

111TH CONGRESS
1ST SESSION

H. R. 4140

To provide for an evidence-based strategy for voluntary screening for HIV/AIDS and other common sexually transmitted infections, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 19, 2009

Mr. HASTINGS of Florida (for himself, Mrs. CHRISTENSEN, Ms. CLARKE, Mr. CLEAVER, Mr. CONYERS, Mr. AL GREEN of Texas, Mr. GRIJALVA, Ms. JACKSON-LEE of Texas, Mr. MEEKS of New York, Mr. RANGEL, Ms. ROYBAL-ALLARD, Mr. RUSH, Mr. TOWNS, Ms. WASSERMAN SCHULTZ, Ms. WATERS, Ms. WATSON, and Mr. WEXLER) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committees on Ways and Means, Education and Labor, and Oversight and Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To provide for an evidence-based strategy for voluntary screening for HIV/AIDS and other common sexually transmitted infections, 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 Voluntary Screening for HIV/AIDS and STIs Act of
4 2009”.

5 **SEC. 2. FINDINGS.**

6 Congress finds the following:

7 (1) Over 15,000,000 sexually transmitted infec-
8 tions are reported each year, and 50 percent of sexu-
9 ally active Americans will contract an STI at some
10 point in their lives, the majority of which may be
11 asymptomatic for an extended amount of time.

12 (2) Over 1,000,000 people in the United States
13 are living with HIV, and someone is infected with
14 HIV in the United States every 9.5 minutes.

15 (3) Many common long-term and initially
16 asymptomatic STIs such as chlamydia, gonorrhea,
17 herpes, syphilis, inflammatory pelvic disease, and
18 HIV/AIDS remain undiagnosed, or diagnosed at
19 later stages, leading to increased rates of mortality,
20 morbidity, disability, and transmission.

21 (4) Stigma, culture, language, lack of edu-
22 cation, lack of insurance, limited time, cost and re-
23 sources in medical settings, and an inaccurate per-
24 ception of risk among communities and providers all
25 contribute to insufficient rates of screening for HIV/
26 AIDS and STIs.

1 (5) The Centers for Disease Control and Pre-
2 vention and the United States Preventive Services
3 Task Force recognize screening as an effective pub-
4 lic health tool that allows providers to administer
5 treatment before symptoms develop and implement
6 interventions that will reduce the likelihood of HIV/
7 AIDS and STI transmission and reduce the develop-
8 ment of adverse outcomes.

9 (6) The CDC recommends that voluntary
10 screening for HIV/AIDS be integrated into routine
11 clinical care while preserving patient confidentiality
12 and the right of the patient to decline testing and
13 screening.

14 (7) Nearly 25 percent of persons living with
15 HIV/AIDS are age 50 years or older, and the overall
16 HIV/AIDS population is aging due to life-extending
17 anti-retroviral drugs.

18 (8) Inaccurate perceptions of risk among health
19 care providers and patients, misdiagnosis, ageism,
20 generational mind-sets, and biological factors have
21 contributed to increased rates in transmission and
22 late detection of HIV/AIDS and STIs over the past
23 decade.

24 (9) Although African-Americans account for
25 about 13 percent of the United States population,

1 they account for nearly half of all HIV/AIDS infec-
2 tions and have higher instances of mortality and
3 morbidity for most STIs and HIV/AIDS. Also, Afri-
4 can-American women who have sex with men ac-
5 count for the majority of HIV/AIDS infections
6 among all women in the United States.

7 (10) HIV/AIDS continues to be most prevalent
8 among men who have sex with men. Continued sup-
9 port and increased funding for community-based
10 programs and behavioral interventions that are cul-
11 turally competent are key to reaching MSM, espe-
12 cially young MSM of color.

13 (11) Transgender persons are particularly vul-
14 nerable to contracting HIV/AIDS and STIs due to
15 high rates of survival sex among trans-females, dis-
16 crimination in education, employment, and housing,
17 and the absence of education and prevention meth-
18 ods culturally relevant to the transgender commu-
19 nity.

20 (12) Health care providers must be properly
21 educated to treat groups, such as MSM, transgender
22 persons, African-Americans, and Latinos who are
23 disproportionately affected by HIV/AIDS and other
24 STIs, and also improve interventions for groups that
25 have been historically under-represented in health

1 interventions for STIs, such as women who have sex
2 with women, individuals over the age of 50, Asian
3 and Pacific Islander Americans, Native Americans,
4 and persons living with disabilities.

5 (13) Women living with mobility impairments
6 often lack access to screening for STIs and other
7 women's health services such as pelvic examinations
8 and mammograms due to, among other factors, the
9 lack of provider awareness, experience, and inacces-
10 sible equipment.

11 (14) All individuals engaging in oral, anal, or
12 genital sexual contact must have access to voluntary
13 screening for HIV/AIDS and other STIs. Screening
14 must be confidential, rapid, accurate, and medically
15 appropriate. Screening must be offered regardless of
16 age, race, class, sexual behavior, gender identity, or
17 disability.

18 **SEC. 3. PURPOSE.**

19 The purposes of this Act are as follows:

20 (1) Increase access, quality, and affordability
21 for voluntary and medically appropriate screening
22 for HIV/AIDS and other STIs, including chlamydia,
23 gonorrhea, syphilis, and human papillomavirus, for
24 all persons engaging in various forms of sexual ac-
25 tivity, including oral, genital, or anal sex.

1 (2) Reduce the spread, morbidity, and mortality
2 of HIV/AIDS and other STIs.

3 (3) Reduce the disproportionate incidence of
4 HIV/AIDS and other STIs in certain groups
5 through early detection and treatment and com-
6 prehensive education for health care providers, cen-
7 ters, and communities.

8 (4) Support the execution of other scientifically
9 based interventions that are culturally competent
10 and age appropriate and are proven to reduce the in-
11 cidence of HIV/AIDS and other STIs.

12 **SEC. 4. DEFINITIONS.**

13 In this Act:

14 (1) CDC.—The term “CDC” means the Cen-
15 ters for Disease Control and Prevention.

16 (2) CMS.—The term “CMS” means the Cen-
17 ters for Medicare & Medicaid Services.

18 (3) DIRECTOR.—The term “Director” means
19 the Director of the Centers for Disease Control and
20 Prevention.

21 (4) HIV/AIDS.—The term “HIV/AIDS” means
22 infection with the human immunodeficiency virus
23 and includes acquired immune deficiency syndrome
24 and any condition arising from such syndrome.

1 (5) MSM.—The term “MSM” means men who
2 have sex with men.

3 (6) SECRETARY.—The term “Secretary” means
4 the Secretary of Health and Human Services.

5 (7) STATE.—The term “State” means each of
6 the 50 States, the District of Columbia, the Virgin
7 Islands, Guam, and Puerto Rico.

8 (8) STI.—The term “STI” means a sexually
9 transmitted infection that is recognized by the CDC,
10 including chlamydia, gonorrhea, syphilis, and human
11 papillomavirus.

12 (9) WSW.—The term “WSW” women who
13 have sex with women.

14 **TITLE I—HEALTH CARE**
15 **PROGRAMS**

16 **SEC. 101. MEDICAID.**

17 (a) HIGHER FEDERAL MATCHING PERCENTAGE FOR
18 ROUTINE HIV/AIDS AND STI SCREENING SERVICES.—
19 Section 1903 of the Social Security Act (42 U.S.C. 1396b)
20 is amended—

21 (1) in subsection (a)—

22 (A) by redesignating paragraph (7) as
23 paragraph (8); and

24 (B) by inserting after paragraph (6) the
25 following new paragraph:

1 “(7) an amount equal to 83 percent of the
2 sums expended during such quarter which are at-
3 tributable to the costs of providing routine HIV/
4 AIDS and STI screening services (as defined in sub-
5 section (aa)(1)) if the conditions described in sub-
6 section (aa)(2) are met; plus”; and

7 (2) by adding at the end the following new sub-
8 section:

9 “(aa) ROUTINE HIV/AIDS AND STI SCREENING
10 SERVICES.—

11 “(1) IN GENERAL.—For purposes of this sec-
12 tion, the term ‘routine HIV/AIDS and STI screening
13 services’ means the following:

14 “(A) An HIV/AIDS or STI screening test
15 (and, if such test is reactive, a confirmatory
16 test), including the interpretation of such tests,
17 that is provided as part of medical care in any
18 health care setting (other than an inpatient
19 hospital setting) for an individual who—

20 “(i) is at least 13 years of age, and in
21 the case of a beneficiary who is under 13
22 years of age if the appropriate health care
23 provider reasonably determines that the
24 beneficiary is at risk for infection;

1 “(ii) is not known to the health care
2 provider (directly, through information
3 provided by the individual, or through ac-
4 cess to an electronic medical record) pre-
5 viously ever to have had a positive test for
6 HIV/AIDS or an STI or, subject to para-
7 graph (3), within the previous 6 months to
8 have had any test for HIV/AIDS or an
9 STI; and

10 “(iii) has been informed that such a
11 test will be administered and has not ob-
12 jected to such a test.

13 “(B) Informing an individual so tested of
14 the results of the tests at the time of such ex-
15 amination.

16 “(C) In the case of such an individual who
17 tests positive for HIV/AIDS on the screening
18 and confirmatory tests,

19 “(i) post-test counseling concerning
20 HIV/AIDS at the time, and as part of,
21 such examination; or

22 “(ii) a referral to appropriate medical
23 or mental health services.

24 “(2) CONDITIONS.—For purposes of subsection
25 (a)(7), the conditions of this paragraph, with respect

1 to routine HIV/AIDS or STI screening services, are
2 that—

3 “(A) the payment amount for such services
4 under this title is reasonable and closely ap-
5 proximates the payment amount for such serv-
6 ices under part B of title XVIII;

7 “(B) no cost-sharing is imposed under this
8 title for the provision of such services; and

9 “(C) in the case of a State for which a po-
10 litical subdivision is required to contribute to-
11 wards the non-Federal share of expenditures for
12 routine HIV/AIDS or STI screening services,
13 the increase in the Federal share applicable
14 under subsection (a)(5) to such services is first
15 applied to reduce the contribution (but not
16 below zero) required by such political subdivi-
17 sion.

18 “(3) DEFINITIONS.—For purposes of this sub-
19 section:

20 “(A) HIV/AIDS.—The term ‘HIV/AIDS’
21 means infection with the human immuno-
22 deficiency virus and includes acquired immune
23 deficiency syndrome and any condition arising
24 from such syndrome.

1 “(B) STI.—The term ‘STI’ means a sexu-
2 ally transmitted infection that is recognized by
3 the CDC, including chlamydia, gonorrhea,
4 syphilis, and human papillomavirus.”.

5 (b) CONFORMING AMENDMENTS.—

6 (1) Subparagraphs (E) and (F) of section
7 1919(h)(2) of such Act (42 U.S.C. 1396r(h)(2)) are
8 each amended by striking “1903(a)(7)” and insert-
9 ing “1903(a)(8)”.

10 (2) Paragraphs (1) and (2) of section 1931(h)
11 of such Act (42 U.S.C. 1396u–1(h)) are each
12 amended by striking “1903(a)(7)” and inserting
13 “1903(a)(8)”.

14 (3) Section 1938(d)(4) of such Act (42 U.S.C.
15 1396u–8(d)(4)) is amended by striking
16 “1903(a)(7)” and inserting “1903(a)(8)”.

17 (4) Section 1940(j) of such Act (42 U.S.C.
18 1396w(j)) is amended by striking “paragraph (7)”
19 and inserting “paragraph (8)”.

20 (c) EFFECTIVE DATE.—The amendments made by
21 subsection (a) shall apply to services furnished on or after
22 the date of the enactment of this section.

1 **SEC. 102. SCREENING TESTS FOR MEDICARE BENE-**
2 **FICIARIES.**

3 (a) BROAD APPROACH.—The Administrator of the
4 Centers for Medicare & Medicaid Services should adopt
5 a broad approach in implementing a policy towards vol-
6 untary screening for HIV/AIDS and STIs for all Medicare
7 eligible individuals who are 13 years of age or older.

8 (b) TESTS AND REIMBURSEMENT.—In carrying out
9 such approach, the Administrator of CMS should—

10 (1) give confirmatory tests for HIV/AIDS and
11 STIs to Medicare eligible individuals who are 13
12 years of age or older with reactive results for HIV/
13 AIDS or STIs and provide Medicare reimbursement
14 for such tests; and

15 (2) reimburse Medicare eligible individuals who
16 are 13 years of age or older for blood and rapid oral
17 swab HIV/AIDS tests and STI blood tests.

18 **SEC. 103. VOLUNTARY SCREENING BY FEDERALLY QUALI-**
19 **FIED HEALTH CENTERS.**

20 (a) GRANTS.—The Secretary, acting through the Ad-
21 ministrator of the Health Resources and Services Admin-
22 istration, may award grants to Federally qualified health
23 centers to provide, as part of medical care in a health care
24 setting, voluntary screening for HIV/AIDS and STIs to
25 eligible individuals.

1 (b) SECONDARY PAYOR PROVISION.—A Federally
2 qualified health center that receives a grant under this
3 section may not use funds from such grant to pay for a
4 screening test if payment has been made for such test,
5 or payment can reasonably be expected to be made—

6 (1) under an insurance policy;

7 (2) under a Federal or State health benefits
8 program, including titles XIX and XXI of the Social
9 Security Act; or

10 (3) by an entity that provides health services on
11 a prepaid basis.

12 (c) DEFINITIONS.—In this section:

13 (1) ELIGIBLE INDIVIDUAL.—The term “eligible
14 individual” means an individual who—

15 (A) can give legal consent under the laws
16 of his or her State;

17 (B) has been informed by a healthcare pro-
18 vider that a screening test for HIV/AIDS or
19 STIs will be administered; and

20 (C) has not objected to such test.

21 (2) FEDERALLY QUALIFIED HEALTH CEN-
22 TER.—The term “Federally qualified health center”
23 has the meaning given such term under section
24 1861(aa)(4) of the Social Security Act (42 U.S.C.
25 1395ww).

1 (3) SCREENING.—The term “screening” in-
2 cludes—

3 (A) the interpretation of screening tests;
4 and

5 (B) in the case of a reactive result for an
6 initial screening test for HIV/AIDS or STIs, a
7 confirmatory test.

8 **SEC. 104. COVERAGE FOR ROUTINE HIV/AIDS AND STI**
9 **SCREENING UNDER GROUP HEALTH PLANS.**

10 (a) GROUP HEALTH PLANS.—

11 (1) PUBLIC HEALTH SERVICE ACT AMEND-
12 MENTS.—Subpart 2 of part A of title XXVII of the
13 Public Health Service Act is amended by adding at
14 the end the following new section:

15 **“SEC. 2708. COVERAGE FOR ROUTINE HIV/AIDS AND STI**
16 **SCREENING.**

17 “(a) COVERAGE.—A group health plan, and a health
18 insurance issuer offering group health insurance coverage,
19 shall provide coverage for routine HIV/AIDS and STI
20 screening under terms and conditions that are no less fa-
21 vorable than the terms and conditions applicable to other
22 routine health screenings.

23 “(b) PROHIBITIONS.—A group health plan, and a
24 health insurance issuer offering group health insurance
25 coverage, shall not—

1 “(1) deny to an individual eligibility, or contin-
2 ued eligibility, to enroll or to renew coverage under
3 the terms of the plan, solely for the purpose of
4 avoiding the requirements of this section;

5 “(2) deny coverage for routine HIV/AIDS or
6 STI screening on the basis that there are no known
7 risk factors present, or the screening is not clinically
8 indicated, medically necessary, or pursuant to a re-
9 ferral, consent, or recommendation by any health
10 care provider;

11 “(3) provide monetary payments, rebates, or
12 other benefits to individuals to encourage such indi-
13 viduals to accept less than the minimum protections
14 available under this section;

15 “(4) penalize or otherwise reduce or limit the
16 reimbursement of a provider because such provider
17 provided care to an individual participant or bene-
18 ficiary in accordance with this section;

19 “(5) provide incentives (monetary or otherwise)
20 to a provider to induce such provider to provide care
21 to an individual participant or beneficiary in a man-
22 ner inconsistent with this section; or

23 “(6) deny to an individual participant or bene-
24 ficiary continued eligibility to enroll or to renew cov-
25 erage under the terms of the plan, solely because of

1 the results of an HIV/AIDS or STI test, or other
2 HIV/AIDS and STI screening procedure, for the in-
3 dividual or any other individual.

4 “(c) RULES OF CONSTRUCTION.—Nothing in this
5 section shall be construed—

6 “(1) to require an individual who is a partici-
7 pant or beneficiary to undergo HIV/AIDS or STI
8 screening; or

9 “(2) as preventing a group health plan or issuer
10 from imposing deductibles, coinsurance, or other
11 cost-sharing in relation to HIV/AIDS or STI screen-
12 ing, except that such deductibles, coinsurance or
13 other cost-sharing may not be greater than the
14 deductibles, coinsurance, or other cost-sharing im-
15 posed on other routine health screenings.

16 “(d) NOTICE.—A group health plan under this part
17 shall comply with the notice requirement under section
18 715(d) of the Employee Retirement Income Security Act
19 of 1974 with respect to the requirements of this section
20 as if such section applied to such plan.

21 “(e) PREEMPTION.—Nothing in this section shall be
22 construed to preempt any State law in effect on the date
23 of enactment of this section with respect to health insur-
24 ance coverage that requires coverage of at least the cov-

1 erage of HIV/AIDS or STI screening otherwise required
2 under this section.”.

3 (2) ERISA AMENDMENTS.—The Employee Re-
4 tirement Income Security Act of 1974 is amended as
5 follows:

6 (A) In subpart B of part 7 of subtitle B
7 of title I, by adding at the end the following
8 new section:

9 **“SEC. 715. COVERAGE FOR ROUTINE HIV/AIDS AND STI**
10 **SCREENING.**

11 “(a) COVERAGE.—A group health plan, and a health
12 insurance issuer offering group health insurance coverage,
13 shall provide coverage for routine HIV screening under
14 terms and conditions that are no less favorable than the
15 terms and conditions applicable to other routine health
16 screenings.

17 “(b) PROHIBITIONS.—A group health plan, and a
18 health insurance issuer offering group health insurance
19 coverage, shall not—

20 “(1) deny to an individual eligibility, or contin-
21 ued eligibility, to enroll or to renew coverage under
22 the terms of the plan, solely for the purpose of
23 avoiding the requirements of this section;

24 “(2) deny coverage for routine HIV screening
25 on the basis that there are no known risk factors

1 present, or the screening is not clinically indicated,
2 medically necessary, or pursuant to a referral, con-
3 sent, or recommendation by any health care pro-
4 vider;

5 “(3) provide monetary payments, rebates, or
6 other benefits to individuals to encourage such indi-
7 viduals to accept less than the minimum protections
8 available under this section;

9 “(4) penalize or otherwise reduce or limit the
10 reimbursement of a provider because such provider
11 provided care to an individual participant or bene-
12 ficiary in accordance with this section;

13 “(5) provide incentives (monetary or otherwise)
14 to a provider to induce such provider to provide care
15 to an individual participant or beneficiary in a man-
16 ner inconsistent with this section; or

17 “(6) deny to an individual participant or bene-
18 ficiary continued eligibility to enroll or to renew cov-
19 erage under the terms of the plan, solely because of
20 the results of an HIV test or other HIV screening
21 procedure for the individual or any other individual.

22 “(c) RULES OF CONSTRUCTION.—Nothing in this
23 section shall be construed—

1 “(1) to require an individual who is a partici-
2 pant or beneficiary to undergo HIV/AIDS or STI
3 screening; or

4 “(2) as preventing a group health plan or issuer
5 from imposing deductibles, coinsurance, or other
6 cost-sharing in relation to HIV/AIDS or STI screen-
7 ing, except that such deductibles, coinsurance or
8 other cost-sharing may not be greater than the
9 deductibles, coinsurance, or other cost-sharing im-
10 posed on other routine health screenings.

11 “(d) NOTICE UNDER GROUP HEALTH PLAN.—A
12 group health plan, and a health insurance issuer providing
13 health insurance coverage in connection with a group
14 health plan, shall provide notice to each participant and
15 beneficiary under such plan regarding the coverage re-
16 quired by this section in accordance with regulations pro-
17 mulgated by the Secretary. Such notice shall be in writing
18 and prominently positioned in any literature or cor-
19 respondence made available or distributed by the plan or
20 issuer and shall be transmitted, by whichever is earliest
21 of the following:

22 “(1) In the next mailing made by the plan or
23 issuer to the participant or beneficiary.

24 “(2) As part of any yearly informational packet
25 sent to the participant or beneficiary.

1 “(3) Not later than July 1, 2010.

2 “(e) PREEMPTION; RELATION TO STATE LAWS.—

3 “(1) IN GENERAL.—Nothing in this section
4 shall be construed to preempt any State law in effect
5 on the date of enactment of this section with respect
6 to health insurance coverage that requires coverage
7 of at least the coverage of HIV/AIDS or STI screen-
8 ing otherwise required under this section.

9 “(2) ERISA.—Nothing in this section shall be
10 construed to affect or modify the provisions of sec-
11 tion 514 with respect to group health plans.”.

12 (B) In section 732(a) of such Act (29
13 U.S.C. 1191a(a)), by striking “section 711”
14 and inserting “sections 711 and 715”.

15 (C) In the table of contents in section 1 of
16 such Act, by inserting after the item relating to
17 section 714 the following new item:

“Sec. 715. Coverage for routine HIV/AIDS and STI screening.”.

18 (3) INTERNAL REVENUE CODE AMEND-
19 MENTS.—The Internal Revenue Code of 1986 is
20 amended as follows:

21 (A) In subchapter B of chapter 100, by in-
22 serting after section 9813 the following:

1 **“SEC. 9814. COVERAGE FOR ROUTINE HIV/AIDS AND STI**
2 **SCREENING.**

3 “(a) **COVERAGE.**—A group health plan shall provide
4 coverage for routine HIV/AIDS and STI screening under
5 terms and conditions that are no less favorable than the
6 terms and conditions applicable to other routine health
7 screenings.

8 “(b) **PROHIBITIONS.**—A group health plan shall
9 not—

10 “(1) deny to an individual eligibility, or contin-
11 ued eligibility, to enroll or to renew coverage under
12 the terms of the plan, solely for the purpose of
13 avoiding the requirements of this section;

14 “(2) deny coverage for routine HIV/AIDS or
15 STI screening on the basis that there are no known
16 risk factors present, or the screening is not clinically
17 indicated, medically necessary, or pursuant to a re-
18 ferral, consent, or recommendation by any health
19 care provider;

20 “(3) provide monetary payments, rebates, or
21 other benefits to individuals to encourage such indi-
22 viduals to accept less than the minimum protections
23 available under this section;

24 “(4) penalize or otherwise reduce or limit the
25 reimbursement of a provider because such provider

1 provided care to an individual participant or bene-
2 ficiary in accordance with this section;

3 “(5) provide incentives (monetary or otherwise)
4 to a provider to induce such provider to provide care
5 to an individual participant or beneficiary in a man-
6 ner inconsistent with this section; or

7 “(6) deny to an individual participant or bene-
8 ficiary continued eligibility to enroll or to renew cov-
9 erage under the terms of the plan, solely because of
10 the results of an HIV/AIDS or STI test, or other
11 HIV/AIDS and STI screening procedure, for the in-
12 dividual or any other individual.

13 “(c) RULES OF CONSTRUCTION.—Nothing in this
14 section shall be construed—

15 “(1) to require an individual who is a partici-
16 pant or beneficiary to undergo HIV/AIDS or STI
17 screening; or

18 “(2) as preventing a group health plan or issuer
19 from imposing deductibles, coinsurance, or other
20 cost-sharing in relation to HIV/AIDS or STI screen-
21 ing, except that such deductibles, coinsurance or
22 other cost-sharing may not be greater than the
23 deductibles, coinsurance, or other cost-sharing im-
24 posed on other routine health screenings.”.

1 (B) In the table of contents for such sub-
2 chapter, by inserting after the item relating to
3 section 9813 the following new item:

“Sec. 9814. Coverage for HIV/AIDS and STI screening.”.

4 (C) In section 4980D(d)(1), by striking
5 “section 9811” and inserting “sections 9811
6 and 9814”.

7 (b) APPLICATION TO INDIVIDUAL HEALTH INSUR-
8 ANCE COVERAGE.—

9 (1) Part B of title XXVII of the Public Health
10 Service Act is amended by inserting after section
11 2753 the following new section:

12 **“SEC. 2754. COVERAGE FOR ROUTINE HIV/AIDS AND STI**
13 **SCREENING.**

14 “(a) IN GENERAL.—The provisions of section 2708
15 (other than subsection (d)) shall apply to health insurance
16 coverage offered by a health insurance issuer in the indi-
17 vidual market in the same manner as it applies to health
18 insurance coverage offered by a health insurance issuer
19 in connection with a group health plan in the small or
20 large group market.

21 “(b) NOTICE.—A health insurance issuer under this
22 part shall comply with the notice requirement under sec-
23 tion 715(d) of the Employee Retirement Income Security
24 Act of 1974 with respect to the requirements referred to

1 in subsection (a) as if such section applied to such issuer
2 and such issuer were a group health plan.”.

3 (2) Section 2762(b)(2) of such Act (42 U.S.C.
4 300gg-62(b)(2)) is amended by striking “section
5 2751” and inserting “sections 2751 and 2754”.

6 (c) APPLICATION UNDER FEDERAL EMPLOYEES
7 HEALTH BENEFITS PROGRAM.—Section 8902 of title 5,
8 United States Code, is amended by adding at the end the
9 following new subsection:

10 “(p) A contract may not be made or a plan approved
11 which does not comply with the requirements of section
12 2708 of the Public Health Service Act.”.

13 (d) EFFECTIVE DATES.—The amendments made—

14 (1) by subsections (a) and (c) of this section
15 apply with respect to group health plans and health
16 benefit plans for plan years beginning on or after
17 July 1, 2010; and

18 (2) by subsection (b) of this section shall apply
19 with respect to health insurance coverage offered,
20 sold, issued, renewed, in effect, or operated in the
21 individual market on or after January 1, 2010.

22 (e) COORDINATION OF ADMINISTRATION.—The Sec-
23 retary of Labor, the Secretary of Health and Human Serv-
24 ices, and the Secretary of the Treasury shall ensure,

1 through the execution of an interagency memorandum of
2 understanding among such Secretaries, that—

3 (1) regulations, rulings, and interpretations
4 issued by such Secretaries relating to the same mat-
5 ter over which two or more such Secretaries have re-
6 sponsibility under the provisions of this section (and
7 the amendments made thereby) are administered so
8 as to have the same effect at all times; and

9 (2) coordination of policies relating to enforcing
10 the same requirements through such Secretaries in
11 order to have a coordinated enforcement strategy
12 that avoids duplication of enforcement efforts and
13 assigns priorities in enforcement.

14 **SEC. 105. OPTIONAL MEDICAID COVERAGE OF LOW-INCOME**
15 **HIV/AIDS INFECTED INDIVIDUALS.**

16 (a) IN GENERAL.—Section 1902 of the Social Secu-
17 rity Act (42 U.S.C. 1396a) is amended—

18 (1) in subsection (a)(10)(A)(ii)—

19 (A) by striking “or” at the end of sub-
20 clause (XVIII);

21 (B) by adding “or” at the end of subclause
22 (XIX); and

23 (C) by adding at the end the following:

1 “(XX) who are described in sub-
2 section (gg) (relating to HIV/AIDS
3 infected individuals);” and

4 (2) by adding at the end the following:

5 “(gg) individuals described in this subsection are in-
6 dividuals not described in subsection (a)(10)(A)(i)—

7 “(1) who have HIV/AIDS infection, as defined
8 under section 1903(aa);

9 “(2) whose income (as determined under the
10 State plan under this title with respect to disabled
11 individuals) does not exceed the maximum amount
12 of income a disabled individual described in sub-
13 section (a)(10)(A)(i) may have and obtain medical
14 assistance under the plan; and

15 “(3) whose resources (as determined under the
16 State plan under this title with respect to disabled
17 individuals) do not exceed the maximum amount of
18 resources a disabled individual described in sub-
19 section (a)(10)(A)(i) may have and obtain medical
20 assistance under the plan.”.

21 (b) ENHANCED MATCH.—The first sentence of sec-
22 tion 1905(b) of the Social Security Act (42 U.S.C.
23 1396d(b)) is amended by striking “section
24 1902(a)(10)(A)(ii)(XVIII)” and inserting “subclause
25 (XVIII) or (XX) of section 1902(a)(10)(A)(ii)”.

1 (c) CONFORMING AMENDMENTS.—Section 1905(a) of
2 the Social Security Act (42 U.S.C. 1396d(a)) is amended
3 in the matter preceding paragraph (1)—

4 (1) by striking “or” at the end of clause (xii);

5 (2) by adding “or” at the end of clause (xiii);

6 and

7 (3) by inserting after clause (xiii) the following:

8 “(xiv) individuals described in section
9 1902(gg);”.

10 (d) EXEMPTION FROM FUNDING LIMITATION FOR
11 TERRITORIES.—Section 1108(g) of the Social Security
12 Act (42 U.S.C. 1308(g)) is amended by adding at the end
13 the following:

14 “(5) DISREGARDING MEDICAL ASSISTANCE FOR
15 OPTIONAL LOW-INCOME HIV/AIDS INFECTED INDI-
16 VIDUALS.—The limitations under subsection (f) and
17 the previous provisions of this subsection shall not
18 apply to amounts expended for medical assistance
19 for individuals described in section 1902(gg) who are
20 only eligible for such assistance on the basis of sec-
21 tion 1902(a)(10)(A)(ii)(XX).”.

22 (e) EFFECTIVE DATE.—The amendments made by
23 this section shall apply to calendar quarters beginning on
24 or after the date of the enactment of this section, without

1 regard to whether or not final regulations to carry out
2 such amendments have been promulgated by such date.

3 **TITLE II—INCREASED DATA COL-**
4 **LECTION AND EDUCATION**
5 **FOR HISTORICALLY UNDER-**
6 **REPRESENTED POPULATIONS**

7 **SEC. 201. PEOPLE LIVING WITH DISABILITIES.**

8 (a) TRACKING OF INFORMATION.—The Director
9 shall—

10 (1) track national HIV/AIDS and STI screen-
11 ing trends and the burdens of HIV/AIDS and STIs
12 among people with disabilities, including such per-
13 sons with mental, physical, cognitive, intellectual, or
14 developmental disabilities; and

15 (2) identify and assess the barriers that prevent
16 such persons from accessing HIV/AIDS and STI
17 screening.

18 (b) TRACKING METHODOLOGY.—

19 (1) IN GENERAL.—The tracking methods used
20 by the Secretary under subsection (a) shall—

21 (A) focus upon historically under-rep-
22 resented communities, including the deaf and
23 hearing loss-related community and the cog-
24 nitive, intellectual, developmental, mobility, or
25 mental health disability communities; and

1 (B) consider other factors that may con-
2 tribute to increased burdens of HIV/AIDS and
3 STIs, including race, socio-economic status, re-
4 gion, gender identity, and sexual behavior.

5 (2) SEXUAL ASSAULT DATA.—Tracking under
6 subsection (a) shall include data collection on the in-
7 cidence of sexual assault on people with mental,
8 physical, cognitive, intellectual, or developmental dis-
9 abilities for the purposes of understanding the prev-
10 alence of HIV/AIDS and STIs that result from such
11 assaults.

12 (c) DEAF AND HEARING LOSS COMMUNITY.—

13 (1) IN GENERAL.—The Secretary, acting
14 through the Director, shall work with appropriate
15 organizations and institutions to make comprehen-
16 sive sex education materials that promote voluntary
17 screening for HIV/AIDS and STIs accessible to the
18 deaf and hearing loss community through language
19 (including American Sign Language), modalities (in-
20 cluding highly graphic formats with minimal text),
21 and culturally appropriate information delivery.

22 (2) HEALTH CAREERS AND EDUCATION.—The
23 Secretary shall—

24 (A) work with appropriate individuals, or-
25 ganizations, and institutions to increase the

1 number of people who are deaf or living with
2 hearing loss in public health careers for the
3 purposes of—

4 (i) building the public health infra-
5 structure to improve data collection; and

6 (ii) health information dissemination
7 to people who are deaf or who live with
8 hearing loss; and

9 (B) engage students in elementary school,
10 high school, college, and graduate school for the
11 purposes of carrying out this paragraph.

12 (d) COGNITIVE AND INTELLECTUAL DISABILITY
13 COMMUNITY.—The Secretary, acting through the Direc-
14 tor, shall work with appropriate national and local organi-
15 zations to make comprehensive sex education materials ac-
16 cessible to people with intellectual disabilities by—

17 (1) using plain language;

18 (2) educating service providers about the signs
19 and symptoms of sexual assault among people with
20 cognitive and intellectual disabilities; and

21 (3) using other appropriate information delivery
22 strategies.

23 (e) WOMEN LIVING WITH SEVERE PHYSICAL DIS-
24 ABILITIES.—The Secretary, acting through the Director,
25 shall work with Federal, State, and local entities to track

1 access to pelvic examinations, mammograms, and other
2 women’s health services for women with severe mobility
3 impairments with the goal of improving access to such
4 services.

5 **SEC. 202. WOMEN WHO HAVE SEX WITH WOMEN.**

6 (a) NATIONAL SCREENING GUIDELINES.—The Sec-
7 retary, acting through the Director, shall work with Fed-
8 eral, State, and local health entities to ensure that na-
9 tional screening guidelines for cervical cancer state that
10 WSW should be subject to the same screening guidelines
11 for cervical cancer as women who have sex only with men.

12 (b) INFORMATION COLLECTION.—The Secretary, act-
13 ing through the Director, shall, with respect to the WSW
14 community—

15 (1) track national trends in screening for HIV/
16 AIDS and other STIs; and

17 (2) collect information on—

18 (A) the burdens and behavior of HIV/
19 AIDS and STIs; and

20 (B) other reproductive health concerns.

21 **SEC. 203. TRANSGENDER COMMUNITY.**

22 (a) DATA COLLECTION.—The Secretary, acting
23 through the Director, shall work with Federal, State, and
24 local health entities and transgender communities to im-
25 prove information collection concerning the transmission,

1 morbidity, and screening for HIV/AIDS and other STIs
2 in transgender communities.

3 (b) INFORMATION CLASSIFICATION.—For purposes
4 of acquiring a comprehensive understanding of the unique
5 health trends among, and aspects of, the transgender com-
6 munity, the Secretary shall promulgate regulations requir-
7 ing that, for purposes of public health studies requiring
8 data collection, the fact that an individual is transgender
9 shall be a distinct category and data point.

10 **SEC. 204. REPORT.**

11 (a) IN GENERAL.—Not later than 3 years after the
12 date of the enactment of this Act, the Secretary shall sub-
13 mit a report to Congress on the activities required under
14 this Act.

15 (b) CONTENTS.—The report issued to Congress
16 under subsection (a) shall include—

17 (1) information on the success of voluntary
18 screening for HIV/AIDS, STIs, and other preventa-
19 tive methods geared toward Medicaid and Medicare
20 beneficiaries, patients at Federally qualified health
21 centers, individuals with health insurance, MSM,
22 WSW, persons living with disabilities, the
23 transgender community, and other groups that have
24 been historically underrepresented in public health
25 interventions for HIV/AIDS and STIs; and

1 (2) recommendations on how to improve exist-
2 ing measures with respect to race, socioeconomic
3 status, region, gender identity, disability, age, and
4 sexual behavior—

5 (A) to increase access to screening; and

6 (B) to decrease the disparities in mortality
7 and morbidity from STIs.

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