

118TH CONGRESS
1ST SESSION

H. R. 1385

To amend title XXVII of the Public Health Service Act to improve health care coverage under vision and dental plans, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 7, 2023

Mr. CARTER of Georgia (for himself, Ms. CLARKE of New York, and Mr. SESSIONS) introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To amend title XXVII of the Public Health Service Act to improve health care coverage under vision and dental plans, 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 “Dental and Optometric
5 Care Access Act of 2023” or the “DOC Access Act of
6 2023”.

1 **SEC. 2. IMPROVING HEALTH CARE COVERAGE UNDER VI-**
2 **SION AND DENTAL PLANS.**

3 (a) IN GENERAL.—Title XXVII of the Public Health
4 Service Act is amended by inserting after section 2719A
5 (42 U.S.C. 300gg–19a) the following new section:

6 **“SEC. 2719B. IMPROVING COVERAGE UNDER VISION AND**
7 **DENTAL PLANS.**

8 “(a) IN GENERAL.—Under a group health plan or in-
9 dividual or group health insurance coverage (including
10 such a plan or coverage offering limited scope dental or
11 vision benefits), the following shall apply:

12 “(1) PAYMENT AMOUNTS FROM COVERED PER-
13 SONS.—

14 “(A) IN GENERAL.—The plan or coverage
15 shall provide that, with respect to a doctor of
16 optometry, doctor of dental surgery, or doctor
17 of dental medicine that has an agreement to
18 participate in the plan or coverage and that
19 provides items or services that are not covered
20 services under the plan or coverage to a person
21 enrolled under such plan or coverage, the doctor
22 may charge the enrollee for such items or serv-
23 ices any amount determined by the doctor that
24 is equal to, or less than, the usual and cus-
25 tomary amount that the doctor charges individ-

1 uals who are not so enrolled for such items or
2 services.

3 “(B) ITEMS OR SERVICES CONSIDERED
4 COVERED BY A PLAN.—For purposes of sub-
5 paragraph (A), an item or service shall be con-
6 sidered, with respect to a plan or coverage, to
7 be covered services under the plan or coverage
8 only if the item or service is an item or service
9 with respect to which the plan or coverage is
10 obligated to pay an amount that is reasonable
11 and is not nominal or de minimis.

12 “(C) EXCEPTION FOR DENTAL CLEAN-
13 ING.—For purposes of subparagraph (A), a
14 doctor of dental surgery or doctor of dental
15 medicine that has an agreement to participate
16 in the plan or coverage may charge an enrollee
17 only the contracted network fee for any dental
18 cleaning, including any dental cleaning that ex-
19 ceeds the annual maximum under the enrollee’s
20 plan or coverage.

21 “(2) DURATION OF LIMITED SCOPE VISION AND
22 DENTAL PLANS.—In the case of an agreement be-
23 tween such a doctor and such a plan or coverage
24 that offers limited scope dental or vision benefits—

1 “(A) the agreement may be extended for a
2 term longer than 2 years only with the prior ac-
3 ceptance of the doctor for each such term ex-
4 tension; and

5 “(B) the agreement may be extended for
6 unlimited terms, subject to subparagraph (A).

7 “(3) NO RESTRICTIONS ON CHOICE OF LABORA-
8 TORIES.—The plan or coverage may not, directly or
9 indirectly, restrict or limit, such a doctor’s choice of
10 laboratories or choice of source and suppliers of
11 services or materials provided by the doctor to an in-
12 dividual who is enrolled under the plan or coverage.

13 “(b) NOTIFICATION.—The Secretary shall on an an-
14 nual basis notify each State of the State’s authority to
15 enforce the provisions of subsection (a) against a group
16 health plan or health insurance coverage described in sub-
17 section (a) pursuant to section 2723(a)(1) and request
18 confirmation from the State whether or not the State will
19 enforce the provisions of subsection (a). If a State notifies
20 the Secretary that the State will not enforce the provisions
21 of subsection (a) or fails to respond within 90 days of the
22 Secretary’s request, the Secretary shall treat such State
23 as failing to substantially enforce such provisions for pur-
24 poses of subsections (a)(2) and (b) of section 2723.

1 “(c) RELATIONSHIP TO EXCEPTION FOR LIMITED,
2 EXCEPTED BENEFITS.—Section 2722(c)(1) shall not
3 apply with respect to the requirements of this section.

4 “(d) ELECTION TO BE EXCLUDED.—

5 “(1) IN GENERAL.—If a doctor of optometry,
6 doctor of dental surgery, or doctor of dental medi-
7 cine to which the provisions of paragraphs (1) and
8 (3) of subsection (a) otherwise apply makes an elec-
9 tion under this paragraph (in such form and manner
10 as the Secretary may by regulations prescribe), the
11 requirements of such paragraphs insofar as they
12 apply directly to the plan or coverage shall not apply
13 to such plan or coverage for such period, as de-
14 scribed in paragraph (2).

15 “(2) PERIOD OF ELECTION.—An election under
16 paragraph (1)—

17 “(A) shall apply for a single specified plan
18 year;

19 “(B) may be extended through subsequent
20 elections under this subsection; and

21 “(C) shall not be available with respect to
22 the requirements concerning the duration of
23 limited scope vision and dental plans under sub-
24 section (a)(2).

25 “(e) DEFINITIONS.—In this section:

1 “(1) The term ‘covered services’ means dental
2 care or vision care services for which reimbursement
3 is available under a plan or coverage contract, or for
4 which reimbursement would be available but for the
5 application of contractual limitations, including
6 deductibles, copayments, coinsurance, waiting peri-
7 ods, lifetime maximum, frequency limitations, and
8 alternative benefit payments.

9 “(2) The terms ‘doctor of dental surgery’ and
10 ‘doctor of dental medicine’ mean a doctor of dental
11 surgery or of dental medicine, as applicable, who is
12 legally authorized to practice dentistry by the State
13 in which the doctor performs such function and who
14 is acting within the scope of the license of the doctor
15 when performing such functions.

16 “(3) The term ‘doctor of optometry’ means a
17 doctor of optometry who is legally authorized to
18 practice optometry by the State in which the doctor
19 so practices.”.

20 (b) CONFORMING AMENDMENT.—Section 2722(c)(1)
21 of the Public Health Service Act (42 U.S.C. 300gg–
22 21(c)(1)) is amended by striking “The requirements” and
23 inserting “Subject to section 2719B, the requirements”.

24 (c) EXCLUSIVE APPLICABILITY OF STATE LAW.—
25 Notwithstanding any amendment made by this Act, State

1 law that directly affects any standard or requirement re-
2 lating to health insurance issuers and dental or vision ben-
3 efit plans, shall have exclusive application and the amend-
4 ments made by this Act shall not apply to the extent that
5 such State law conflicts with such amendments. The State
6 shall retain exclusive jurisdiction over health insurance
7 issuers and limited scope dental or vision benefit plans
8 that are directly governed by such State.

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