

119TH CONGRESS
1ST SESSION

S. _____

To amend title XXVII of the Public Health Service Act, the Internal Revenue Code of 1986, and the Employee Retirement Income Security Act of 1974 to reduce patient cost-sharing for prescription drug inhaler products used to treat breathing disorders such as asthma and chronic obstructive pulmonary disease, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Ms. ALSOBROOKS introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To amend title XXVII of the Public Health Service Act, the Internal Revenue Code of 1986, and the Employee Retirement Income Security Act of 1974 to reduce patient cost-sharing for prescription drug inhaler products used to treat breathing disorders such as asthma and chronic obstructive pulmonary disease, 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 “Affordable Inhalers
5 and Nebulizers Act of 2025”.

1 **SEC. 2. REDUCING PATIENT COST-SHARING FOR PRESCRIP-**
2 **TION DRUG INHALER PRODUCTS USED TO**
3 **TREAT BREATHING DISORDERS SUCH AS**
4 **ASTHMA AND CHRONIC OBSTRUCTIVE PUL-**
5 **MONARY DISEASE.**

6 (a) COVERAGE AND COST-SHARING REQUIRE-
7 MENTS.—

8 (1) PRIVATE INSURANCE.—

9 (A) PHSA.—Part D of title XXVII of the
10 Public Health Service Act (42 U.S.C. 300gg–
11 111 et seq.) is amended by adding at the end
12 the following new section:

13 **“SEC. 2799A–11. COVERAGE AND COST-SHARING REQUIRE-**
14 **MENTS FOR SPECIFIED INHALER PRODUCTS.**

15 “(a) IN GENERAL.—A group health plan, and a
16 health insurance issuer offering group or individual health
17 insurance coverage, shall provide benefits under such plan
18 or coverage (as applicable) for all specified inhaler prod-
19 ucts and, with respect to such a product, may not—

20 “(1) apply any deductible; or

21 “(2) impose any cost-sharing requirement in ex-
22 cess of \$15 per 30-day supply of such product.

23 “(b) COUNTING COST SHARING TOWARDS DEDUCT-
24 IBLE AND OUT-OF-POCKET MAXIMUM.—A group health
25 plan, and a health insurance issuer offering group or indi-
26 vidual health insurance coverage, shall count any cost-

1 sharing requirement described in subsection (a)(2) in-
2 curred by a participant, beneficiary, or enrollee of such
3 plan or coverage with respect to a specified inhaler product
4 towards any out-of-pocket maximum and any deductible
5 that, but for application of subsection (a), would have ap-
6 plied to such participant, beneficiary, or enrollee with re-
7 spect to such product.

8 “(c) SPECIFIED INHALER PRODUCT DEFINED.—For
9 purposes of this section, the term ‘specified inhaler prod-
10 uct’ means any maintenance or reliever or rescue inhala-
11 tion drug (including inhalation aerosols, metered dose in-
12 halers, dry powder inhalers, inhalation solutions, broncho-
13 dilators, and corticosteroids) with a medically accepted in-
14 dication (as defined in section 1927(k)(6) of the Social
15 Security Act) for the treatment for lung diseases such as
16 asthma and chronic obstructive pulmonary disease. Such
17 term includes any equipment used in the administration
18 of such drug (such as masks and tubing, spacers,
19 nebulizers, and valve-holding chambers).”.

20 (B) IRC.—

21 (i) IN GENERAL.—Subchapter B of
22 chapter 100 of the Internal Revenue Code
23 of 1986 is amended by adding at the end
24 the following new section:

1 **“SEC. 9826. COVERAGE AND COST-SHARING REQUIRE-**
2 **MENTS FOR SPECIFIED INHALER PRODUCTS.**

3 “(a) IN GENERAL.—A group health plan shall pro-
4 vide benefits under such plan for all specified inhaler prod-
5 ucts and, with respect to such a product, may not—

6 “(1) apply any deductible; or

7 “(2) impose any cost-sharing requirement in ex-
8 cess of \$15 per 30-day supply of such product.

9 “(b) COUNTING COST SHARING TOWARDS DEDUCT-
10 IBLE AND OUT-OF-POCKET MAXIMUM.—A group health
11 plan shall count any cost-sharing requirement described
12 in subsection (a)(2) incurred by a participant or bene-
13 ficiary of such plan with respect to a specified inhaler
14 product towards any out-of-pocket maximum and any de-
15 ductible that, but for application of subsection (a), would
16 have applied to such participant or beneficiary with re-
17 spect to such product.

18 “(c) SPECIFIED INHALER PRODUCT DEFINED.—For
19 purposes of this section, the term ‘specified inhaler prod-
20 uct’ means any maintenance or reliever or rescue inhala-
21 tion drug (including inhalation aerosols, metered dose in-
22 halers, dry powder inhalers, inhalation solutions,
23 bronchodilators, and corticosteroids) with a medically ac-
24 cepted indication (as defined in section 1927(k)(6) of the
25 Social Security Act (42 U.S.C. 13964–8(k)(6))) for the
26 treatment of asthma or of chronic obstructive pulmonary

1 disease. Such term includes any equipment used in the ad-
2 ministration of such drug (such as masks and tubing,
3 spacers, nebulizers, and valve-holding chambers).”.

4 (ii) CLERICAL AMENDMENT.—The
5 table of sections for subchapter B of chap-
6 ter 100 of the Internal Revenue Code of
7 1986 is amended by adding at the end the
8 following new item:

“Sec. 9826. Coverage and cost-sharing requirements for specified inhaler prod-
ucts.”.

9 (C) ERISA.—

10 (i) IN GENERAL.—Subpart B of part
11 7 of subtitle B of title I of the Employee
12 Retirement Income Security Act of 1974 is
13 amended by adding at the end the fol-
14 lowing new section:

15 **“SEC. 726. COVERAGE AND COST-SHARING REQUIREMENTS**
16 **FOR SPECIFIED INHALER PRODUCTS.**

17 “(a) IN GENERAL.—A group health plan, and a
18 health insurance issuer offering group health insurance
19 coverage, shall provide benefits under such plan or cov-
20 erage (as applicable) for all specified inhaler products and,
21 with respect to such a product, may not—

22 “(1) apply any deductible; or

23 “(2) impose any cost-sharing requirement in ex-
24 cess of \$15 per 30-day supply of such product.

“(b) COUNTING COST SHARING TOWARDS DEDUCTIBLE AND OUT-OF-POCKET MAXIMUM.—A group health plan, and a health insurance issuer offering group health insurance coverage, shall count any cost-sharing requirement described in subsection (a)(2) incurred by a participant or beneficiary of such plan with respect to a specified inhaled product towards any out-of-pocket maximum and any deductible that, but for application of subsection (a), would have applied to such participant or beneficiary with respect to such product.

“(c) SPECIFIED INHALER PRODUCT DEFINED.—For purposes of this section, the term ‘specified inhaler product’ means any maintenance or reliever or rescue inhalation drug (including inhalation aerosols, metered dose inhalers, dry powder inhalers, inhalation solutions, bronchodilators, and corticosteroids) with a medically accepted indication (as defined in section 1927(k)(6) of the Social Security Act (42 U.S.C. 13964–8(k)(6))) for the treatment of asthma or of chronic obstructive pulmonary disease. Such term includes any equipment used in the administration of such drug (such as masks and tubing, spacers, nebulizers, and valve-holding chambers).”.

(ii) CLERICAL AMENDMENT.—The table of contents in section 1 of the Employee Retirement Income Security Act of

1 1974 (29 U.S.C. 1001 note) is amended by
2 inserting after the item relating to section
3 725 the following new item:

“Sec. 726. Coverage and cost-sharing requirements for specified inhaler products.”.

4 (D) CONFORMING AMENDMENTS.—

5 (i) HDHP SAFE HARBOR.—Section
6 223(c)(2) of the Internal Revenue Code of
7 1986 is amended by adding at the end the
8 following new subparagraph:

9 “(I) SAFE HARBOR FOR ABSENCE OF DE-
10 DUCTIBLE FOR SPECIFIED INHALER PROD-
11 UCTS.—For plan years beginning on or after
12 January 1, 2026, a plan shall not fail to be
13 treated as a high deductible health plan by rea-
14 son of failing to have a deductible for specified
15 inhaler products (as defined in section 2799A–
16 11 of the Public Health Service Act).”.

17 (ii) CATASTROPHIC PLAN SAFE HAR-
18 BOR.—Section 1302(e)(1)(B)(i) of the Pa-
19 tient Protection and Affordable Care Act
20 (42 U.S.C. 18022(e)(1)(B)(i)) is amended
21 by inserting “or 2799A–11 of the Public
22 Health Service Act” after “section 2713”.

1 (E) EFFECTIVE DATE.—The amendments
2 made by this paragraph shall apply to plan
3 years beginning on or after January 1, 2026.

4 (2) MEDICARE.—

5 (A) PART B.—Section 1833 of the Social
6 Security Act (42 U.S.C. 1395l) is amended—

7 (i) in subsection (a)(1)(S)—

8 (I) in clause (i), by inserting “or
9 (iii)” after “clause (ii)”; and

10 (II) by adding at the end the fol-
11 lowing new clause: “and (iii) with re-
12 spect to a specified inhaler product
13 (as defined in section 2799A–11 of
14 the Public Health Service Act) fur-
15 nished on or after January 1, 2026,
16 the amounts paid shall be 100 percent
17 of the lesser of the actual charge or
18 the payment amount established in
19 section 1842(o) (or, if applicable,
20 under section 1847, 1847A, or
21 1847B), less, per 30-day supply of
22 such product, \$15,”; and

23 (ii) in subsection (b), in the first sen-
24 tence—

1 (I) in paragraph (12), by striking
2 “, and”; and

3 (II) by striking “..” and inserting
4 “, and (14) such deductible shall not
5 apply with respect to a specified in-
6 haler product (as defined in section
7 2799A–11 of the Public Health Serv-
8 ice Act) furnished on or after January
9 1, 2026.”.

10 (B) PART D.—

11 (i) IN GENERAL.—Section 1860D–
12 2(b) of the Social Security Act (42 U.S.C.
13 1395w–102(b)) is amended—

14 (I) in paragraph (1)(A), by strik-
15 ing “paragraphs (8) and (9)” and in-
16 serting “paragraphs (8), (9), and
17 (10)”;

18 (II) in paragraph (2)(A), by
19 striking “paragraphs (8) and (9)” and
20 inserting “paragraphs (8), (9), and
21 (10)”;

22 (III) in paragraph (4)(A)(i), by
23 striking “paragraphs (8) and (9)” and
24 inserting “paragraphs (8), (9), and
25 (10)”;

1 (IV) by adding at the end the fol-
2 lowing new paragraph:

3 “(10) TREATMENT OF COST SHARING FOR
4 SPECIFIED INHALER PRODUCTS.—

5 “(A) NO APPLICATION OF DEDUCTIBLE.—
6 For plan year 2026 and subsequent plan years,
7 the deductible under paragraph (1) shall not
8 apply with respect to any specified inhaler prod-
9 uct.

10 “(B) APPLICATION OF COST SHARING.—
11 For plan year 2026 and subsequent plan years,
12 the coverage provides benefits for any specified
13 inhaler product with cost sharing for a month’s
14 supply that does not exceed \$15.

15 “(C) DEFINITION.—For purposes of this
16 paragraph, the term ‘specified inhaler product’
17 has the meaning given such term in section
18 2799A–11 of the Public Health Service Act.”.

19 (ii) CONFORMING AMENDMENT FOR
20 ALTERNATIVE PRESCRIPTION DRUG COV-
21 ERAGE.—Section 1860D–2(c) of the Social
22 Security Act (42 U.S.C. 1395w–102(c)) is
23 amended by adding at the end the fol-
24 lowing new paragraph:

1 “(7) TREATMENT OF COST SHARING FOR SPEC-
2 IFIED INSULIN PRODUCTS.—The coverage in pro-
3 vided in accordance with subsection (b)(10).”.

4 (iii) CONFORMING AMENDMENTS TO
5 COST SHARING FOR LOW-INCOME INDIVID-
6 UALS.—Section 1860D–14(a)(1) of the So-
7 cial Security Act (42 U.S.C. 1395w–
8 114(a)(1)) is amended—

9 (I) in subparagraph (D)(iii), by
10 adding at the end the following new
11 sentence: “For plan year 2026 and
12 subsequent plan years, the copayment
13 amount applicable under the pre-
14 ceding sentence to a month’s supply
15 of a specified inhaler product (as de-
16 fined in section 1860D–2(b)(10)) dis-
17 pensed to the individual may not ex-
18 ceed \$15.”; and

19 (II) in subparagraph (E), by in-
20 serting “or under section 1860D–
21 2(b)(10) in the case of a specified in-
22 haler product (as defined in such sec-
23 tion)” after “(as defined in subpara-
24 graph (C) of such section)”.

1 (b) PAYMENT PROGRAM FOR UNINSURED INDIVID-
2 UALS.—Part P of title III of the Public Health Service
3 Act (42 U.S.C. 280g et seq.) is amended by adding at
4 the end the following new section:

5 **“SEC. 399V-8. SPECIFIED INHALER PRODUCT PAYMENT**
6 **PROGRAM.**

7 “(a) IN GENERAL.—Beginning January 1, 2026, the
8 Secretary shall establish a program under which—

9 “(1) program-registered providers submit
10 claims to the Secretary with respect to the fur-
11 nishing of specified inhaler products (as defined in
12 subsection (b)) to uninsured individuals; and

13 “(2) the Secretary, subject to the availability of
14 appropriations, pays each such provider for such
15 products in an amount determined appropriate by
16 the Secretary.

17 “(b) DEFINITIONS.—In this section:

18 “(1) PROGRAM-REGISTERED PROVIDER.—The
19 term ‘program-registered provider’ means a health
20 care provider that—

21 “(A) is licensed or otherwise authorized to
22 administer or dispense specified inhaler prod-
23 ucts in the State in which such provider so ad-
24 ministers or dispenses such products under the
25 program established under this section; and

1 “(B) enters into an agreement with the
2 Secretary under which the provider agrees not
3 to hold an uninsured individual liable for the
4 cost of any such product administered or dis-
5 pensed to such individual in an amount exceed-
6 ing \$15 for a month’s supply of such product
7 if a payment is made under subsection (a)(2)
8 with respect to such product so administered or
9 dispensed.

10 “(2) SPECIFIED INHALER PRODUCT.—The term
11 ‘specified inhaler product’ has the meaning given
12 such term in section 2799A–11.

13 “(3) UNINSURED INDIVIDUAL.—The term ‘un-
14 insured individual’ means, with respect to an indi-
15 vidual furnished a specified inhaler product, an indi-
16 vidual who is not enrolled in—

17 “(A) a Federal health care program (as
18 defined in section 1128B(f) of the Social Secu-
19 rity Act);

20 “(B) a group health plan or health insur-
21 ance coverage offered by a health insurance
22 issuer in the group or individual market (as
23 such terms are defined in section 2791); or

24 “(C) a health plan offered under chapter
25 89 of title 5, United States Code.”.

1 (c) IMPLEMENTATION.—The Secretary of Health and
2 Human Services may implement the amendments made by
3 this section by program instruction, subregulatory guid-
4 ance, or otherwise.