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(Original Signature of Member)

118TH CONGRESS
1ST SESSION

H. R. _____

To amend title XIX and XXI of the Social Security Act to provide coverage of comprehensive tobacco cessation services under such titles, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Ms. BLUNT ROCHESTER introduced the following bill; which was referred to the Committee on _____

A BILL

To amend title XIX and XXI of the Social Security Act to provide coverage of comprehensive tobacco cessation services under such titles, 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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Helping Tobacco Users
5 Quit Act”.

1 **SEC. 2. COVERAGE OF COMPREHENSIVE TOBACCO CES-**
2 **SATION SERVICES IN MEDICAID.**

3 (a) REQUIRING MEDICAID COVERAGE OF COUN-
4 SELING AND PHARMACOTHERAPY FOR CESSATION OF TO-
5 BACCO USE AND TEMPORARY ENHANCED FMAP FOR
6 COVERAGE OF TOBACCO CESSATION SERVICES.—Section
7 1905 of the Social Security Act (42 U.S.C. 1396d) is
8 amended—

9 (1) by amending subsection (a)(4)(D) to read
10 as follows: “(D) counseling and pharmacotherapy for
11 cessation of tobacco use by individuals who are eligi-
12 ble under the State plan (as defined in subsection
13 (bb));”;

14 (2) in subsection (b), by inserting “(bb)(2),”
15 after “(aa),”; and

16 (3) by striking subsection (bb) and inserting
17 the following:

18 “(bb) COUNSELING AND PHARMACOTHERAPY FOR
19 CESSATION OF TOBACCO USE.—

20 “(1) IN GENERAL.—For purposes of this title,
21 the term ‘counseling and pharmacotherapy for ces-
22 sation of tobacco use by individuals who are eligible
23 under the State plan’ means diagnostic, therapy,
24 and counseling services and pharmacotherapy (in-
25 cluding the coverage of prescription and nonprescrip-
26 tion tobacco cessation agents approved by the Food

1 and Drug Administration) for the cessation of to-
2 bacco use by individuals who use tobacco products or
3 who are being treated for tobacco use that is fur-
4 nished—

5 “(A) by or under the supervision of a phy-
6 sician; or

7 “(B) by any other health care professional
8 who—

9 “(i) is legally authorized to furnish
10 such services under State law (or the State
11 regulatory mechanism provided by State
12 law) of the State in which the services are
13 furnished; and

14 “(ii) is authorized to receive payment
15 for other services under this title or is des-
16 ignated by the Secretary for this purpose;
17 which is recommended in the guideline entitled,
18 ‘Treating Tobacco Use and Dependence: 2008
19 Update: A Clinical Practice Guideline’ pub-
20 lished by the Public Health Service in May
21 2008 (or any subsequent modification of such
22 guideline) or is recommended for the cessation
23 of tobacco use by the U.S. Preventive Services
24 Task Force or any additional intervention ap-

1 proved by the Food and Drug Administration
2 as safe and effective in helping smokers quit.

3 “(2) TEMPORARY ENHANCED FMAP FOR COV-
4 ERAGE OF TOBACCO CESSATION SERVICES.—Not-
5 withstanding subsection (b), for calendar quarters
6 occurring during the period beginning on the date of
7 the enactment of this paragraph and ending 5 years
8 after the date of enactment of this paragraph, the
9 Federal medical assistance percentage with respect
10 to amounts expended by a State for medical assist-
11 ance for counseling and pharmacotherapy for ces-
12 sation of tobacco use by individuals who are eligible
13 under the State plan (as defined in paragraph (1))
14 shall be equal to 90 percent.”.

15 (b) NO COST SHARING.—

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

19 (A) in subparagraph (B), by striking “,
20 and counseling” and all that follows through
21 “section 1905(bb)(2)(A)”;

22 (B) by adjusting the left margins of sub-
23 paragraphs (H) and (I) so as to align with the
24 left margin of subparagraph (G);

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

3 (D) in subparagraph (I), by striking “;
4 and” and inserting “; or”; and

5 (E) by adding at the end the following new
6 subparagraph:

7 “(J) counseling and pharmacotherapy for
8 cessation of tobacco use by individuals who are
9 eligible under the State plan (as defined in sec-
10 tion 1905(bb)) and covered outpatient drugs (as
11 defined in subsection (k)(2) of section 1927 and
12 including nonprescription drugs described in
13 subsection (d)(2) of such section) that are pre-
14 scribed for purposes of promoting tobacco ces-
15 sation in accordance with the guideline specified
16 in section 1905(bb); and”.

17 (2) APPLICATION TO ALTERNATIVE COST SHAR-
18 ING.—Section 1916A(b)(3)(B) of the Social Security
19 Act (42 U.S.C. 1396o–1(b)(3)(B)) is amended—

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

1 (B) by adjusting the left margins of
2 clauses (xii) and (xiii) so as to align with the
3 left margin of clause (xi); and

4 (C) by adding at the end the following new
5 clause:

6 “(xiv) Counseling and
7 pharmacotherapy for cessation of tobacco
8 use by individuals who are eligible under
9 the State plan (as defined in section
10 1905(bb)) and covered outpatient drugs
11 (as defined in subsection (k)(2) of section
12 1927 and including nonprescription drugs
13 described in subsection (d)(2) of such sec-
14 tion) that are prescribed for purposes of
15 promoting tobacco cessation in accordance
16 with the guideline specified in section
17 1905(bb).”

18 (c) EXCEPTION FROM OPTIONAL RESTRICTION
19 UNDER MEDICAID PRESCRIPTION DRUG COVERAGE.—
20 Section 1927(d)(2)(F) of the Social Security Act (42
21 U.S.C. 1396r–8(d)(2)(F)) is amended to read as follows:

22 “(F) Nonprescription drugs, except, when
23 recommended in accordance with the guideline
24 referred to in section 1905(bb), agents ap-

1 proved by the Food and Drug Administration
2 for purposes of promoting tobacco cessation.”.

3 (d) STATE MONITORING AND PROMOTING OF COM-
4 PREHENSIVE TOBACCO CESSATION SERVICES UNDER
5 MEDICAID.—Section 1902(a) of the Social Security Act
6 (42 U.S.C. 1396a) is amended—

7 (1) in paragraph (86), by striking at the end
8 “and”;

9 (2) in paragraph (87), by striking the period at
10 the end and inserting “; and”; and

11 (3) by inserting after paragraph (87) the fol-
12 lowing new paragraph:

13 “(88) provide for the State to monitor and pro-
14 mote the use of comprehensive tobacco cessation
15 services under the State plan (including conducting
16 an outreach campaign to increase awareness of the
17 benefits of using such services) among—

18 “(A) individuals entitled to medical assist-
19 ance under the State plan who use tobacco
20 products; and

21 “(B) clinicians and others who provide
22 services to individuals entitled to medical assist-
23 ance under the State plan.”.

1 (e) FEDERAL REIMBURSEMENT FOR OUTREACH
2 CAMPAIGN.—Section 1903(a) of the Social Security Act
3 (42 U.S.C. 1396b(a)) is amended—

4 (1) in paragraph (7), by striking the period at
5 the end and inserting “; plus”; and

6 (2) by inserting after paragraph (7) the fol-
7 lowing new paragraph:

8 “(8) with respect to the development, imple-
9 mentation, and evaluation of an outreach campaign
10 to—

11 “(A) increase awareness of comprehensive
12 tobacco cessation services covered in the State
13 plan among—

14 “(i) individuals who are likely to be el-
15 igible for medical assistance under the
16 State plan; and

17 “(ii) clinicians and others who provide
18 services to individuals who are likely to be
19 eligible for medical assistance under the
20 State plan; and

21 “(B) increase awareness of the benefits of
22 using comprehensive tobacco cessation services
23 covered in the State plan among—

1 “(i) individuals who are likely to be el-
2 igible for medical assistance under the
3 State plan; and

4 “(ii) clinicians and others who provide
5 services to individuals who are likely to be
6 eligible for medical assistance under the
7 State plan about the benefits of using com-
8 prehensive tobacco cessation services;
9 for calendar quarters occurring during the pe-
10 riod beginning on the date of the enactment of
11 this paragraph and ending on 5 years after the
12 date of enactment of this paragraph, an amount
13 equal to 90 percent of the sums expended dur-
14 ing each quarter which are attributable to such
15 development, implementation, and evaluation,
16 and for calendar quarters succeeding such pe-
17 riod, an amount equal to Federal medical as-
18 sistance percentage determined under section
19 1905(b) of the sums expended during each
20 quarter which are so attributable.”.

21 (f) NO PRIOR AUTHORIZATION FOR TOBACCO CES-
22 SATION DRUGS UNDER MEDICAID.—Section 1927(d) of
23 the Social Security Act (42 U.S.C. 1396r–8(d)) is amend-
24 ed—

1 (1) in paragraph (1)(A), by striking “A State”
2 and inserting “Subject to paragraph (8), a State”;
3 and

4 (2) by adding at the end the following new
5 paragraph:

6 “(8) NO PRIOR AUTHORIZATION PROGRAMS FOR
7 TOBACCO CESSATION DRUGS.—A State plan may not
8 require, as a condition of coverage or payment for
9 a covered outpatient drug, the approval of an agent
10 to promote smoking cessation (including agents ap-
11 proved by the Food and Drug Administration) or to-
12 bacco cessation.”.

13 (g) EXCLUSION OF ENHANCED PAYMENTS FROM
14 TERRITORIAL CAPS.—Notwithstanding any other provi-
15 sion of law, for purposes of section 1108 of the Social Se-
16 curity Act (42 U.S.C. 1308), with respect to any addi-
17 tional amount paid to a territory as a result of the applica-
18 tion of section 1905(bb)(2) of the Social Security Act (42
19 U.S.C. 1396d(bb)(2))—

20 (1) the limitation on payments to territories
21 under subsections (f) and (g) of such section 1108
22 shall not apply to such additional amounts; and

23 (2) such additional amounts shall be dis-
24 regarded in applying such subsections.

1 (h) EFFECTIVE DATE.—The amendments made by
2 this section shall take effect on the first day of the first
3 fiscal year that begins on or after the date of enactment
4 of this Act.

5 **SEC. 3. COVERAGE OF COMPREHENSIVE TOBACCO CES-**
6 **SATION SERVICES IN CHIP.**

7 (a) REQUIRING CHIP COVERAGE OF COUNSELING
8 AND PHARMACOTHERAPY FOR CESSATION OF TOBACCO
9 USE.—

10 (1) IN GENERAL.—Section 2103(c)(2) of the
11 Social Security Act (42 U.S.C. 1397cc(c)(2)) is
12 amended by adding at the end the following new
13 subparagraph:

14 “(D) Counseling and pharmacotherapy for
15 cessation of tobacco use by individuals who are
16 eligible under the State child health plan.”.

17 (2) COUNSELING AND PHARMACOTHERAPY FOR
18 CESSATION OF TOBACCO USE DEFINED.—Section
19 2110(e) of the Social Security Act (42 U.S.C.
20 1397jj(c)) is amended by adding at the end the fol-
21 lowing new paragraph:

22 “(10) COUNSELING AND PHARMACOTHERAPY
23 FOR CESSATION OF TOBACCO USE.—The term ‘coun-
24 seling and pharmacotherapy for cessation of tobacco
25 use’ means diagnostic, therapy, and counseling serv-

1 ices and pharmacotherapy (including the coverage of
2 prescription and nonprescription tobacco cessation
3 agents approved by the Food and Drug Administra-
4 tion) for the cessation of tobacco use by individuals
5 who use tobacco products or who are being treated
6 for tobacco use that are furnished—

7 “(A) by or under the supervision of a phy-
8 sician; or

9 “(B) by any other health care professional
10 who—

11 “(i) is legally authorized to furnish
12 such services under State law (or the State
13 regulatory mechanism provided by State
14 law) of the State in which the services are
15 furnished; and

16 “(ii) is authorized to receive payment
17 for other services under this title or is des-
18 ignated by the Secretary for this purpose;
19 which is recommended in the guideline entitled,
20 ‘Treating Tobacco Use and Dependence: 2008
21 Update: A Clinical Practice Guideline’ pub-
22 lished by the Public Health Service in May
23 2008 (or any subsequent modification of such
24 guideline) or is recommended for the cessation
25 of tobacco use by the U.S. Preventive Services

1 Task Force or any additional intervention ap-
2 proved by the Food and Drug Administration
3 as safe and effective in helping smokers quit.”.

4 (b) NO COST SHARING.—Section 2103(e) of the So-
5 cial Security Act (42 U.S.C. 1397cc(e)) is amended by
6 adding at the end the following new paragraph:

7 “(5) NO COST SHARING ON BENEFITS FOR
8 COUNSELING AND PHARMACOTHERAPY FOR CES-
9 SATION OF TOBACCO USE.—The State child health
10 plan may not impose deductibles, coinsurance, or
11 other cost sharing with respect to benefits for coun-
12 seling and pharmacotherapy for cessation of tobacco
13 use (as defined in section 2110(c)(10)) and prescrip-
14 tion drugs that are covered under a State child
15 health plan that are prescribed for purposes of pro-
16 moting tobacco cessation in accordance with the
17 guideline specified in section 2110(c)(10)(B).”.

18 (c) EXCEPTION FROM OPTIONAL RESTRICTION
19 UNDER CHIP PRESCRIPTION DRUG COVERAGE.—Section
20 2103 of the Social Security Act (42 U.S.C. 1397cc) is
21 amended by adding at the end the following new sub-
22 section:

23 “(g) EXCEPTION FROM OPTIONAL RESTRICTION
24 UNDER CHIP PRESCRIPTION DRUG COVERAGE.—The

1 State child health plan may exclude or otherwise restrict
2 nonprescription drugs, except, in the case of—

3 “(1) pregnant women when recommended in ac-
4 cordance with the guideline specified in section
5 2110(e)(10)(B), agents approved by the Food and
6 Drug Administration for purposes of promoting to-
7 bacco cessation; and

8 “(2) individuals who are eligible under the
9 State child health plan when recommended in ac-
10 cordance with the Guideline referred to in section
11 2110(e)(10)(B), agents approved by the Food and
12 Drug Administration for purposes of promoting to-
13 bacco cessation.”.

14 (d) STATE MONITORING AND PROMOTING OF COM-
15 PREHENSIVE TOBACCO CESSATION SERVICES UNDER
16 CHIP.—Section 2102 of the Social Security Act (42
17 U.S.C. 1397bb) is amended by adding at the end the fol-
18 lowing new subsection:

19 “(d) STATE MONITORING AND PROMOTING OF COM-
20 PREHENSIVE TOBACCO CESSATION SERVICES UNDER
21 CHIP.—A State child health plan shall include a descrip-
22 tion of the procedures to be used by the State to monitor
23 and promote the use of comprehensive tobacco cessation
24 services under the State plan (including conducting an

1 outreach campaign to increase awareness of the benefits
2 of using such services) among—

3 “(1) individuals entitled to medical assistance
4 under the State child health plan who use tobacco
5 products; and

6 “(2) clinicians and others who provide services
7 to individuals entitled to medical assistance under
8 the State child health plan.”.

9 (e) FEDERAL REIMBURSEMENT FOR CHIP COV-
10 ERAGE AND OUTREACH CAMPAIGN.—

11 (1) IN GENERAL.—Section 2105(a) of the So-
12 cial Security Act (42 U.S.C. 1397ee(a)) is amended
13 by adding at the end the following new paragraph:

14 “(5) FEDERAL REIMBURSEMENT FOR CHIP
15 COVERAGE OF COMPREHENSIVE TOBACCO CES-
16 SATION SERVICES AND OUTREACH CAMPAIGN.—In
17 addition to the payments made under paragraph (1)
18 for calendar quarters occurring during the period be-
19 ginning on the date of the enactment of this para-
20 graph and ending on 5 years after the date of enact-
21 ment of this paragraph, the Secretary shall pay—

22 “(A) an amount equal to 90 percent of the
23 sums expended during each quarter which are
24 attributable to the cost of furnishing counseling
25 and pharmacotherapy for cessation of tobacco

1 use by individuals who are eligible under the
2 State child health plan (net of any payments
3 made to the State under paragraph (1) with re-
4 spect to such counseling and pharmacotherapy);
5 plus

6 “(B) an amount equal to 90 percent of the
7 sums expended during each quarter which are
8 attributable to the development, implementa-
9 tion, and evaluation of an outreach campaign
10 to—

11 “(i) increase awareness of comprehen-
12 sive tobacco cessation services covered in
13 the State child health plan among—

14 “(I) individuals who are likely to
15 be eligible for medical assistance
16 under the State child health plan; and

17 “(II) clinicians and others who
18 provide services to individuals who are
19 likely to be eligible for medical assist-
20 ance under the State child health
21 plan; and

22 “(ii) increase awareness of the bene-
23 fits of using comprehensive tobacco ces-
24 sation services covered in the State child
25 health plan among—

1 “(I) individuals who are likely to
2 be eligible for medical assistance
3 under the State child health plan; and

4 “(II) clinicians and others who
5 provide services to individuals who are
6 likely to be eligible for medical assist-
7 ance under the State child health plan
8 about the benefits of using com-
9 prehensive tobacco cessation serv-
10 ices.”.

11 (2) ADJUSTMENT OF CHIP ALLOTMENTS.—Sec-
12 tion 2104(m) of the Social Security Act (42 U.S.C.
13 1397dd(m)) is amended—

14 (A) in paragraph (2)(B), by striking “ and
15 (12)” and inserting “(12), and (13)”; and

16 (B) by adding at the end the following new
17 paragraph:

18 “(13) ADJUSTING ALLOTMENTS TO ACCOUNT
19 FOR FEDERAL PAYMENTS FOR CHIP COVERAGE OF
20 COMPREHENSIVE TOBACCO CESSATION SERVICES
21 AND OUTREACH CAMPAIGN.—If a State (including
22 the District of Columbia and each commonwealth
23 and territory) receives a payment for a fiscal year
24 under section 2105(a)(5), the allotment determined

1 for the State for such fiscal year shall be increased
2 by the amount of such payment.”.

3 (f) NO PRIOR AUTHORIZATION FOR TOBACCO CES-
4 SATION DRUGS UNDER CHIP.—Section 2103 of the So-
5 cial Security Act (42 U.S.C. 1397cc), as amended by sub-
6 section (c), is further amended—

7 (1) in subsection (c)(2)(A), by inserting “(in ac-
8 cordance with subsection (h))” after “Coverage of
9 prescription drugs”; and

10 (2) by adding at the end the following new sub-
11 section:

12 “(h) NO PRIOR AUTHORIZATION PROGRAMS FOR TO-
13 BACCO CESSATION DRUGS.—A State child health plan
14 may not require, as a condition of coverage or payment
15 for a prescription drugs, the approval of an agent to pro-
16 mote smoking cessation (including agents approved by the
17 Food and Drug Administration) or tobacco cessation.”.

18 (g) EFFECTIVE DATE.—The amendments made by
19 this section shall take effect on the first day of the first
20 fiscal year that begins on or after the date of enactment
21 of this Act.

22 **SEC. 4. RULE OF CONSTRUCTION.**

23 None of the amendments made by this Act shall be
24 construed to limit coverage of any counseling or
25 pharmacotherapy for individuals under 18 years of age.