

119TH CONGRESS  
2D SESSION

**S.** \_\_\_\_\_

To amend title XIX of the Social Security Act to require coverage under State plans under the Medicaid program for annual lung cancer screening with no cost sharing for individuals for whom screening is recommended by U.S. Preventive Services Task Force guidelines, to expand coverage under Medicaid of counseling and pharmacotherapy for cessation of tobacco use, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

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Mr. DURBIN (for himself and Ms. HIRONO) introduced the following bill; which was read twice and referred to the Committee on

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**A BILL**

To amend title XIX of the Social Security Act to require coverage under State plans under the Medicaid program for annual lung cancer screening with no cost sharing for individuals for whom screening is recommended by U.S. Preventive Services Task Force guidelines, to expand coverage under Medicaid of counseling and pharmacotherapy for cessation of tobacco use, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Increasing Access to  
3 Lung Cancer Screening Act”.

4 **SEC. 2. MEDICAID COVERAGE OF ANNUAL LUNG CANCER**  
5 **SCREENING WITH NO COST SHARING FOR**  
6 **CERTAIN INDIVIDUALS.**

7 (a) IN GENERAL.—Section 1905(a)(4) of the Social  
8 Security Act (42 U.S.C. 1396d(a)(4)) is amended—

9 (1) by striking “and” before “(D)”;

10 (2) by striking “and” before “(E)”;

11 (3) by striking “and” before “(F)”;

12 (4) by inserting before the semicolon at the end  
13 the following: “; and (G) an annual lung cancer  
14 screening for individuals who are eligible under the  
15 State plan or under a waiver of such plan and for  
16 whom such screening is recommended under guide-  
17 lines published by the United States Preventive  
18 Services Task Force (provided that such guidelines  
19 do not decrease the recommended frequency of lung  
20 cancer screenings for such individuals or narrow the  
21 population recommended for lung cancer screening  
22 published by the United States Preventive Services  
23 Task Force on March 9, 2021), without regard to  
24 prior authorization”.

25 (b) NO COST SHARING.—

1           (1) IN GENERAL.—Subsections (a)(2) and  
2           (b)(2) of section 1916 of the Social Security Act (42  
3           U.S.C. 1396o) are each amended—

4                   (A) in subparagraph (I), by striking “or”  
5                   at the end;

6                   (B) in subparagraph (J), by striking “;  
7                   and” and inserting “, or” at the end; and

8                   (C) by adding at the end the following new  
9                   subparagraph:

10                   “(K) lung cancer screening for which pay-  
11                   ment may be made under the State plan or  
12                   under a waiver of such plan pursuant section to  
13                   1905(a)(4)(G); and”.

14           (2) APPLICATION TO ALTERNATIVE COST SHAR-  
15           ING.—Section 1916A(b)(3)(B) of the Social Security  
16           Act (42 U.S.C. 1396o–1(b)(3)(B)) is amended by  
17           adding at the end the following new clause:

18                   “(xv) Lung cancer screening for which  
19                   payment may be made under the State  
20                   plan or under a waiver of such plan pursu-  
21                   ant to section 1905(a)(4)(G).”.

22           (c) APPLICATION TO MEDICAID MANAGED CARE OR-  
23           GANIZATIONS.—Section 1932(b) of the Social Security Act  
24           (42 U.S.C. 1396u–2(b)) is amended by adding at the end  
25           the following new paragraph:

1           “(9) LUNG CANCER SCREENING.—Each con-  
2           tract with a medicaid managed care organization  
3           under section 1903(m) shall require the organization  
4           to provide coverage for lung cancer screening for  
5           which payment may be made under the State plan  
6           or under a waiver of such plan pursuant to section  
7           1905(a)(4)(G) without regard to prior authoriza-  
8           tion.”.

9           (d) EFFECTIVE DATE.—

10           (1) IN GENERAL.—Subject to paragraph (2),  
11           the amendments made by this section shall apply  
12           with respect to items and services furnished on or  
13           after January 1, 2028.

14           (2) EXCEPTION IF STATE LEGISLATION RE-  
15           QUIRED.—In the case of a State plan for medical as-  
16           sistance under title XIX of the Social Security Act  
17           which the Secretary of Health and Human Services  
18           determines requires State legislation (other than leg-  
19           islation appropriating funds) in order for the plan to  
20           meet the additional requirements imposed by the  
21           amendments made by this section, the State plan  
22           shall not be regarded as failing to comply with the  
23           requirements of such title solely on the basis of its  
24           failure to meet such additional requirements before  
25           the first day of the first calendar quarter beginning

1 after the close of the first regular session of the  
2 State legislature that begins after the date of the en-  
3 actment of this Act. For purposes of the previous  
4 sentence, in the case of a State that has a 2-year  
5 legislative session, each year of such session shall be  
6 deemed to be a separate regular session of the State  
7 legislature.

8 **SEC. 3. EXPANDING COVERAGE UNDER MEDICAID OF**  
9 **COUNSELING AND PHARMACOTHERAPY FOR**  
10 **CESSATION OF TOBACCO USE TO ALL MED-**  
11 **ICAID INDIVIDUALS.**

12 (a) IN GENERAL.—Section 1905 of the Social Secu-  
13 rity Act (42 U.S.C. 1396d) is amended—

14 (1) in subsection (a)(4)(D)—

15 (A) by striking “by pregnant women”; and

16 (B) by inserting “without regard to prior  
17 authorization” after “(as defined in subsection  
18 (bb))”; and

19 (2) in subsection (bb)—

20 (A) by striking “by pregnant women” each  
21 place it appears;

22 (B) in paragraph (1), by striking “tobacco  
23 use who” and inserting “tobacco use (including  
24 the use of e-cigarettes or vape pens) by individ-  
25 uals who”; and

1 (C) in paragraph (2)(A), by striking “with  
2 respect to pregnant women”.

3 (b) CONFORMING AMENDMENTS.—

4 (1) Section 1927(d)(2)(F) of the Social Secu-  
5 rity Act (42 U.S.C. 1396r–8(d)(2)(F)) is amended  
6 by striking “, in the case of pregnant women”.

7 (2) Section 1916 of the Social Security Act (42  
8 U.S.C. 1396o), as amended by section 2(b)(1), is  
9 further amended in each of subsections (a)(2) and  
10 (b)(2)—

11 (A) in subparagraph (B), by striking “,  
12 and counseling and pharmacotherapy for ces-  
13 sation of tobacco use by pregnant women (as  
14 defined in section 1905(bb)) and covered out-  
15 patient drugs (as defined in subsection (k)(2) of  
16 section 1927 and including nonprescription  
17 drugs described in subsection (d)(2) of such  
18 section) that are prescribed for purposes of pro-  
19 moting, and when used to promote, tobacco ces-  
20 sation by pregnant women in accordance with  
21 the Guideline referred to in section  
22 1905(bb)(2)(A)”;

23 (B) in subparagraph (J), by striking “or”  
24 at the end;

1 (C) in subparagraph (K), by striking “;  
2 and” at the end and inserting “, or”; and

3 (D) by adding at the end the following new  
4 subparagraph:

5 “(L) counseling and pharmacotherapy for  
6 cessation of tobacco use (as defined in section  
7 1905(bb)) and covered outpatient drugs (as de-  
8 fined in subsection (k)(2) of section 1927 and  
9 including nonprescription drugs described in  
10 subsection (d)(2) of such section) that are pre-  
11 scribed for purposes of promoting, and when  
12 used to promote, tobacco cessation in accord-  
13 ance with the Guideline referred to in section  
14 1905(bb)(2)(A); and”.

15 (3) Section 1916A(b)(3)(B) of such Act (42  
16 U.S.C. 1396o–1(b)(3)(B)), as amended by section  
17 2(b)(2), is further amended—

18 (A) in clause (iii), by striking “, and coun-  
19 seling and pharmacotherapy for cessation of to-  
20 bacco use by pregnant women (as defined in  
21 section 1905(bb))”; and

22 (B) by adding at the end the following new  
23 clause:

1                   “(xvi)           Counseling           and  
2                   pharmacotherapy for cessation of tobacco  
3                   use (as defined in section 1905(bb)).”.

4           (c) APPLICATION TO MEDICAID MANAGED CARE OR-  
5 GANIZATIONS.—Section 1932(b) of the Social Security Act  
6 (42 U.S.C. 1396u–2(b)), as amended by section 2(c), is  
7 further amended by adding at the end the following new  
8 paragraph:

9                   “(10) CESSATION OF TOBACCO USE.—Each  
10           contract with a medicaid managed care organization  
11           under section 1903(m) shall require the organization  
12           to provide coverage for counseling and  
13           pharmacotherapy for cessation of tobacco use with-  
14           out regard to prior authorization.”.

15           (d) EFFECTIVE DATE.—

16                   (1) IN GENERAL.—Subject to paragraph (2),  
17           the amendments made by this section shall apply  
18           with respect to items and services furnished on or  
19           after January 1, 2028.

20                   (2) EXCEPTION IF STATE LEGISLATION RE-  
21           QUIRED.—In the case of a State plan for medical as-  
22           sistance under title XIX of the Social Security Act  
23           which the Secretary of Health and Human Services  
24           determines requires State legislation (other than leg-  
25           islation appropriating funds) in order for the plan to

1 meet the additional requirements imposed by the  
2 amendments made by this section, the State plan  
3 shall not be regarded as failing to comply with the  
4 requirements of such title solely on the basis of its  
5 failure to meet such additional requirements before  
6 the first day of the first calendar quarter beginning  
7 after the close of the first regular session of the  
8 State legislature that begins after the date of the en-  
9 actment of this Act. For purposes of the previous  
10 sentence, in the case of a State that has a 2-year  
11 legislative session, each year of such session shall be  
12 deemed to be a separate regular session of the State  
13 legislature.

14 **SEC. 4. COVERAGE UNDER MEDICARE AND PRIVATE**  
15 **HEALTH INSURANCE OF ANNUAL LUNG CAN-**  
16 **CER SCREENING WITHOUT UTILIZATION**  
17 **MANAGEMENT REQUIREMENTS.**

18 (a) MEDICARE.—

19 (1) IN GENERAL.—Section 1834 of the Social  
20 Security Act (42 U.S.C. 1395m) is amended by add-  
21 ing at the end the following new subsection:

22 “(bb) SPECIAL RULE FOR ANNUAL LUNG CANCER  
23 SCREENING.—Notwithstanding any other provision of this  
24 title, in the case of an annual lung cancer screening for  
25 which benefits are provided under this part for any indi-

1 vidual for whom such screening is recommended in accord-  
2 ance with guidelines issued by the Secretary, such benefits  
3 shall be provided without application of any prior author-  
4 ization.”.

5 (2) APPLICATION UNDER MEDICARE ADVAN-  
6 TAGE.—Section 1852(a)(1)(B) of the Social Security  
7 Act (42 U.S.C. 1395w–22(a)(1)(B)) is amended by  
8 adding at the end the following new clause:

9 “(vii) PROHIBITION OF APPLICATION  
10 OF CERTAIN REQUIREMENTS FOR ANNUAL  
11 LUNG CANCER SCREENING.—In the case of  
12 an annual lung cancer screening for which  
13 benefits are provided under part B for any  
14 individual for whom such screening is rec-  
15 ommended in accordance with guidelines  
16 issued by the Secretary for purposes of  
17 section 1834(bb), an MA plan may not im-  
18 pose any prior authorization with respect  
19 to the coverage of such screening under  
20 such plan.”.

21 (3) EFFECTIVE DATE.—The amendments made  
22 by this subsection shall apply with respect to serv-  
23 ices furnished on or after January 1, 2028.

24 (b) INDIVIDUAL AND GROUP HEALTH INSURANCE  
25 MARKETS.—

1           (1) IN GENERAL.—Section 2713 of the Public  
2           Health Service Act (42 U.S.C. 300gg–13) is amend-  
3           ed by adding at the end the following new sub-  
4           section:

5           “(d) PROHIBITION OF APPLICATION OF CERTAIN RE-  
6           QUIREMENTS FOR ANNUAL LUNG CANCER SCREENING.—  
7           A group health plan and a health insurance issuer offering  
8           group or individual health insurance coverage may not re-  
9           quire any prior authorization with respect to the benefits  
10          under such plan or coverage for an annual lung cancer  
11          screening for any individual for whom such screening is  
12          recommended by the United States Preventive Services  
13          Task Force.”.

14          (2) EFFECTIVE DATE.—The amendments made  
15          by this subsection shall apply with respect to plan  
16          years beginning on or after January 1, 2028.

17       **SEC. 5. LUNG CANCER SCREENING EDUCATION AND OUT-**  
18                               **REACH.**

19          (a) IN GENERAL.—The Secretary of Health and  
20          Human Services (in this section referred to as the “Sec-  
21          retary”), in consultation with patient and lung cancer ad-  
22          vocacy groups, shall conduct an education and outreach  
23          campaign for purposes of informing individuals and health  
24          care providers of—

1           (1) the importance of lung cancer screenings;  
2           and

3           (2) the categories of individuals who should re-  
4           ceive such screenings.

5           (b) MANNER OF OUTREACH.—The Secretary may  
6           carry out the campaign described in subsection (a) di-  
7           rectly, by contract, through the issuance of grants, or oth-  
8           erwise. In carrying out such campaign, the Secretary shall  
9           ensure that the campaign is targeted to reach individuals  
10          at high risk of lung cancer.

11          (c) FUNDING.—There are authorized to be appro-  
12          priated \$10,000,000 for each of fiscal years 2028 through  
13          2032 for purposes of carrying out this section.

14          **SEC. 6. REPORT.**

15          Not later than 1 year after the date of the enactment  
16          of this Act, the Comptroller General of the United States  
17          shall conduct a study and submit to Congress a report  
18          on the demographics of individuals diagnosed with lung  
19          cancer and individuals screened for such cancer. Such re-  
20          port shall identify—

21                 (1) any segments of the population diagnosed  
22                 with lung cancer but not captured in current screen-  
23                 ing eligibility guidelines (such as firefighters, vet-  
24                 erans, and women under 50 years of age); and

1           (2) recommendations for how the Federal Gov-  
2           ernment can improve screening for such cancer  
3           among such segments.