

117TH CONGRESS  
1ST SESSION

# H. R. 2125

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.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 23, 2021

Ms. BLUNT ROCHESTER (for herself, Mr. FITZPATRICK, Ms. DEGETTE, Ms. BARRAGÁN, Ms. WASSERMAN SCHULTZ, Ms. UNDERWOOD, Ms. BASS, Ms. DEAN, Ms. WILD, Mr. TONKO, Mr. VARGAS, Mr. SUOZZI, and Ms. SCANLON) introduced the following bill; which was referred to the Committee on Energy and Commerce

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## 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 “Quit Because of  
5 COVID–19 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.—Section 1905 of the Social Security Act (42  
6 U.S.C. 1396d) is amended—

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

12 (2) by adding at the end the following new sub-  
13 section:

14 “(hh) For purposes of this title, the term ‘counseling  
15 and pharmacotherapy for cessation of tobacco use’ means  
16 diagnostic, therapy, and counseling services and  
17 pharmacotherapy (including the coverage of prescription  
18 and nonprescription tobacco cessation agents approved by  
19 the Food and Drug Administration) for the cessation of  
20 tobacco use by individuals who use tobacco products or  
21 who are being treated for tobacco use that are furnished—

22 (1) by or under the supervision of a physician;  
23 or

24 (2) by any other health care professional  
25 who—

1           “(A) is legally authorized to furnish such  
2           services under State law (or the State regu-  
3           latory mechanism provided by State law) of the  
4           State in which the services are furnished; and

5           “(B) is authorized to receive payment for  
6           other services under this title or is designated  
7           by the Secretary for this purpose;

8           which is recommended in the guideline entitled,  
9           ‘Treating Tobacco Use and Dependence: 2008 Up-  
10          date: A Clinical Practice Guideline’ published by the  
11          Public Health Service in May 2008 (or any subse-  
12          quent modification of such guideline) or is rec-  
13          ommended for the cessation of tobacco use by the  
14          U.S. Preventive Services Task Force or any addi-  
15          tional intervention approved by the Food and Drug  
16          Administration as safe and effective in helping  
17          smokers quit.”.

18          (b) NO COST SHARING.—

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

22                         (A) by repealing subparagraph (B);

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

1 (C) in subparagraph (G), by striking “;  
2 and” and inserting “, or” ; and

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

5 “(H) counseling and pharmacotherapy for  
6 cessation of tobacco use (as defined in section  
7 1905(hh)) 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 tobacco ces-  
12 sation in accordance with the guideline specified  
13 in section 1905(hh); 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—

17 (A) by repealing clause (iii); and

18 (B) by adding at the end the following new  
19 clause:

20 “(xii) Counseling and  
21 pharmacotherapy for cessation of tobacco  
22 use (as defined in section 1905(hh)) and  
23 covered outpatient drugs (as defined in  
24 subsection (k)(2) of section 1927 and in-  
25 cluding nonprescription drugs described in

1 subsection (d)(2) of such section) that are  
2 prescribed for purposes of promoting to-  
3 bacco cessation in accordance with the  
4 guideline specified in section 1905(hh).”.

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

9 “(F) Nonprescription drugs, except, in the  
10 case of individuals who are eligible under the  
11 State plan when recommended in accordance  
12 with the Guideline referred to in section  
13 1905(hh), agents approved by the Food and  
14 Drug Administration under the over-the-counter  
15 monograph process for purposes of promoting  
16 tobacco cessation (as defined in subsection  
17 (hh)).”.

18 (d) STATE MONITORING AND PROMOTING OF COM-  
19 PREHENSIVE TOBACCO CESSATION SERVICES UNDER  
20 MEDICAID.—Section 1902(a) of the Social Security Act  
21 (42 U.S.C. 1396a) is amended—

22 (1) in paragraph (85), by striking at the end  
23 “and”;

24 (2) in paragraph (86), by striking the period at  
25 the end and inserting “; and”; and

1           (3) by inserting after paragraph (86) the fol-  
2           lowing new paragraph:

3           “(87) provide for the State to monitor and pro-  
4           mote the use of comprehensive tobacco cessation  
5           services under the State plan (including conducting  
6           an outreach campaign to increase awareness of the  
7           benefits of using such services) among—

8                   “(A) individuals entitled to medical assist-  
9                   ance under the State plan who use tobacco  
10                  products; and

11                   “(B) clinicians and others who provide  
12                   services to individuals entitled to medical assist-  
13                   ance under the State plan.”.

14           (e) FEDERAL REIMBURSEMENT FOR MEDICAID COV-  
15           ERAGE AND OUTREACH CAMPAIGN.—Section 1903(a) of  
16           the Social Security Act (42 U.S.C. 1396b(a)) is amend-  
17           ed—

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

20                   (2) by inserting after paragraph (7) the fol-  
21                   lowing new paragraphs:

22                   “(8) with respect to counseling and  
23                   pharmacotherapy for cessation of tobacco use by in-  
24                   dividuals who are eligible under the State plan—

1           “(A) for calendar quarters occurring dur-  
2           ing the period beginning on the date of the en-  
3           actment of this paragraph and ending 2 years  
4           after the last day of the emergency period de-  
5           scribed in section 1135(g)(1)(B), an amount  
6           equal to 100 percent of the sums expended dur-  
7           ing each quarter which are attributable to the  
8           cost of furnishing such counseling and  
9           pharmacotherapy; and

10           “(B) for calendar quarters occurring after  
11           the period described in subparagraph (A), an  
12           amount equal to Federal medical assistance  
13           percentage determined under section 1905(b) of  
14           the sums expended during each quarter which  
15           are so attributable; plus

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

19           “(A) increase awareness of comprehensive  
20           tobacco cessation services covered in the State  
21           plan among—

22           “(i) individuals who are likely to be el-  
23           igible for medical assistance under the  
24           State plan; and

1           “(ii) clinicians and others who provide  
2           services to individuals who are likely to be  
3           eligible for medical assistance under the  
4           State plan; and

5           “(B) increase awareness of the benefits of  
6           using comprehensive tobacco cessation services  
7           covered in the State plan among—

8           “(i) individuals who are likely to be el-  
9           igible for medical assistance under the  
10          State plan; and

11          “(ii) clinicians and others who provide  
12          services to individuals who are likely to be  
13          eligible for medical assistance under the  
14          State plan about the benefits of using com-  
15          prehensive tobacco cessation services;

16          for calendar quarters occurring during the pe-  
17          riod beginning on the date of the enactment of  
18          this paragraph and ending on 2 years after the  
19          last day of the emergency period described in  
20          section 1135(g)(1)(B), an amount equal to 100  
21          percent of the sums expended during each quar-  
22          ter which are attributable to such development,  
23          implementation, and evaluation, and for cal-  
24          endar quarters succeeding such period, an  
25          amount equal to Federal medical assistance



1 percentage determined under section 1905(b) of  
2 the sums expended during each quarter which  
3 are so attributable.”.

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

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

11 (2) by adding at the end the following new  
12 paragraph:

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

20 **SEC. 3. COVERAGE OF COMPREHENSIVE TOBACCO CES-**  
21 **SATION SERVICES IN CHIP.**

22 (a) REQUIRING CHIP COVERAGE OF COUNSELING  
23 AND PHARMACOTHERAPY FOR CESSATION OF TOBACCO  
24 USE.—

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

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

8           (2) COUNSELING AND PHARMACOTHERAPY FOR  
9           CESSATION OF TOBACCO USE DEFINED.—Section  
10           2110(e) of the Social Security Act (42 U.S.C.  
11           1397jj(c)) is amended by adding at the end the fol-  
12           lowing new paragraph:

13                     “(10) COUNSELING AND PHARMACOTHERAPY  
14                     FOR CESSATION OF TOBACCO USE.—The term ‘coun-  
15                     seling and pharmacotherapy for cessation of tobacco  
16                     use’ means diagnostic, therapy, and counseling serv-  
17                     ices and pharmacotherapy (including the coverage of  
18                     prescription and nonprescription tobacco cessation  
19                     agents approved by the Food and Drug Administra-  
20                     tion) for the cessation of tobacco use by individuals  
21                     who use tobacco products or who are being treated  
22                     for tobacco use that are furnished—

23                             “(A) by or under the supervision of a phy-  
24                             sician; or

1           “(B) by any other health care professional  
2           who—

3                   “(i) is legally authorized to furnish  
4                   such services under State law (or the State  
5                   regulatory mechanism provided by State  
6                   law) of the State in which the services are  
7                   furnished; and

8                   “(ii) is authorized to receive payment  
9                   for other services under this title or is des-  
10                  ignated by the Secretary for this purpose;  
11                  which is recommended in the guideline entitled,  
12                  ‘Treating Tobacco Use and Dependence: 2008  
13                  Update: A Clinical Practice Guideline’ pub-  
14                  lished by the Public Health Service in May  
15                  2008 (or any subsequent modification of such  
16                  guideline) or is recommended for the cessation  
17                  of tobacco use by the U.S. Preventive Services  
18                  Task Force or any additional intervention ap-  
19                  proved by the Food and Drug Administration  
20                  as safe and effective in helping smokers quit.”.

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

24                   “(5) NO COST SHARING ON BENEFITS FOR  
25                   COUNSELING AND PHARMACOTHERAPY FOR CES-

1        SATION OF TOBACCO USE.—The State child health  
2        plan may not impose deductibles, coinsurance, or  
3        other cost sharing with respect to benefits for coun-  
4        seling and pharmacotherapy for cessation of tobacco  
5        use (as defined in section 2110(c)(10)) and prescrip-  
6        tion drugs that are covered under a State child  
7        health plan that are prescribed for purposes of pro-  
8        moting tobacco cessation in accordance with the  
9        guideline specified in section 2110(c)(10)(B).”.

10        (c) EXCEPTION FROM OPTIONAL RESTRICTION  
11        UNDER CHIP PRESCRIPTION DRUG COVERAGE.—Section  
12        2103 of the Social Security Act (42 U.S.C. 1397ee) is  
13        amended by adding at the end the following new sub-  
14        section:

15        “(g) EXCEPTION FROM OPTIONAL RESTRICTION  
16        UNDER CHIP PRESCRIPTION DRUG COVERAGE.—The  
17        State child health plan may exclude or otherwise restrict  
18        nonprescription drugs, except, in the case of—

19                “(1) pregnant women when recommended in ac-  
20        cordance with the guideline specified in section  
21        2110(c)(10)(B), agents approved by the Food and  
22        Drug Administration under the over-the-counter  
23        monograph process for purposes of promoting to-  
24        bacco cessation; and

1           “(2) individuals who are eligible under the  
2           State child health plan when recommended in ac-  
3           cordance with the Guideline referred to in section  
4           2110(e)(10)(B), agents approved by the Food and  
5           Drug Administration under the over-the-counter  
6           monograph process for purposes of promoting to-  
7           bacco cessation.”.

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

13          “(d) STATE MONITORING AND PROMOTING OF COM-  
14          PREHENSIVE TOBACCO CESSATION SERVICES UNDER  
15          CHIP.—A State child health plan shall include a descrip-  
16          tion of the procedures to be used by the State to monitor  
17          and promote the use of comprehensive tobacco cessation  
18          services under the State plan (including conducting an  
19          outreach campaign to increase awareness of the benefits  
20          of using such services) among—

21                  “(1) individuals entitled to medical assistance  
22                  under the State child health plan who use tobacco  
23                  products; and

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

4           (e) FEDERAL REIMBURSEMENT FOR CHIP COV-  
5 ERAGE AND OUTREACH CAMPAIGN.—Section 2105(a) of  
6 the Social Security Act (42 U.S.C. 1397ee(a)) is amended  
7 by adding at the end the following new paragraph:

8           “(5) FEDERAL REIMBURSEMENT FOR CHIP  
9           COVERAGE OF COMPREHENSIVE TOBACCO CES-  
10 SATION SERVICES AND OUTREACH CAMPAIGN.—In  
11 addition to the payments made under paragraph (1)  
12 for calendar quarters occurring during the period be-  
13 ginning on the date of the enactment of this para-  
14 graph and ending on 2 years after the last day of  
15 the emergency period described in section  
16 1135(g)(1)(B), the Secretary shall pay—

17           “(A) an amount equal to 100 percent of  
18           the sums expended during each quarter which  
19           are attributable to the cost of furnishing coun-  
20           seling and pharmacotherapy for cessation of to-  
21           bacco use by individuals who are eligible under  
22           the State child health plan; plus

23           “(B) an amount equal to 100 percent of  
24           the sums expended during each quarter which  
25           are attributable to the development, implemen-

1 tation, and evaluation of an outreach campaign  
2 to—

3 “(i) increase awareness of comprehen-  
4 sive tobacco cessation services covered in  
5 the State child health plan among—

6 “(I) individuals who are likely to  
7 be eligible for medical assistance  
8 under the State child health plan; and

9 “(II) clinicians and others who  
10 provide services to individuals who are  
11 likely to be eligible for medical assist-  
12 ance under the State child health  
13 plan; and

14 “(ii) increase awareness of the bene-  
15 fits of using comprehensive tobacco ces-  
16 sation services covered in the State child  
17 health plan among—

18 “(I) individuals who are likely to  
19 be eligible for medical assistance  
20 under the State child health plan; and

21 “(II) clinicians and others who  
22 provide services to individuals who are  
23 likely to be eligible for medical assist-  
24 ance under the State child health plan  
25 about the benefits of using com-

1                   prehensive tobacco cessation serv-  
2                   ices.”.

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 **SEC. 4. EXCLUSION OF ENHANCED PAYMENTS FROM TER-**  
19 **RITORIAL CAPS.**

20           Notwithstanding any other provision of law, for pur-  
21 poses of section 1108 of the Social Security Act (42  
22 U.S.C. 1308), with respect to any additional amount paid  
23 to a territory as a result of the application of paragraph  
24 (8) of section 1903(a) or subsection (gg)(3) of section



1 1905 of the Social Security Act (42 U.S.C. 1396b(a),  
2 1396d)—

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

6           (2) such additional amounts shall be dis-  
7           regarded in applying such subsections.

8 **SEC. 5. RULE OF CONSTRUCTION.**

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

○