

116TH CONGRESS
2D SESSION

S. 4761

To amend the Employee Retirement Income Security Act of 1974, title XXVII of the Public Health Service Act, and the Internal Revenue Code of 1986 to require group health plans and health insurance issuers offering group or individual health insurance coverage to provide for 3 primary care visits and 3 behavioral health care visits without application of any cost-sharing requirement.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 30 (legislative day, SEPTEMBER 29), 2020

Mr. KING introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Employee Retirement Income Security Act of 1974, title XXVII of the Public Health Service Act, and the Internal Revenue Code of 1986 to require group health plans and health insurance issuers offering group or individual health insurance coverage to provide for 3 primary care visits and 3 behavioral health care visits without application of any cost-sharing requirement.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Primary and Behav-
3 ioral Health Care Access Act of 2020”.

4 **SEC. 2. PROHIBITION ON APPLICATION OF COST SHARING**
5 **FOR CERTAIN PRIMARY CARE AND BEHAV-**
6 **IORAL HEALTH CARE VISITS.**

7 (a) ERISA.—Subpart B of part 7 of subtitle B of
8 title I of the Employee Retirement Income Security Act
9 of 1974 (29 U.S.C. 1185 et seq.) is amended by adding
10 at the end the following new section:

11 **“SEC. 716. COVERAGE OF CERTAIN PRIMARY CARE AND BE-**
12 **HAVIORAL HEALTH CARE VISITS.**

13 “(a) IN GENERAL.—In addition to any item or serv-
14 ice described in section 2713(a) of the Public Health Serv-
15 ice Act, a group health plan, and a health insurance issuer
16 offering group health insurance coverage, shall at a min-
17 imum provide coverage for and shall not impose any cost-
18 sharing requirements for, with respect to a plan year—

19 “(1) 3 primary care visits; and

20 “(2) 3 behavioral health care visits.

21 “(b) LIMITATIONS.—A group health plan, and a
22 health insurance issuer offering group health insurance
23 coverage, shall ensure that—

24 “(1) the treatment limitations applicable to the
25 3 primary care visits described in paragraph (1) of
26 subsection (a) and the 3 behavioral health care visits

described in paragraph (2) of such subsection are no more restrictive than the treatment limitations applied to any other primary care visit or behavioral health care visit covered by the plan or coverage and that there are no separate treatment limitations that are applicable only with respect to such 3 primary or such 3 behavioral health care visits; and

“(2) the reimbursement rates under such plan or such coverage for such 3 primary and such 3 behavioral health care visits are the same as such rates for any other primary care visit or behavioral health care visit covered by the plan or coverage.

“(c) DEFINITIONS.—For purposes of this section:

“(1) BEHAVIORAL HEALTH CARE VISIT.—The term ‘behavioral health care visit’ means a visit by an individual to a qualified provider during which services are provided with respect to the diagnosis, treatment, screening, or prevention of a behavioral health condition.

“(2) PRIMARY CARE SERVICE.—The term ‘primary care service’ means a service identified, as of January 1, 2020, by one of Healthcare Common Procedure Coding System codes 99201 through 99215 (and as subsequently modified by the Secretary of Health and Human Services).

1 “(3) PRIMARY CARE VISIT.—The term ‘primary
2 care visit’ means an in-person visit by an individual
3 to a qualified provider who is designated by such in-
4 dividual as the primary care provider for such indi-
5 vidual, during which such individual receives pri-
6 mary care services.

7 “(4) QUALIFIED PROVIDER.—The term ‘quali-
8 fied provider’ means—

9 “(A) with respect to a primary care visit,
10 a general practitioner, family physician, general
11 internist, obstetrician-gynecologist, pediatrician,
12 geriatric physician, or advanced practice reg-
13 istered nurse acting in accordance with State
14 law (including a nurse practitioner, clinical
15 nurse specialist, and certified nurse midwife);
16 and

17 “(B) with respect to a behavioral health
18 care visit, an individual employed in a full-time
19 position (including a fellowship) where the pri-
20 mary intent and function of such position is the
21 direct treatment or recovery support of individ-
22 uals with, or in recovery from, a behavioral
23 health disorder, such as a physician, advanced
24 practice registered nurse acting in accordance
25 with State law (including a nurse practitioner,

1 clinical nurse specialist, and certified nurse
 2 midwife), psychiatric nurse, social worker, mar-
 3 riage and family therapist, mental health coun-
 4 selor, occupational therapist, psychologist, psy-
 5 chiatrist, child and adolescent psychiatrist, or
 6 neurologist.”.

7 (b) PHSA.—Subpart II of part A of title XXVII of
 8 the Public Health Service Act (42 U.S.C. 300gg–11 et
 9 seq.) is amended by adding at the end the following new
 10 section:

11 **“SEC. 2730. COVERAGE OF CERTAIN PRIMARY CARE AND**
 12 **BEHAVIORAL HEALTH CARE VISITS.**

13 “(a) IN GENERAL.—In addition to any item or serv-
 14 ice described in section 2713(a), a group health plan, and
 15 a health insurance issuer offering group or individual
 16 health insurance coverage, shall at a minimum provide
 17 coverage for and shall not impose any cost-sharing re-
 18 quirements for, with respect to a plan year—

19 “(1) 3 primary care visits; and

20 “(2) 3 behavioral health care visits.

21 “(b) LIMITATIONS.—A group health plan, and a
 22 health insurance issuer offering group or individual health
 23 insurance coverage, shall ensure that—

24 “(1) the treatment limitations applicable to the
 25 3 primary care visits described in paragraph (1) of

subsection (a) and the 3 behavioral health care visits described in paragraph (2) of such subsection are no more restrictive than the treatment limitations applied to any other primary care visit or behavioral health care visit covered by the plan or coverage and that there are no separate treatment limitations that are applicable only with respect to such 3 primary or such 3 behavioral health care visits; and

“(2) the reimbursement rates under such plan or such coverage for such 3 primary and such 3 behavioral health care visits are the same as such rates for any other primary care visit or behavioral health care visit covered by the plan or coverage.

“(c) DEFINITIONS.—For purposes of this section:

“(1) BEHAVIORAL HEALTH CARE VISIT.—The term ‘behavioral health care visit’ means a visit by an individual to a qualified provider during which services are provided with respect to the diagnosis, treatment, screening, or prevention of a behavioral health condition.

“(2) PRIMARY CARE SERVICE.—The term ‘primary care service’ means a service identified, as of January 1, 2020, by one of Healthcare Common Procedure Coding System codes 99201 through

1 99215 (and as subsequently modified by the Sec-
 2 retary).

3 “(3) PRIMARY CARE VISIT.—The term ‘primary
 4 care visit’ means an in-person visit by an individual
 5 to a qualified provider who is designated by such in-
 6 dividual as the primary care provider for such indi-
 7 vidual, during which such individual receives pri-
 8 mary care services.

9 “(4) QUALIFIED PROVIDER.—The term ‘quali-
 10 fied provider’ means—

11 “(A) with respect to a primary care visit,
 12 a general practitioner, family physician, general
 13 internist, obstetrician-gynecologist, pediatrician,
 14 geriatric physician, or advanced practice reg-
 15 istered nurse acting in accordance with State
 16 law (including a nurse practitioner, clinical
 17 nurse specialist, and certified nurse midwife);
 18 and

19 “(B) with respect to a behavioral health
 20 care visit, an individual employed in a full-time
 21 position (including a fellowship) where the pri-
 22 mary intent and function of such position is the
 23 direct treatment or recovery support of individ-
 24 uals with, or in recovery from, a behavioral
 25 health disorder, such as a physician, advanced

practice registered nurse acting in accordance with State law (including a nurse practitioner, clinical nurse specialist, and certified nurse midwife), psychiatric nurse, social worker, marriage and family therapist, mental health counselor, occupational therapist, psychologist, psychiatrist, child and adolescent psychiatrist, or neurologist.”.

(c) IRC.—

(1) IN GENERAL.—Subchapter B of chapter 100 of subtitle K of the Internal Revenue Code of 1986 is amended by adding at the end the following new section:

**“SEC. 9816. COVERAGE OF CERTAIN PRIMARY CARE AND
BEHAVIORAL HEALTH CARE VISITS.**

“(a) IN GENERAL.—In addition to any item or service described in section 2713(a) of the Public Health Service Act, a group health plan shall at a minimum provide coverage for and shall not impose any cost-sharing requirements for, with respect to a plan year—

“(1) 3 primary care visits; and

“(2) 3 behavioral health care visits.

“(b) LIMITATIONS.—A group health plan shall ensure that—

1 “(1) the treatment limitations applicable to the
 2 3 primary care visits described in paragraph (1) of
 3 subsection (a) and the 3 behavioral health care visits
 4 described in paragraph (2) of such subsection are no
 5 more restrictive than the treatment limitations ap-
 6 plied to any other primary care visit or behavioral
 7 health care visit covered by the plan and that there
 8 are no separate treatment limitations that are appli-
 9 cable only with respect to such 3 primary or such 3
 10 behavioral health care visits; and

11 “(2) the reimbursement rates under such plan
 12 for such 3 primary and such 3 behavioral health
 13 care visits are the same as such rates for any other
 14 primary care visit or behavioral health care visit cov-
 15 ered by the plan.

16 “(c) DEFINITIONS.—For purposes of this section:

17 “(1) BEHAVIORAL HEALTH CARE VISIT.—The
 18 term ‘behavioral health care visit’ means a visit by
 19 an individual to a qualified provider during which
 20 services are provided with respect to the diagnosis,
 21 treatment, screening, or prevention of a behavioral
 22 health condition.

23 “(2) PRIMARY CARE SERVICE.—The term ‘pri-
 24 mary care service’ means a service identified, as of
 25 January 1, 2020, by one of Healthcare Common

1 Procedure Coding System codes 99201 through
2 99215 (and as subsequently modified by the Sec-
3 retary of Health and Human Services).

4 “(3) PRIMARY CARE VISIT.—The term ‘primary
5 care visit’ means an in-person visit by an individual
6 to a qualified provider who is designated by such in-
7 dividual as the primary care provider for such indi-
8 vidual, during which such individual receives pri-
9 mary care services.

10 “(4) QUALIFIED PROVIDER.—The term ‘quali-
11 fied provider’ means—

12 “(A) with respect to a primary care visit,
13 a general practitioner, family physician, general
14 internist, obstetrician-gynecologist, pediatrician,
15 geriatric physician, or advanced practice reg-
16 istered nurse acting in accordance with State
17 law (including a nurse practitioner, clinical
18 nurse specialist, and certified nurse midwife);
19 and

20 “(B) with respect to a behavioral health
21 care visit, an individual employed in a full-time
22 position (including a fellowship) where the pri-
23 mary intent and function of such position is the
24 direct treatment or recovery support of individ-
25 uals with, or in recovery from, a behavioral

1 health disorder, such as a physician, advanced
2 practice registered nurse acting in accordance
3 with State law (including a nurse practitioner,
4 clinical nurse specialist, and certified nurse
5 midwife), psychiatric nurse, social worker, mar-
6 riage and family therapist, mental health coun-
7 selor, occupational therapist, psychologist, psy-
8 chiatrist, child and adolescent psychiatrist, or
9 neurologist.”.

10 (2) HIGH DEDUCTIBLE HEALTH PLANS.—Sec-
11 tion 223(c)(2)(C) of the Internal Revenue Code of
12 1986 is amended by inserting “or for the visits de-
13 scribed in section 9816(a)” before the period.

14 (d) EFFECTIVE DATE.—The amendments made by
15 this section shall apply with respect to plan years begin-
16 ning on or after the date that is 2 years after the date
17 of the enactment of this Act.

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