

116TH CONGRESS
1ST SESSION

S. 1926

To increase access to pre-exposure prophylaxis to reduce the transmission
of HIV.

IN THE SENATE OF THE UNITED STATES

JUNE 20, 2019

Ms. HARRIS introduced the following bill; which was read twice and referred
to the Committee on Health, Education, Labor, and Pensions

A BILL

To increase access to pre-exposure prophylaxis to reduce
the transmission of HIV.

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 “PrEP Access and Cov-
5 erage Act”.

6 **SEC. 2. FINDINGS.**

7 Congress finds as follows:

8 (1) The Centers for Disease Control and Pre-
9 vention estimates that approximately 1,100,000 peo-
10 ple in the United States are living with HIV.

1 (2) In 2017, there were 38,281 new diagnoses
2 of HIV in the United States.

3 (3) HIV disproportionately impacts gay and bi-
4 sexual men, transgender women, and, in particular,
5 people of color. For example, in 2017 approximately
6 66 percent of new HIV diagnoses were among gay
7 and bisexual men, 43 percent of new HIV diagnoses
8 were among Black people, and 26 percent of new
9 HIV diagnoses were among Latinx people. Recent
10 studies suggest that transgender women are up to
11 49 times more likely to be diagnosed with HIV than
12 the general population. Members of communities at
13 the intersections of these groups are most heavily
14 impacted.

15 (4) Pre-exposure prophylaxis (referred to in this
16 section as “PrEP”) is a daily antiretroviral medica-
17 tion that helps prevent individuals from acquiring
18 HIV. Daily PrEP use reduces the risk of getting
19 HIV from sex by over 90 percent. It reduces the risk
20 of getting HIV from injection drug use by over 70
21 percent.

22 (5) Many individuals at risk of exposure to HIV
23 do not use PrEP. Of the approximately 1,100,000
24 people in the United States who could benefit from

1 PrEP, only 7 percent, or 78,360 individuals, filled
2 prescriptions for the drug in 2016.

3 (6) PrEP usage is inconsistent across racial
4 and gender lines. In 2016, PrEP users were 68.7
5 percent White, 11.2 percent Black, and 13.1 percent
6 Latinx. However, individuals eligible for PrEP were
7 26.3 percent White, 43.7 percent Black, and 24.7
8 percent Latinx. Additionally, only 2.1 percent of
9 women eligible for PrEP received a prescription in
10 2016.

11 (7) There is currently only one version of PrEP
12 approved by the Food and Drug Administration,
13 marketed under the brand name of Truvada, which,
14 in 2018, had a list price of over \$20,000 a year in
15 the United States. A less expensive, generic version
16 of PrEP is expected to be available in September
17 2020, and other types of HIV prevention treat-
18 ments, including oral pills, vaginal rings, and long-
19 acting injectables, are currently in the research pipe-
20 line.

21 (8) Section 2713 of the Public Health Service
22 Act (42 U.S.C. 300gg-13) requires most private
23 health insurance plans to cover preventive services
24 without cost-sharing, including such services with a
25 rating of “A” or “B” under recommendations of the

1 United States Preventive Services Task Force. On
 2 June 11, 2019, the United States Preventive Serv-
 3 ices Task Force issued a final recommendation giv-
 4 ing an “A” grade for PrEP for individuals at high
 5 risk of HIV; non-grandfathered private health insur-
 6 ance plans will have to cover PrEP for such individ-
 7 uals without cost-sharing by 2021.

8 (9) Despite such recommendation of the United
 9 States Preventive Services Task Force, access bar-
 10 riers to PrEP remain. Ancillary services necessary to
 11 maintain the PrEP regime, including subsequent
 12 provider visits, clinical testing, and other services,
 13 can remain a cost-burden on patients. Additionally,
 14 the new recommendations are not linked to coverage
 15 requirements for individuals with other types of in-
 16 surance, such as Medicare or Medicaid.

17 (10) Expanding access to cost-free PrEP and
 18 ancillary services for all individuals, including indi-
 19 viduals who do not have health insurance, is a crit-
 20 ical step towards eliminating HIV transmission.

21 **SEC. 3. COVERAGE OF HIV TESTING AND PREVENTION**
 22 **SERVICES.**

23 (a) PRIVATE INSURANCE.—

1 (1) IN GENERAL.—Section 2713(a) of the Pub-
2 lic Health Service Act (42 U.S.C. 300gg–13(a)) is
3 amended—

4 (A) in paragraph (2), by striking “; and”
5 and inserting a semicolon;

6 (B) in paragraph (3), by striking the pe-
7 riod and inserting a semicolon;

8 (C) in paragraph (4), by striking the pe-
9 riod and inserting a semicolon;

10 (D) in paragraph (5), by striking the pe-
11 riod and inserting “; and”; and

12 (E) by adding at the end the following:

13 “(6) any prescription drug approved by the
14 Food and Drug Administration for the prevention of
15 HIV acquisition, laboratory and other diagnostic
16 procedures associated with the use of such drugs,
17 and clinical follow up and monitoring, including any
18 related services recommended in current United
19 States Public Health Service clinical practice guide-
20 lines, without limitation.”.

21 (2) PROHIBITION ON PREAUTHORIZATION RE-
22 QUIREMENTS.—Subpart II of part A of title XXVII
23 of the Public Health Service Act (42 U.S.C. 300gg–
24 11 et seq.) is amended by adding at the end the fol-
25 lowing:

1 **“SEC. 2729. PROHIBITION ON PREAUTHORIZATION RE-**
 2 **QUIREMENTS WITH RESPECT TO CERTAIN**
 3 **SERVICES.**

4 “A group health plan or a health insurance issuer of-
 5 fering group or individual health insurance coverage shall
 6 not impose any pre-authorization requirements with re-
 7 spect to coverage of the services described in section
 8 2713(a)(6).”.

9 (b) **COVERAGE UNDER FEDERAL EMPLOYEES**
 10 **HEALTH BENEFITS PROGRAM.**—Section 8904 of title 5,
 11 United States Code, is amended by adding at the end the
 12 following:

13 “(c) Any health benefits plan offered under this chap-
 14 ter shall include benefits for, and may not impose any cost
 15 sharing requirements for, any prescription drug approved
 16 by the Food and Drug Administration for the prevention
 17 of HIV acquisition, laboratory and other diagnostic proce-
 18 dures associated with the use of such drugs, and clinical
 19 follow up and monitoring, including any related services
 20 recommended in current United States Public Health
 21 Service clinical practice guidelines, without limitation.”.

22 (c) **MEDICAID.**—

23 (1) **IN GENERAL.**—Section 1905 of the Social
 24 Security Act (42 U.S.C. 1396d) is amended—

25 (A) in subsection (a)(4)—

1 (i) by striking “and (D)” and insert-
 2 ing “(D)”; and

3 (ii) by inserting “; and (E) HIV pre-
 4 vention services” before the semicolon; and

5 (B) by adding at the end the following new
 6 subsection:

7 “(ff) HIV PREVENTION SERVICES.—For purposes of
 8 subsection (a)(4)(E), the term ‘HIV prevention services’
 9 means prescription drugs for the prevention of HIV acqui-
 10 sition, laboratory and other diagnostic procedures associ-
 11 ated with the use of such drugs, and clinical follow up
 12 and monitoring, including any related services rec-
 13 ommended in current United States Public Health Service
 14 clinical practice guidelines, without limitation.”.

15 (2) NO COST SHARING.—Title XIX of the So-
 16 cial Security Act (42 U.S.C. 1396 et seq.) is amend-
 17 ed—

18 (A) in section 1916, by inserting “HIV
 19 prevention services described in section
 20 1905(a)(4)(E),” after “section 1905(a)(4)(C),”
 21 each place it appears; and

22 (B) in section 1916A(b)(3)(B), by adding
 23 at the end the following new clause:

24 “(xi) HIV prevention services de-
 25 scribed in section 1905(a)(4)(E).”.

1 (3) INCLUSION IN BENCHMARK COVERAGE.—
 2 Section 1937(b)(7) of the Social Security Act (42
 3 U.S.C. 1396u–7(b)(7)) is amended—

4 (A) in the paragraph header, by inserting
 5 “AND HIV PREVENTION SERVICES” after “SUP-
 6 PLIES”; and

7 (B) by inserting “, and, for any individual
 8 described in section 1905(a)(4)(E), medical as-
 9 sistance for HIV prevention services in accord-
 10 ance with such section” before the period.

11 (d) CHIP.—

12 (1) IN GENERAL.—Section 2103(c) of the So-
 13 cial Security Act (42 U.S.C. 1397cc(c)), as amended
 14 by section 5022 of the SUPPORT for Patients and
 15 Communities Act (Public Law 115–271), is amended
 16 by adding at the end the following new paragraph:

17 “(10) HIV PREVENTION SERVICES.—The child
 18 health assistance provided to a targeted low-income
 19 child and the pregnancy-related assistance provided
 20 to a targeted low-income woman shall include cov-
 21 erage of HIV prevention services (as defined in sec-
 22 tion 1905(ff)).”.

23 (2) NO COST SHARING.—Section 2103(e)(2) of
 24 the Social Security Act (42 U.S.C. 1397cc(e)(2)) is
 25 amended by inserting “, for HIV prevention services

described in subsection (c)(10),” after “subsection (c)(1)(D)”.

(3) CONFORMING AMENDMENT.—Section 2103(a) of the Social Security Act (42 U.S.C. 1397cc(a)), as amended by section 5022 of the SUPPORT for Patients and Communities Act (Public Law 115–271), is amended in the matter preceding paragraph (1) by striking “and (8)” and inserting “(8), and (10)”.

(4) EFFECTIVE DATE.—

(A) IN GENERAL.—Subject to subparagraph (A), the amendments made by subsection (c) and this subsection shall take effect on January 1, 2021.

(B) DELAY PERMITTED IF STATE LEGISLATION REQUIRED.—In the case of a State plan approved under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation (other than legislation appropriating funds) in order for the plan to meet the additional requirements imposed by this section, the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of the failure of the plan to meet such ad-

ditional requirements before the 1st day of the 1st calendar quarter beginning after the close of the 1st regular session of the State legislature that ends after the 1-year period beginning with the date of the enactment of this section. For purposes of the preceding sentence, in the case of a State that has a 2-year legislative session, each year of the session is deemed to be a separate regular session of the State legislature.

(e) WAIVER OF COST-SHARING UNDER MEDICARE.—

(1) PART B.—

(A) INCLUSION AS A PREVENTIVE SERVICE.—Section 1861(ddd)(3) of the Social Security Act (42 U.S.C. 1395x(ddd)(3)) is amended by adding at the end the following new subparagraph:

“(D) Drugs or biologicals approved by the Food and Drug Administration for the prevention of HIV acquisition, laboratory and other diagnostic procedures associated with the use of such drugs, and clinical follow up and monitoring, including any related services recommended in current United States Public

1 Health Service clinical practice guidelines, with-
 2 out limitation.”.

3 (B) ELIMINATION OF COINSURANCE.—Sec-
 4 tion 1833(a)(1) of the Social Security Act (42
 5 U.S.C. 1395l(a)(1)) is amended—

6 (i) by striking “and (CC)” and insert-
 7 ing “(CC)”; and

8 (ii) by inserting before the semicolon
 9 at the end the following: “, and (DD) with
 10 respect to preventive services described in
 11 subparagraph (D) of section 1861(ddd)(3),
 12 the amount paid shall be 100 percent of (i)
 13 except as provided in clause (ii), the lesser
 14 of the actual charge for the service or the
 15 amount determined under the fee schedule
 16 that applies to such treatment under this
 17 part, and (ii) in the case of such services
 18 that are covered OPD services (as defined
 19 in subsection (t)(1)(B)), the amount deter-
 20 mined under subsection (t)”.

21 (C) EXEMPTION FROM PART B DEDUCT-
 22 IBLE.—Section 1833(b) of the Social Security
 23 Act (42 U.S.C. 1395l(b)) is amended—

24 (i) in paragraph (9), by striking
 25 “and” at the end; and

(ii) in paragraph (10), by striking the period at the end and inserting “, and (11) such deductible shall not apply with respect to preventive services described in subparagraph (D) of section 1861(ddd)(3).”.

(D) EFFECTIVE DATE.—The amendments made by this paragraph shall apply to items and services furnished on or after January 1, 2021.

(2) PART D.—

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

(i) in paragraph (1)(A), by striking “The coverage” and inserting “Subject to paragraph (8), the coverage”;

(ii) in paragraph (2)(A), by striking “and (D)” and inserting “and (D) and paragraph (8)”;

(iii) in paragraph (3)(A), by striking “and (4)” and inserting “(4), and (8)”;

(iv) in paragraph (4)(A)(i), by striking “The coverage” and inserting “Subject to paragraph (8), the coverage”; and

1 (v) by adding at the end the following
 2 new paragraph:

3 “(8) LIMITATIONS ON COST-SHARING FOR
 4 DRUGS FOR THE PREVENTION OF HIV ACQUISITION.—
 5 TION.—

6 “(A) IN GENERAL.—For plan year 2021
 7 and each subsequent plan year, there shall be
 8 no cost-sharing under this part (including
 9 under section 1814D–14) for covered part D
 10 drugs that are for the prevention of HIV acquisition.
 11 sition.

12 “(B) COST-SHARING.—For purposes of
 13 subparagraph (A), the elimination of cost-sharing
 14 shall include the following:

15 “(i) NO APPLICATION OF DEDUCTIBLE.—The waiver of the deductible under
 16 paragraph (1).
 17

18 “(ii) NO APPLICATION OF COINSURANCE.—The waiver of coinsurance under
 19 paragraph (2).
 20

21 “(iii) NO APPLICATION OF INITIAL COVERAGE LIMIT.—The initial coverage
 22 limit under paragraph (3) shall not apply.
 23

24 “(iv) NO COST SHARING ABOVE ANNUAL OUT-OF-POCKET THRESHOLD.—The
 25

1 waiver of cost sharing under paragraph
2 (4).”.

3 (B) CONFORMING AMENDMENTS TO COST
4 SHARING FOR LOW-INCOME INDIVIDUALS.—Sec-
5 tion 1860D–14(a) of the Social Security Act
6 (42 U.S.C. 1395w–114(a)) is amended—

7 (i) in paragraph (1), in the matter
8 preceding subparagraph (A), by striking
9 “In the case” and inserting “Subject to
10 section 1860D–2(b)(8), in the case”; and

11 (ii) in paragraph (2), in the matter
12 preceding subparagraph (A), by striking
13 “In the case” and inserting “Subject to
14 section 1860D–2(b)(8), in the case”.

15 (f) COVERAGE OF HIV PREVENTION TREATMENT BY
16 DEPARTMENT OF VETERANS AFFAIRS.—

17 (1) ELIMINATION OF MEDICATION COPAY-
18 MENTS.—Section 1722A(a) of title 38, United
19 States Code, is amended by adding at the end the
20 following new paragraph:

21 “(5) Paragraph (1) does not apply to a medication
22 for the prevention of HIV acquisition.”.

23 (2) ELIMINATION OF HOSPITAL CARE AND MED-
24 ICAL SERVICES COPAYMENTS.—Section 1710 of such
25 title is amended—

1 (A) in subsection (f)—

2 (i) by redesignating paragraph (5) as
3 paragraph (6); and

4 (ii) by inserting after paragraph (4)
5 the following new paragraph (5):

6 “(5) A veteran shall not be liable to the United States
7 under this subsection for any amounts for laboratory and
8 other diagnostic procedures associated with the use of any
9 prescription drug approved by the Food and Drug Admin-
10 istration for the prevention of HIV acquisition, or for lab-
11 oratory or other diagnostic procedures associated with the
12 use of such drugs, or clinical follow up and monitoring,
13 including any related services recommended in current
14 United States Public Health Service clinical practice
15 guidelines, without limitation.”; and

16 (B) in subsection (g)(3), by adding at the
17 end the following new subparagraph:

18 “(C) Any prescription drug approved by the
19 Food and Drug Administration for the prevention of
20 HIV acquisition, laboratory and other diagnostic
21 procedures associated with the use of such drugs,
22 and clinical follow up and monitoring, including any
23 related services recommended in current United
24 States Public Health Service clinical practice guide-
25 lines, without limitation.”.

1 (3) INCLUSION AS PREVENTIVE HEALTH SERV-
2 ICE.—Section 1701(9) of such title is amended—

3 (A) in subparagraph (K), by striking “;
4 and” and inserting a semicolon;

5 (B) by redesignating subparagraph (L) as
6 subparagraph (M); and

7 (C) by inserting after subparagraph (K)
8 the following new subparagraph (L):

9 “(L) any prescription drug approved by
10 the Food and Drug Administration for the pre-
11 vention of HIV acquisition, laboratory and
12 other diagnostic procedures associated with the
13 use of such drugs, and clinical follow up and
14 monitoring, including any related services rec-
15 ommended in current United States Public
16 Health Service clinical practice guidelines, with-
17 out limitation; and”.

18 (g) COVERAGE OF HIV PREVENTION TREATMENT BY
19 DEPARTMENT OF DEFENSE.—

20 (1) IN GENERAL.—Chapter 55 of title 10,
21 United States Code, is amended by inserting after
22 section 1079c the following new section:

23 **“§ 1079d. Coverage of HIV prevention treatment**

24 “(a) IN GENERAL.—The Secretary of Defense shall
25 ensure coverage under the TRICARE program of HIV

1 prevention treatment described in subsection (b) for any
 2 beneficiary under section 1074(a) of this title.

3 “(b) HIV PREVENTION TREATMENT DESCRIBED.—
 4 HIV prevention treatment described in this subsection in-
 5 cludes any prescription drug approved by the Food and
 6 Drug Administration for the prevention of HIV acquisi-
 7 tion, laboratory and other diagnostic procedures associ-
 8 ated with the use of such drugs, and clinical follow up
 9 and monitoring, including any related services rec-
 10 ommended in current United States Public Health Service
 11 clinical practice guidelines, without limitation.

12 “(c) NO COST-SHARING.—Notwithstanding section
 13 1075, 1075a, or 1074g(a)(6) of this title or any other pro-
 14 vision of law, there is no cost-sharing requirement for HIV
 15 prevention treatment covered under this section.”.

16 (2) CLERICAL AMENDMENT.—The table of sec-
 17 tions at the beginning of such chapter is amended
 18 by inserting after the item relating to section 1079c
 19 the following new item:

“1079d. Coverage of HIV prevention treatment.”.

20 (h) INDIAN HEALTH SERVICE TESTING, MONI-
 21 TORING, AND PRESCRIPTION DRUGS FOR THE PREVEN-
 22 TION OF HIV ACQUISITION.—The Indian Health Care Im-
 23 provement Act is amended by inserting after section 223
 24 (25 U.S.C. 1621v) the following:

1 **“SEC. 224. TESTING, MONITORING, AND PRESCRIPTION**
 2 **DRUGS FOR THE PREVENTION OF HIV ACQUI-**
 3 **SITION.**

4 “(a) IN GENERAL.—The Secretary, acting through
 5 the Service, Indian tribes, and tribal organizations, shall
 6 provide funding for any prescription drug approved by the
 7 Food and Drug Administration for the prevention of HIV
 8 acquisition, laboratory and other diagnostic procedures as-
 9 sociated with the use of such drugs, and clinical follow
 10 up and monitoring, including any related services rec-
 11 ommended in current United States Public Health Service
 12 clinical practice guidelines, without limitation.

13 “(b) AUTHORIZATION OF APPROPRIATIONS.—There
 14 are authorized to be appropriated to carry out this section
 15 such sums as may be necessary.”.

16 (i) EFFECTIVE DATE.—The amendments made by
 17 subsections (a), (b), (e), (f), (g), and (h) shall take effect
 18 with respect to plan years beginning on or after January
 19 1, 2021.

20 **SEC. 4. PROHIBITION ON DENIAL OF COVERAGE OR IN-**
 21 **CREASE IN PREMIUMS OF LIFE, DISABILITY,**
 22 **OR LONG-TERM CARE INSURANCE FOR INDI-**
 23 **VIDUALS TAKING MEDICATION FOR THE PRE-**
 24 **VENTION OF HIV ACQUISITION.**

25 (a) PROHIBITION.—Notwithstanding any other provi-
 26 sion of law, it shall be unlawful to—

1 (1) decline or limit coverage of a person under
2 any life insurance policy, disability insurance policy,
3 or long-term care insurance policy, on account of the
4 individual taking medication for the purpose of pre-
5 venting the acquisition of HIV;

6 (2) preclude an individual from taking medica-
7 tion for the purpose of preventing the acquisition of
8 HIV as a condition of receiving a life insurance pol-
9 icy, disability insurance policy, or long-term care in-
10 surance policy;

11 (3) consider whether an individual is taking
12 medication for the purpose of preventing the acquisi-
13 tion of HIV in determining the premium rate for
14 coverage of such individual under a life insurance
15 policy, disability insurance policy, or long-term care
16 insurance policy; or

17 (4) otherwise discriminate in the offering,
18 issuance, cancellation, amount of such coverage,
19 price, or any other condition of a life insurance pol-
20 icy, disability insurance policy, or long-term care in-
21 surance policy for an individual, based solely and
22 without any additional actuarial risks upon whether
23 the individual is taking medication for the purpose
24 of preventing the acquisition of HIV.

1 (b) ENFORCEMENT.—A State insurance regulator
 2 may take such actions to enforce subsection (a) as are spe-
 3 cifically authorized under the laws of such State.

4 (c) DEFINITIONS.—In this section:

5 (1) DISABILITY INSURANCE POLICY.—The term
 6 “disability insurance policy” means a contract under
 7 which an entity promises to pay a person a sum of
 8 money in the event that an illness or injury resulting
 9 in a disability prevents such person from working.

10 (2) LIFE INSURANCE POLICY.—The term “life
 11 insurance policy” means a contract under which an
 12 entity promises to pay a designated beneficiary a
 13 sum of money upon the death of the insured.

14 (3) LONG-TERM CARE INSURANCE POLICY.—
 15 The term “long-term care insurance policy” means
 16 a contract for which the only insurance protection
 17 provided under the contract is coverage of qualified
 18 long-term care services (as defined in section
 19 7702B(c) of the Internal Revenue Code of 1986).

20 **SEC. 5. PUBLIC EDUCATION CAMPAIGN.**

21 Part P of title III of the Public Health Service Act
 22 (42 U.S.C. 280g et seq.) is amended by adding at the end
 23 the following:

1 **“SEC. 399V-7. PRE-EXPOSURE PROPHYLAXIS PUBLIC EDU-**
2 **CATION CAMPAIGN.**

3 “(a) IN GENERAL.—The Secretary, acting through
4 the Director of the Centers for Disease Control and Pre-
5 vention, shall establish a public health campaign for the
6 purpose of educating the public on medication for the pre-
7 vention of HIV acquisition.

8 “(b) REQUIREMENTS.—In carrying out this section,
9 the Secretary shall ensure cultural competency and effi-
10 cacy within high-need communities in which PrEP is un-
11 derutilized by developing the campaign in collaboration
12 with organizations that are indigenous to communities
13 that are overrepresented in the domestic HIV epidemic,
14 including communities of color and the lesbian, gay, bisex-
15 ual, transgender, and queer community. The Secretary
16 shall ensure that the campaign is designed to increase
17 awareness of the safety and effectiveness of PrEP, the rec-
18 ommended clinical practices for providing PrEP-related
19 clinical care, and the local availability of PrEP providers,
20 and to counter stigma associated with the use of PrEP.

21 “(c) EVALUATION OF PROGRAM.—The Secretary
22 shall develop measures to evaluate the effectiveness of ac-
23 tivities conducted under this section that are aimed at re-
24 ducing disparities in access to PrEP and supporting the
25 local community. Such measures shall evaluate community
26 outreach activities, language services, workforce cultural

1 competence, and other areas as determined by the Sec-
2 retary.

3 “(d) PREP.—In this section, the term ‘PreEP’ means
4 any drug approved by the Food and Drug Administration
5 for the purpose of pre-exposure prophylaxis with respect
6 to HIV.

7 “(e) AUTHORIZATION OF APPROPRIATIONS.—There
8 are authorized to be appropriated such sums as may be
9 necessary for each of fiscal years 2021 through 2026.”.

10 **SEC. 6. PATIENT CONFIDENTIALITY.**

11 The Secretary of Health and Human Services shall
12 amend the regulations promulgated under section 264(c)
13 of the Health Insurance Portability and Accountability
14 Act of 1996 (42 U.S.C. 1320d–2 note), as necessary, to
15 ensure that individuals are able to access the benefits de-
16 scribed in section 2713(a)(6) under a family plan without
17 any other individual enrolled in such family plan, including
18 a primary subscriber of or policyholder, being informed of
19 such use of such benefits.

20 **SEC. 7. PRE-EXPOSURE PROPHYLAXIS FUNDING.**

21 (a) IN GENERAL.—Not later than 1 year after the
22 date of enactment of this Act, the Secretary of Health and
23 Human Services (in this Act referred to as the “Sec-
24 retary”) shall establish a program that provides grants to
25 States, territories, and Indian Tribes for the establishment

1 and support of pre-exposure prophylaxis (referred to in
2 this section as “PrEP”) programs, or establishes a pro-
3 gram for providing Federal funding directly to eligible en-
4 tities within a State, territory, or Indian Tribal territory,
5 in the case of a State, territory, or Indian Tribe that does
6 not apply for such a grant.

7 (b) GRANT PROGRAM.—

8 (1) APPLICATIONS.—To be eligible to receive a
9 grant under subsection (a), a State, territory, or In-
10 dian Tribe shall—

11 (A) submit an application to the Secretary
12 at such time, in such manner, and containing
13 such information as the Secretary may require,
14 including a description of how any funds award-
15 ed will be used and a plan describing how any
16 funds awarded will be used to increase access to
17 PrEP for uninsured individuals and reduce dis-
18 parities in access to PrEP; and

19 (B) appoint a PrEP grant administrator to
20 manage the program.

21 (2) USE OF FUNDS.—Any State, Territory of
22 the United States, or Indian Tribe that is awarded
23 funds under subsection (a) shall use such funds for
24 eligible PrEP expenses.

25 (c) FEDERAL PROGRAM.—

1 (1) IN GENERAL.—In the case of a State, terri-
2 tory, or Indian Tribe that does not submit an appli-
3 cation under subsection (b), the Secretary shall pro-
4 vide funding to any of the following, within the ap-
5 plicable State, territory, or Indian Tribal territory:

6 (A) Federally qualified health centers (as
7 defined in section 1861(aa)(4) of the Social Se-
8 curity Act (42 U.S.C. 1395x(aa)(4))).

9 (B) Family planning grantees (other than
10 States) funded under section 1001 of the Public
11 Health Service Act (42 U.S.C. 300).

12 (C) Rural health clinics (as defined in sec-
13 tion 1861(aa)(2) of the Social Security Act (42
14 U.S.C. 1395x(aa)(2))).

15 (D) Health facilities operated by or pursu-
16 ant to a contract with the Indian Health Serv-
17 ice.

18 (E) Community-based organizations, clin-
19 ics, hospitals, and other health facilities that
20 provide services to individuals at risk for or liv-
21 ing with HIV.

22 (F) Nonprofit private entities providing
23 comprehensive primary care to populations at
24 risk of HIV, including faith-based and commu-
25 nity-based organizations.

1 (2) USE OF FUNDS.—Any entity receiving fund-
2 ing under paragraph (1) shall use such funds for eli-
3 gible PrEP expenses.

4 (d) ELIGIBLE PREP EXPENSES.—

5 (1) IN GENERAL.—The Secretary shall publish
6 a list of expenses that qualify as eligible PrEP ex-
7 penses for purposes of this section.

8 (2) INCLUSIONS.—Such list shall include—

9 (A) any prescription drug approved by the
10 Food and Drug Administration for the preven-
11 tion of HIV acquisition, laboratory and other
12 diagnostic procedures associated with the use of
13 such drugs, and clinical follow up and moni-
14 toring, including any related services rec-
15 ommended in current United States Public
16 Health Service clinical practice guidelines, with-
17 out limitation;

18 (B) outreach and public education activi-
19 ties directed toward populations overrepresented
20 in the domestic HIV epidemic that increase
21 awareness about the existence of PrEP, provide
22 education about access to and health care cov-
23 erage of PrEP, and counter stigma associated
24 with the use of PrEP; and

1 (C) outreach activities directed toward
2 physicians and other providers that provide
3 education about PrEP.

4 (e) REPORT TO CONGRESS.—The Secretary shall, in
5 each of the first 5 years beginning one year after the date
6 of the enactment of this Act, submit to Congress, and
7 make public on the internet website of Department of
8 Health and Human Services, a report on the impact of
9 any grants provided to States, territories, and Indian
10 Tribes for the establishment and support of pre-exposure
11 prophylaxis programs under this section.

12 (f) AUTHORIZATION OF APPROPRIATIONS.—There
13 are authorized to be appropriated to carry out this section
14 \$60,000,000 for each of the first 5 fiscal years beginning
15 after the date of the enactment of this section.

16 **SEC. 8. CLARIFICATION.**

17 This Act, including the amendments made by this
18 Act, shall apply notwithstanding any other provision of
19 law, including Public Law 103–141.

20 **SEC. 9. PRIVATE RIGHT OF ACTION.**

21 Any person aggrieved by a violation of this Act, in-
22 cluding the amendments made by this Act, may commence
23 a civil action in an appropriate United States District
24 Court or other court of competent jurisdiction to obtain
25 relief as allowed by law as either an individual or member

1 of a class. If the plaintiff is the prevailing party in such
2 an action, the court shall order the defendant to pay the
3 costs and reasonable attorney fees of the plaintiff.

