

118TH CONGRESS  
1ST SESSION

# H. R. 5506

To amend titles XVIII and XIX of the Social Security Act and title 10, United States Code, to provide no-cost coverage for the preventive distribution of opioid overdose reversal drugs.

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## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 14, 2023

Ms. PETTERSEN (for herself, Ms. SCHRIER, and Ms. BUDZINSKI) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committees on Ways and Means, and Armed Services, 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

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## A BILL

To amend titles XVIII and XIX of the Social Security Act and title 10, United States Code, to provide no-cost coverage for the preventive distribution of opioid overdose reversal drugs.

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 “Hospitals As Naloxone  
5 Distribution Sites Act” or the “HANDS Act”.

1 **SEC. 2. FINDINGS.**

2 Congress finds the following:

3 (1) Opioid use disorder is a treatable brain dis-  
4 ease from which people can recover.

5 (2) Individuals living with opioid use disorder,  
6 those who use opioids for chronic pain, and those  
7 who use illicit substances that may be contaminated  
8 with fentanyl or other illicit additives are at high  
9 risk for fatal overdose.

10 (3) Individuals at-risk of overdose are fre-  
11 quently cared for in emergency departments and  
12 hospitals, making these locations ideal places to  
13 screen and intervene. In addition, medical providers  
14 have the knowledge and ability to provide medically  
15 accurate information, but also treat the disease of  
16 addiction once a person is ready for treatment.

17 (4) Overdose deaths are preventable with life-  
18 saving opioid overdose reversal medications like  
19 naloxone. Two-thirds of fatal overdoses have a wit-  
20 ness, who can intervene and prevent overdose death  
21 if they have access to opioid antagonists.

22 (5) Just as individuals with life-threatening al-  
23 lergies should carry an EpiPen, individuals and close  
24 contacts of those with opioid use disorder should  
25 carry an opioid overdose reversal medication.

1           (6) While over the counter (OTC) access to re-  
2           versal agents may increase their availability to cer-  
3           tain populations, the hurdles to access these medica-  
4           tions for many of the most at-risk patients will still  
5           remain. These hurdles include out of pocket costs,  
6           transportation or access to pharmacies or other  
7           areas carrying OTC naloxone, stigma by pharmacy  
8           staff, addiction-related compromised executive func-  
9           tion, and more. Therefore, hospitals are uniquely po-  
10          sitioned as a point of distribution to best serve those  
11          who would most benefit.

12          (7) It is the intent of Congress to increase ac-  
13          cess for all individuals with opioid use disorder, and  
14          other risk factors, to opioid overdose reversal medi-  
15          cation so that if they experience an overdose, they  
16          will have a second chance. As long as there is  
17          breath, there is hope for recovery.

18 **SEC. 3. NO-COST COVERAGE OF PREVENTIVE OPIOID OVER-**

19 **DOSE REVERSAL DRUGS.**

20 (a) COVERAGE UNDER MEDICARE.—

21           (1) COVERAGE.—Section 1861(s)(2) of the So-  
22           cial Security Act (42 U.S.C. 1395x(s)(2)) is amend-  
23           ed—

24                   (A) in subparagraph (JJ), by adding  
25                   “and” after the semicolon at the end; and

1 (B) by adding at the end the following new  
2 subparagraph:

3 “(KK) a preventive opioid overdose rever-  
4 sal drug (as defined in subsection (nnn)) fur-  
5 nished on or after January 1, 2024;”.

6 (2) PREVENTIVE OPIOID OVERDOSE REVERSAL  
7 DRUG DEFINED.—Section 1861 of the Social Secu-  
8 rity Act (42 U.S.C. 1395x) is amended by adding at  
9 the end the following new subsection:

10 “(nnn) PREVENTIVE OPIOID OVERDOSE REVERSAL  
11 DRUG.—The term ‘preventive opioid overdose reversal  
12 drug’ means an opioid overdose reversal drug that is fur-  
13 nished by a physician, nurse practitioner, physician assist-  
14 ant, or other attending clinical personnel (as determined  
15 by the Secretary by regulation) to an individual who is  
16 an inpatient of a hospital, critical access hospital, or rural  
17 emergency hospital, or is a patient of the emergency de-  
18 partment of such a hospital or an ambulatory surgical cen-  
19 ter, but only if—

20 “(1) such physician, nurse practitioner, physi-  
21 cian assistant, or attending clinical professional de-  
22 termines that such individual is at risk for an opioid  
23 overdose; and

24 “(2) such drug is furnished at the time such in-  
25 dividual is discharged from the hospital or leaves the

1 emergency department or ambulatory surgical cen-  
2 ter, as the case may be, together with instructions  
3 for the administration of such drug.”.

4 (3) PROHIBITION OF COST SHARING.—Section  
5 1833 of the Social Security Act (42 U.S.C. 1395l)  
6 is amended—

7 (A) in subsection (a)(1)—

8 (i) in subparagraph (S)(i), by striking  
9 “subparagraph (EE),” and inserting “sub-  
10 paragraphs (EE) and (II),”;

11 (ii) in subparagraph (GG), by striking  
12 “and” at the end; and

13 (iii) by inserting “, and (II) with re-  
14 spect to a preventive opioid overdose rever-  
15 sal drug (as defined in section 1861(nnn))  
16 furnished on or after January 1, 2024, the  
17 amounts paid shall be 100 percent of the  
18 lesser of the actual charges for such drug  
19 or the amount determined under section  
20 1842(o)” before the semicolon at the end;  
21 and

22 (B) in subsection (b)—

23 (i) by striking “, and (13)” and in-  
24 serting “(13)”; and

1           (ii) by striking “section 1861(n).”  
2           and inserting “section 1861(n), and (14)  
3           such deductible shall not apply with re-  
4           spect to a preventive opioid reversal drug  
5           (as defined in section 1861(nnn)) fur-  
6           nished on or after January 1, 2024.”.

7           (4) PROHIBITION OF COST SHARING FOR MEDI-  
8           CARE ADVANTAGE PLANS.—Section 1852(a)(1)(B) of  
9           the Social Security Act (42 U.S.C. 1395w-  
10          22(a)(1)(B)) is amended—

11           (A) in clause (iv)—

12           (i) by redesignating subclause (VIII)  
13           as subclause (IX); and

14           (ii) by inserting after subclause (VII)  
15           the following new subclause:

16           “(VIII) A preventive opioid rever-  
17           sal drug (as defined in section  
18           1861(nnn)).”; and

19           (B) in clause (v), by striking “and (VI)”  
20           and inserting “(VI), and (VIII)”.

21          (b) COVERAGE UNDER MEDICAID.—

22           (1) MANDATORY COVERAGE.—

23           (A) IN GENERAL.—Section 1902(a)(10)(A)  
24           of the Social Security Act (42 U.S.C.

1           1396a(a)(10)(A)) is amended by striking “and  
2           (30)” and inserting “(30), and (31)”.

3                   (B) ALTERNATIVE BENEFIT PLANS.—Sec-  
4           tion 1937(b) of the Social Security Act (42  
5           U.S.C. 1396u-7(b)) is amended by adding at  
6           the end the following new paragraph:

7           “(9) PREVENTIVE OPIOID OVERDOSE REVERSAL  
8           DRUGS.—Notwithstanding the previous provisions of  
9           this section, a State may not provide for medical as-  
10          sistance through enrollment of an individual with  
11          benchmark coverage or benchmark-equivalent cov-  
12          erage under this section unless, beginning on Janu-  
13          ary 1, 2024, such coverage includes (and does not  
14          impose any deduction, cost sharing, or similar  
15          charge for) preventive opioid overdose reversal drugs  
16          described in section 1861(nnn)).”.

17                   (2) INCLUSION IN MEDICAL ASSISTANCE.—

18                   (A) IN GENERAL.—Section 1905(a) of the  
19          Social Security Act (42 U.S.C. 1396d(a)) is  
20          amended—

21                   (i) in paragraph (30), by striking  
22                   “and” at the end;

23                   (ii) by redesignating paragraph (31)  
24                   as paragraph (32); and

1 (iii) by inserting after paragraph (30)  
2 the following new paragraph:

3 “(31) beginning January 1, 2024, preventive  
4 opioid overdose reversal drugs described in section  
5 1861(nnn); and”.

6 (3) APPLICATION OF REBATE REQUIRE-  
7 MENTS.—Section 1927 of the Social Security Act  
8 (42 U.S.C. 1396r–8) is amended—

9 (A) in subsection (d)(7), by adding at the  
10 end the following new subparagraph:

11 “(F) Preventive opioid overdose reversal  
12 drugs described in section 1861(nnn) that are  
13 furnished as medical assistance in accordance  
14 with section 1905(a)(31) and section  
15 1902(a)(10)(A).”; and

16 (B) in subsection (k)(4)—

17 (i) by striking “If a State plan” and  
18 inserting:

19 “(A) IN GENERAL.—If a State plan”; and

20 (ii) by adding at the end the following  
21 new subparagraph:

22 “(B) PREVENTIVE OPIOID OVERDOSE RE-  
23 VERSAL DRUGS.—Beginning January 1, 2024,  
24 in applying paragraph (2)(A) to a preventive  
25 opioid overdose reversal drug described in sec-



1           tion 1861(nnn), such drug shall be deemed a  
2           prescribed drug for purposes of section  
3           1905(a)(12).”.

4           (4) PROHIBITION OF COST SHARING.—

5                   (A) IN GENERAL.—Section 1916 of the So-  
6           cial Security Act (42 U.S.C. 1396o) is amend-  
7           ed—

8                           (i) in subsection (a)(2)—

9                                   (I) in subparagraph (I), by strik-  
10                                   ing “or” at the end;

11                                   (II) in subparagraph (J), by  
12                                   striking “; and” at the end and in-  
13                                   serting “, or”; and

14                                   (III) by adding at the end the  
15                                   following new subparagraph:

16                                   “(K) beginning January 1, 2024, preven-  
17                                   tive opioid overdose reversal drugs described in  
18                                   section 1861(nnn); and”; and

19                           (ii) in subsection (b)(2)—

20                                   (I) in subparagraph (I), by strik-  
21                                   ing “or” at the end;

22                                   (II) in subparagraph (J), by  
23                                   striking “; and” at the end and in-  
24                                   serting “, or”; and

1 (III) by adding at the end the  
2 following new subparagraph:

3 “(K) beginning January 1, 2024, preven-  
4 tive opioid overdose reversal drugs described in  
5 section 1861(nnn); and”.

6 (B) APPLICATION TO ALTERNATIVE COST  
7 SHARING.—Section 1916A(b)(3)(B) of the So-  
8 cial Security Act (42 U.S.C. 1396o–1(b)(3)(B))  
9 is amended by adding at the end the following  
10 new clause:

11 “(xv) Beginning January 1, 2024,  
12 preventive opioid overdose reversal drugs  
13 described in section 1861(nnn).”.

14 (c) COVERAGE UNDER TRICARE.—Section 1074g  
15 of title 10, United States Code, is amended as follows:

16 (1) In subsection (a)(6), by adding at the end  
17 the following new subparagraph:

18 “(D) Notwithstanding subparagraphs (A) through  
19 (C), beginning on January 1, 2024, an eligible covered  
20 beneficiary shall not be required to pay a cost-sharing  
21 amount for a preventive opioid overdose reversal drug.”.

22 (2) In subsection (i), by adding at the end the  
23 following new paragraph:

24 “(5) The term ‘preventive opioid overdose rever-  
25 sal drug’ has the meaning given such term in section

1 1861 of the Social Security Act (42 U.S.C.  
2 1395x).”.

3 **SEC. 4. REGULATORY GUIDANCE.**

4 Not later than 1 year after the date of the enactment  
5 of this Act, the Commissioner of Food and Drugs shall  
6 issue guidance for State boards of pharmacy, nursing, and  
7 medicine with respect to—

8 (1) enhancing safe and effective hospital-based  
9 dispensing and distribution of opioid overdose rever-  
10 sal drugs; and

11 (2) eliminating barriers to such dispensing and  
12 distribution.

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