

117TH CONGRESS
2D SESSION

H. R. 8693

To ensure access to cost-free monkeypox testing services.

IN THE HOUSE OF REPRESENTATIVES

AUGUST 9, 2022

Mr. SEAN PATRICK MALONEY of New York (for himself, Mr. CICILLINE, Mr. JONES, Mr. TAKANO, Mr. TORRES of New York, Mr. PETERS, Ms. UNDERWOOD, Mr. TONKO, Mr. NADLER, Mrs. CAROLYN B. MALONEY of New York, Ms. JACOBS of California, Mr. BOWMAN, Mr. EVANS, Ms. BASS, Ms. VELÁZQUEZ, and Mr. KRISHNAMOORTHY) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committees on Ways and Means, Armed Services, Veterans' Affairs, Oversight and Reform, and Natural Resources, 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 ensure access to cost-free monkeypox testing services.

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 “No Cost for
5 Monkeypox Testing Act of 2022”.

1 **SEC. 2. ENSURING ACCESS TO COST-FREE MONKEYPOX**
2 **TESTING SERVICES.**

3 (a) GROUP HEALTH PLANS AND GROUP AND INDI-
4 VIDUAL HEALTH INSURANCE COVERAGE.—Subpart II of
5 part A of title XXVII of the Public Health Service Act
6 (42 U.S.C. 300gg–11 et seq.) is amended by adding at
7 the end the following new section:

8 **“SEC. 2730. COVERAGE OF MONKEYPOX TESTING WITH NO**
9 **COST SHARING.**

10 “A group health plan and a health insurance issuer
11 offering group or individual health insurance coverage (in-
12 cluding a grandfathered health plan (as defined in section
13 1251(e) of the Patient Protection and Affordable Care
14 Act)) shall provide coverage, and shall not impose any cost
15 sharing (including deductibles, copayments, and coinsur-
16 ance) requirements or prior authorization or other medical
17 management requirements, for the following items and
18 services furnished during the period beginning on the date
19 of the enactment of this section and ending on December
20 31, 2023:

21 “(1) Tests for the detection of the monkeypox
22 virus or the diagnosis of monkeypox (including the
23 administration of such testing).

24 “(2) Items and services furnished to an indi-
25 vidual during health care provider office visits
26 (which term in this paragraph includes in-person vis-

1 its and telehealth visits), urgent care center visits,
2 and emergency room visits that result in an order
3 for or administration of a test described in para-
4 graph (1), but only to the extent such items and
5 services relate to the furnishing or administration of
6 such test or to the evaluation of such individual for
7 purposes of determining the need of such individual
8 for such test.”.

9 (b) MEDICARE.—Section 1833 of the Social Security
10 Act (42 U.S.C. 1395l) is amended—

11 (1) in subsection (a)(1)—

12 (A) by striking “and” before “(DD)”;

13 (B) by inserting before the semicolon at
14 the end the following: “and (EE) with respect
15 to a specified monkeypox testing-related service
16 described in paragraph (1) of subsection (ee)
17 for which payment may be made under a speci-
18 fied outpatient payment provision described in
19 paragraph (2) of such subsection, the amounts
20 paid shall be 100 percent of the payment
21 amount otherwise recognized under such respec-
22 tive specified outpatient payment provision for
23 such service,”;

24 (2) in subsection (b), in the first sentence—

25 (A) by striking “and” before “(12)”;

1 (B) by inserting before the period at the
2 end the following: “, and (13) such deductible
3 shall not apply with respect to any specified
4 monkeypox testing-related service described in
5 paragraph (1) of subsection (ee) for which pay-
6 ment may be made under a specified outpatient
7 payment provision described in paragraph (2)
8 of such subsection”; and

9 (3) by adding at the end the following new sub-
10 section:

11 “(ee) SPECIFIED MONKEYPOX TESTING-RELATED
12 SERVICES.—For purposes of subsection (a)(1)(EE):

13 “(1) DESCRIPTION.—

14 “(A) IN GENERAL.—A specified
15 monkeypox testing-related service described in
16 this paragraph is a medical visit that—

17 “(i) is in any of the categories of
18 HCPCS evaluation and management serv-
19 ice codes described in subparagraph (B);

20 “(ii) is furnished during any portion
21 of the period that begins on the date of the
22 enactment of this subsection and ends on
23 December 31, 2023;

24 “(iii) results in an order for or admin-
25 istration of a clinical diagnostic laboratory

1 test described in section
2 1852(a)(1)(B)(iv)(IV); and

3 “(iv) relates to the furnishing or ad-
4 ministration of such test or to the evalua-
5 tion of such individual for purposes of de-
6 termining the need of such individual for
7 such test.

8 “(B) CATEGORIES OF HCPCS CODES.—For
9 purposes of subparagraph (A), the categories of
10 HCPCS evaluation and management services
11 codes are the categories described in subsection
12 (cc)(1)(B).

13 “(2) SPECIFIED OUTPATIENT PAYMENT PROVI-
14 SION.—A specified outpatient payment provision de-
15 scribed in this paragraph is any such provision de-
16 scribed in subsection (cc)(2).”.

17 (c) MEDICARE ADVANTAGE.—Section 1852(a)(1)(B)
18 of the Social Security Act (42 U.S.C. 1395w–22(a)(1)(B))
19 is amended—

20 (1) in clause (iv)—

21 (A) by redesignating subclause (VII) as
22 subclause (IX); and

23 (B) by inserting after subclause (VI) the
24 following new subclauses:

1 “(VII) Clinical diagnostic labora-
2 tory tests administered during the pe-
3 riod beginning on the date of the en-
4 actment of this subclause and ending
5 on December 31, 2023, for the detec-
6 tion of the monkeypox virus or the di-
7 agnosis of monkeypox and the admin-
8 istration of such test.

9 “(VIII) Specified monkeypox
10 testing-related services (as described
11 in section 1833(ee)(1)) for which pay-
12 ment would be payable under a speci-
13 fied outpatient payment provision de-
14 scribed in section 1833(ee)(2).”;

15 (2) in clause (v), by striking “subclauses (IV),
16 (V), and (VI)” and inserting “subclauses (IV)
17 through (VIII)”;

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

20 “(vii) PROHIBITION OF APPLICATION
21 OF CERTAIN REQUIREMENTS FOR
22 MONKEYPOX TESTING.—In the case of a
23 test or service described in subclause (VII)
24 or (VIII) of clause (iv) that is administered
25 or furnished during the period described in

1 such subclause (VII), an MA plan may not
2 impose any prior authorization or other
3 utilization management requirements with
4 respect to the coverage of such a test or
5 service under such plan.”.

6 (d) MEDICAID AND CHIP.—

7 (1) MEDICAID.—

8 (A) IN GENERAL.—Section 1905(a)(3) of
9 the Social Security Act (42 U.S.C.
10 1396d(a)(3)) is amended—

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

13 (ii) in subparagraph (B), by striking
14 the semicolon and inserting “; and”; and

15 (iii) by adding at the end the fol-
16 lowing new subparagraph:

17 “(C) tests administered during the period be-
18 ginning on the date of the enactment of this sub-
19 paragraph and ending on December 31, 2023, for
20 the detection of the monkeypox virus or the diag-
21 nosis of monkeypox and the administration of such
22 tests;”.

23 (B) NO COST SHARING.—

24 (i) IN GENERAL.—Subsections (a)(2)
25 and (b)(2) of section 1916 of the Social

1 Security Act (42 U.S.C. 1396o) are each
2 amended—

3 (I) in subparagraph (H), by
4 striking “or” at the end;

5 (II) in subparagraph (I), by
6 striking “; and” and inserting a
7 comma; and

8 (III) by adding at the end the
9 following new subparagraphs:

10 “(J) any test described in section
11 1905(a)(3)(C) that is administered during the
12 period described in such section (and the ad-
13 ministration of such test), or

14 “(K) monkeypox testing-related services
15 for which payment may be made under the
16 State plan; and”.

17 (ii) APPLICATION TO ALTERNATIVE
18 COST SHARING.—Section 1916A(b)(3)(B)
19 of the Social Security Act (42 U.S.C.
20 1396o–1(b)(3)(B)) is amended by adding
21 at the end the following new clause:

22 “(xiv) Any test described in section
23 1905(a)(3)(C) that is administered during
24 the period described in such section (and
25 the administration of such test) and any

1 service described in section 1916(a)(2)(K)
2 that is furnished during any such period.”.

3 (iii) CLARIFICATION.—The amend-
4 ments made this paragraph shall apply
5 with respect to a State plan of a territory
6 in the same manner as a State plan of one
7 of the 50 States.

8 (C) EXPANSION OF STATE OPTION TO PRO-
9 VIDE COVERAGE OF UNINSURED INDIVIDUALS
10 TO INCLUDE MONKEYPOX TESTING.—Section
11 1902(a)(10) of the Social Security Act (42
12 U.S.C. 1396a(a)(10)) is amended—

13 (i) in subparagraph (A)(ii)(XXIII), by
14 striking “any portion of the emergency pe-
15 riod defined in paragraph (1)(B) of section
16 1135(g) beginning on or after the date of
17 the enactment of this subclause” and in-
18 sserting “the period beginning on the date
19 of the enactment of this subclause and
20 ending on December 31, 2022 (or, if lat-
21 ter, on the last day of the emergency pe-
22 riod described in section 1135(g)(1)(B)),”;
23 and

1 (ii) in the matter following subpara-
2 graph (G) designated as subclause
3 (XVIII)—

4 (I) by striking “the period at the
5 end of the emergency sentence de-
6 scribed in such section” and inserting
7 “the emergency period described in
8 such section”;

9 (II) by striking “and testing and
10 treatments” and inserting “testing
11 and treatments”; and

12 (III) by inserting “any test de-
13 scribed in section 1905(a)(3)(C) (and
14 the administration of such test) that
15 is administered during the period be-
16 ginning on the date of the enactment
17 of the No Cost for Monkeypox Testing
18 Act of 2022 and ending on January 1,
19 2023, and any service described in
20 section 1916(a)(2)(K) that is fur-
21 nished during such period” after “(or
22 waiver of such plan)”.

23 (2) CHIP.—

24 (A) IN GENERAL.—Section 2103(c) of the
25 Social Security Act (42 U.S.C. 1397cc(e)) is

1 amended by adding at the end the following
2 paragraph:

3 “(12) CERTAIN MONKEYPOX TESTING.—The
4 child health assistance provided to a targeted low-in-
5 come child shall include coverage of any test de-
6 scribed in section 1905(a)(3)(C) that is administered
7 during the period beginning on the date of the en-
8 actment of this paragraph and ending on December
9 31, 2023 (and the administration of such test).”.

10 (B) PROHIBITION OF COST SHARING.—
11 Section 2103(e)(2) of the Social Security Act
12 (42 U.S.C. 1397cc(e)(2)) is amended—

13 (i) in the header, by inserting
14 “MONKEYPOX TESTING,” after “COVID-19
15 TREATMENT”; and

16 (ii) by inserting “tests described in
17 subsection (c)(12) (and administration of
18 such tests) furnished during the period de-
19 scribed in such section, services described
20 in section 1916(a)(2)(K) furnished during
21 such period” before “, or for pregnancy-re-
22 lated assistance”.

23 (e) APPLICATION WITH RESPECT TO TRICARE, COV-
24 ERAGE FOR VETERANS, AND COVERAGE FOR FEDERAL
25 CIVILIANS.—

1 (1) TRICARE.—The Secretary of Defense may
2 not require any copayment or other cost sharing
3 under chapter 55 of title 10, United States Code, for
4 tests described in paragraph (1) of section 2730 of
5 the Public Health Service Act (or the administration
6 of such tests) or item and services described in para-
7 graph (2) of such section furnished during the pe-
8 riod beginning on the date of the enactment of this
9 Act and ending on December 31, 2023.

10 (2) VETERANS.—The Secretary of Veterans Af-
11 fairs may not require any copayment or other cost
12 sharing under chapter 17 of title 38, United States
13 Code, for tests described in paragraph (1) of section
14 2730 of the Public Health Service Act (or the ad-
15 ministration of such tests) or items and services de-
16 scribed in paragraph (2) of such section furnished
17 during the period described in paragraph (1).

18 (3) FEDERAL CIVILIANS.—No copayment or
19 other cost sharing may be required for any indi-
20 vidual occupying a position in the civil service (as
21 that term is defined in section 2101(1) of title 5,
22 United States Code) enrolled in a health benefits
23 plan, including any plan under chapter 89 of title 5,
24 United States Code, or for any other individual cur-
25 rently enrolled in any plan under chapter 89 of title

1 5 for tests described in paragraph (1) of section
2 2730 of the Public Health Service Act (or the ad-
3 ministration of such tests) or items and services de-
4 scribed in paragraph (2) of such section furnished
5 during the period described in paragraph (1).

6 (f) COVERAGE OF TESTING FOR MONKEYPOX AT NO
7 COST SHARING FOR INDIANS RECEIVING PURCHASED/RE-
8 FERRED CARE.—The Secretary of Health and Human
9 Services shall cover, without the imposition of any cost
10 sharing requirements, the cost of providing any test de-
11 scribed in paragraph (1) of section 2730 of the Public
12 Health Service Act (or the administration of such tests)
13 or items and services described in paragraph (2) of such
14 section furnished during the period described in subsection
15 (e)(1) to Indians (as defined in section 4 of the Indian
16 Health Care Improvement Act (25 U.S.C. 1603)) receiv-
17 ing health services through the Indian Health Service, in-
18 cluding through an Urban Indian Organization, regardless
19 of whether such items or services have been authorized
20 under the purchased/referred care system funded by the
21 Indian Health Service or is covered as a health service
22 of the Indian Health Service.

23 (g) ACCESS FOR CERTAIN UNINSURED INDIVID-
24 UALS.—

1 (1) IN GENERAL.—The Secretary of Health and
2 Human Services shall establish a program under
3 which—

4 (A) program-registered providers submit
5 claims to the Secretary with respect to the fur-
6 nishing, during the period described in sub-
7 section (e)(1), of tests described in paragraph
8 (1) of section 2730 of the Public Health Service
9 Act (or the administration of such tests) or
10 items and services described in paragraph (2) of
11 such section furnished to uninsured individuals;
12 and

13 (B) the Secretary, subject to the avail-
14 ability of appropriations, pays each such pro-
15 vider for such tests, items, and services in an
16 amount determined appropriate by the Sec-
17 retary.

18 (2) DEFINITIONS.—In this section:

19 (A) PROGRAM-REGISTERED PROVIDER.—
20 The term “program-registered provider” means
21 a health care provider that—

22 (i) enters into an agreement with the
23 Secretary under which the provider agrees
24 not to hold an uninsured individual liable
25 for the cost of tests, items, and services de-

1 scribed in paragraph (1) with respect to
2 which a payment is made under subpara-
3 graph (B) of such paragraph; and

4 (ii) meets such other requirements as
5 the Secretary may specify.

6 (B) SECRETARY.—The term “Secretary”
7 means the Secretary of Health and Human
8 Services.

9 (C) UNINSURED INDIVIDUAL.—The term
10 “uninsured individual” means, with respect to
11 an individual and a test, item, or service de-
12 scribed in paragraph (1), an individual who—

13 (i) is not enrolled in—

14 (I) a Federal health care pro-
15 gram (as defined in section 1128B(f)
16 of the Social Security Act (42 U.S.C.
17 1320a–7b(f)));

18 (II) a group health plan or health
19 insurance coverage offered by a health
20 insurance issuer in the group or indi-
21 vidual market (as such terms are de-
22 fined in section 2791 of the Public
23 Health Service Act (42 U.S.C. 300gg–
24 91)); or

1 (III) a health plan offered under
2 chapter 89 of title 5, United States
3 Code; or

4 (ii) is enrolled in a program, plan, or
5 coverage described in subparagraph (A)
6 that does not provide any benefits for such
7 test, item, or service under such program,
8 plan, or coverage (as applicable).

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