORAN, Mr. MURPHY, and Mr. WICKER) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To amend the Public Health Service Act to require group and individual health insurance coverage and group health plans to provide for cost sharing for oral anticancer drugs on terms no less favorable than the cost sharing provided for anticancer medications administered by a health care provider.

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 “Cancer Drug Parity
5 Act of 2018”.

1 **SEC. 2. PARITY IN COST SHARING FOR ORAL ANTICANCER**
2 **DRUGS.**

3 (a) REQUIREMENT.—

4 (1) IN GENERAL.—Section 2719A of the Public
5 Health Service Act (42 U.S.C. 300gg–19a) is
6 amended by adding at the end the following new
7 subsection:

8 “(e) PARITY IN COST SHARING FOR ORAL
9 ANTICANCER DRUGS.—

10 “(1) IN GENERAL.—Subject to paragraph (2), a
11 group health plan, and a health insurance issuer of-
12 fering group or individual health insurance coverage,
13 that provides benefits with respect to anticancer
14 medications administered by a health care provider
15 shall provide that any cost sharing for prescribed,
16 patient-administered anticancer medications that are
17 used to kill, slow, or prevent the growth of cancerous
18 cells and that have been approved by the Food and
19 Drug Administration is no less favorable than the
20 cost sharing for anticancer medications that is intra-
21 venously administered or injected by a health care
22 provider.

23 “(2) LIMITATION.—Paragraph (1) shall only
24 apply to an anticancer medication that is prescribed
25 based on a finding by the treating physician that the
26 medication—

1 “(A) is medically necessary for the purpose
2 of killing, slowing, or preventing the growth of
3 cancerous cells; or

4 “(B) is clinically appropriate in terms of
5 type, frequency, extent site, and duration.

6 “(3) RESTRICTION ON CERTAIN CHANGES.—A
7 group health plan or health insurance issuer may
8 not, in order to comply with the requirement of
9 paragraph (1), make changes to benefits or replace
10 existing benefits with new benefits under the plan or
11 health insurance coverage designed to have the effect
12 of—

13 “(A) imposing an increase in out-of-pocket
14 costs with respect to anticancer medications;

15 “(B) reclassifying benefits with respect to
16 anticancer medications in a way that would in-
17 crease such costs; or

18 “(C) applying more restrictive limitations
19 on prescribed orally administered anticancer
20 medications than on intravenously administered
21 or injected anticancer medications.

22 “(4) CONSTRUCTION.—Nothing in this sub-
23 section shall be construed—

1 “(A) to require the use of orally adminis-
 2 tered anticancer medications as a replacement
 3 for other anticancer medications;

4 “(B) to prohibit a group health plan or
 5 health insurance issuer from requiring prior au-
 6 thorization or imposing other appropriate utili-
 7 zation controls in approving coverage for any
 8 chemotherapy; or

9 “(C) to supersede a State law that pro-
 10 vides greater protections with respect to the
 11 coverage with respect to orally administered
 12 anticancer medications than is provided under
 13 this subsection.

14 “(5) COST SHARING DEFINED.—In this sub-
 15 section, the term ‘cost sharing’ includes a deductible,
 16 coinsurance, copayment, and any maximum limita-
 17 tion on the application of such a deductible, coinsur-
 18 ance, copayment, and similar out-of-pocket ex-
 19 penses.”.

20 (2) CONFORMING AMENDMENT.—Section
 21 2724(c) of the Public Health Service Act (42 U.S.C.
 22 300gg–23(c)) is amended by striking “section 2704”
 23 and inserting “sections 2719A, 2725, and 2726”.

24 (b) CLARIFYING AMENDMENT REGARDING APPLICA-
 25 TION TO GRANDFATHERED PLANS.—Section

1 1251(a)(4)(A) of the Patient Protection and Affordable
2 Care Act (42 U.S.C. 18011(a)(4)(A)) is amended by add-
3 ing at the end the following new clause:

4 “(v) Section 2719A(e) (relating to
5 cost sharing for oral anticancer drugs).”.

6 (c) EFFECTIVE DATE.—The amendments made by
7 this section shall apply with respect to group health plans
8 for plan years beginning on or after January 1, 2019, and
9 with respect to health insurance coverage offered, sold,
10 issued, renewed, in effect, or operated in the individual
11 or group market on or after such date.

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