117TH CONGRESS  
2D SESSION  

H. R.  

To amend the Public Health Service Act, the Employee Retirement Income Security Act of 1974, and the Internal Revenue Code of 1986 to require group health plans and health insurance issuers offering group or individual health insurance coverage to provide coverage for forensic medical exams with no cost sharing, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Ms. SÁNCHEZ introduced the following bill; which was referred to the Committee on  

A BILL  

To amend the Public Health Service Act, the Employee Retirement Income Security Act of 1974, and the Internal Revenue Code of 1986 to require group health plans and health insurance issuers offering group or individual health insurance coverage to provide coverage for forensic medical exams with no cost sharing, and for other purposes.

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Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,
SECTION 1. SHORT TITLE.

This Act may be cited as the “No Surprises for Survivors Act of 2022”.

SEC. 2. REQUIRING COVERAGE OF FORENSIC MEDICAL EXAMS WITH NO COST SHARING.

(a) PHSA.—Part D of title XXVII of the Public Health Service Act (42 U.S.C. 300gg–111 et seq.) is amended—

(1) in section 2799A–1(a)(3)(C)(ii), by inserting “forensic medical exams (as defined in section 2799A–11(d)) furnished on or after January 1, 2025 and” after “shall include”; and

(2) by adding at the end the following new section:

“SEC. 2799A–11. REQUIRED COVERAGE OF FORENSIC MEDICAL EXAMS WITH NO COST SHARING.

“(a) IN GENERAL.—Except as provided in subsection (b), a group health plan and a health insurance issuer offering group or individual health insurance coverage shall provide coverage for and shall not impose any cost sharing requirements for a forensic medical exam (as defined in subsection (d)) furnished by a sexual assault forensic examiner (as defined for purposes of section 304 of the DNA Sexual Assault Justice Act of 2004), a sexual assault nurse examiner (as so defined), or any other provider specified by the Secretary, regardless of whether such forensic
examiner, nurse examiner, or other provider has in effect
a contractual relationship with such plan or coverage for
the furnishing of such exam or item or service.

“(b) NONAPPLICATION TO CERTAIN FORENSIC MED-
ICAL EXAMS OTHERWISE COVERED.—

“(1) IN GENERAL.—The provisions of sub-
section (a) shall not apply with respect to a forensic
medical exam furnished in a State for which such
State is responsible for incurring the full out-of-
pocket costs under section 2010 of the Omnibus

“(2) NOTIFICATION.—In the case that a group
health plan or health insurance issuer offering group
or individual health insurance coverage receives a
claim for a forensic medical exam to which the provi-
sions of subsection (a) would apply but for applica-
tion of paragraph (1) and such plan or issuer denies
such claim or imposes cost sharing on such claim,
such plan or issuer shall—

“(A) at the time of such denial or imposi-
tion, notify the individual with respect to whom
such exam was furnished of the manner in
which such individual may seek reimbursement
for such exam (or for the amount of such cost
sharing so imposed, as applicable) from the State in which such exam was furnished; and

“(B) after receiving authorization from such individual, notify the appropriate State agency of the State in which such exam was furnished of such claim.

“(c) Application of Surprise Billing Provisions.—

“(1) In general.—The provisions of sections 2799A–1 and 2799B–1, 716 of the Employee Retirement Income Security Act of 1974, and 9816 of the Internal Revenue Code of 1986 shall apply to a forensic medical exam for which a group health plan or health insurance issuer offering group or individual health insurance coverage is responsible for providing coverage at no cost sharing under this section furnished to an enrollee of such plan or group or individual health insurance coverage by a provider that does not have in effect a contractual relationship described in subsection (a) with such plan or coverage (as applicable) for furnishing such exam as if such exam was an emergency service furnished by a nonparticipating provider in an emergency department of a hospital.
“(2) DEFINITIONS.—In this subsection, the terms ‘emergency service’ and ‘nonparticipating provider’ have the meanings given such terms in subparagraphs (C)(i) and (G), respectively, of sections 2799A–1(a)(3), 716(a)(3) of the Employee Retirement Income Security Act of 1974, and section 9816(a)(3) of the Internal Revenue Code of 1986.

“(d) DEFINITION.—For purposes of this section, the term ‘forensic medical exam’ means, with respect to an individual—

“(1) an examination for physical trauma;

“(2) a determination of penetration or force;

“(3) an interview of such individual; and

“(4) the collection and evaluation of evidence from such individual.”.

(b) ERISA.—

(1) IN GENERAL.—Subpart B of part 7 of sub-title B of title I of the Employee Retirement Income Security Act of 1974 is amended—

(A) in section 716(a)(3)(C)(ii), by inserting “forensic medical exams (as defined in section 726(d)) furnished on or after January 1, 2025 and” after “shall include”; and

(B) by adding at the end the following new section:
"SEC. 726. REQUIRED COVERAGE OF FORENSIC MEDICAL EXAMS WITH NO COST SHARING.

(a) In general.—Except as provided in subsection (b), a group health plan and a health insurance issuer offering group health insurance coverage shall provide coverage for and shall not impose any cost sharing requirements for a forensic medical exam (as defined in subsection (d)) furnished by a sexual assault forensic examiner (as defined for purposes of section 304 of the DNA Sexual Assault Justice Act of 2004), a sexual assault nurse examiner (as so defined), or any other provider specified by the Secretary, regardless of whether such forensic examiner, nurse examiner, or other provider has in effect a contractual relationship with such plan or coverage for the furnishing of such exam or item or service.

(b) Nonapplication to certain forensic medical exams otherwise covered.—

(1) In general.—The provisions of subsection (a) shall not apply with respect to a forensic medical exam furnished in a State for which such State is responsible for incurring the full out-of-pocket costs under section 2010 of the Omnibus Crime Control and Safe Streets Act of 1968.

(2) Notification.—In the case that a group health plan or health insurance issuer offering group health insurance coverage receives a claim for a fo-
rensic medical exam to which the provisions of sub-
section (a) would apply but for application of para-
graph (1) and such plan or issuer denies such claim
or imposes cost sharing on such claim, such plan or
issuer shall—

“(A) at the time of such denial or imposi-
tion, notify the individual with respect to whom
such exam was furnished of the manner in
which such individual may seek reimbursement
for such exam (or for the amount of such cost
sharing so imposed, as applicable) from the
State in which such exam was furnished; and

“(B) after receiving authorization from
such individual, notify the appropriate State
agency of the State in which such exam was
furnished of such claim.

“(c) APPLICATION OF SURPRISE BILLING PROVI-
sions.—

“(1) IN GENERAL.—The provisions of sections
2799A–1 and 2799B–1 of the Public Health Service
Act, 716, and 9816 of the Internal Revenue Code of
1986 shall apply to a forensic medical exam for
which a group health plan or health insurance issuer
offering group health insurance coverage is respon-
sible for providing coverage at no cost sharing under
this section furnished to a participant or beneficiary
of such plan or group health insurance coverage by
a provider that does not have in effect a contractual
relationship described in subsection (a) with such
plan or coverage (as applicable) for furnishing such
exam as if such exam was an emergency services
furnished by a nonparticipating provider in an emer-
gency department of a hospital.

“(2) DEFINITIONS.—In this subsection, the
terms ‘emergency service’ and ‘nonparticipating pro-
vider’ have the meanings given such terms in sub-
paragraphs (C)(i) and (G), respectively, of sections
2799A–1(a)(3) of the Public Health Service Act,
716(a)(3), and section 9816(a)(3) of the Internal

“(d) DEFINITION.—For purposes of this section, the
term ‘forensic medical exam’ means, with respect to an
individual—

“(1) an examination for physical trauma;
“(2) a determination of penetration or force;
“(3) an interview of such individual; and
“(4) the collection and evaluation of evidence
from such individual.”.

(2) TECHNICAL AMENDMENT.—The table of
contents in section 1 of such Act is amended by in-
serting after the item relating to section 725 the fol-
lowing new item:

“Sec. 726. Required coverage of forensic medical exams with no cost sharing.”.

(c) IRC.—

(1) IN GENERAL.—Subchapter B of chapter
100 of the Internal Revenue Code of 1986 is amend-
ed—

(A) in section 9816(a)(3)(C)(ii), by insert-
ing “forensic medical exams (as defined in sec-
tion 9826(d)) furnished on or after January 1,
2025 and” after “shall include”; and

(B) by adding at the end the following new
section:

“SEC. 9826. REQUIRED COVERAGE OF FORENSIC MEDICAL
EXAMS WITH NO COST SHARING.

“(a) IN GENERAL.—Except as provided in subsection
(b), a group health plan shall provide coverage for and
shall not impose any cost sharing requirements for a fo-
rensic medical exam (as defined in subsection (d)) fur-
nished by a sexual assault forensic examiner (as defined
for purposes of section 304 of the DNA Sexual Assault
Justice Act of 2004), a sexual assault nurse examiner (as
so defined), or any other provider specified by the Sec-
retary, regardless of whether such forensic examiner,
nurse examiner, or other provider has in effect a contrac-
tual relationship with such plan for the furnishing of such
exam or item or service.

“(b) NONAPPLICATION TO CERTAIN FORENSIC MED-
ICAL EXAMS OTHERWISE COVERED.—

“(1) IN GENERAL.—The provisions of sub-
section (a) shall not apply with respect to a forensic
medical exam furnished in a State for which such
State is responsible for incurring the full out-of-
pocket costs under section 2010 of the Omnibus

“(2) NOTIFICATION.—In the case that a group
health plan receives a claim for a forensic medical
exam to which the provisions of subsection (a) would
apply but for application of paragraph (1) and such
plan denies such claim or imposes cost sharing on
such claim, such plan shall—

“(A) at the time of such denial or imposi-
tion, notify the individual with respect to whom
such exam was furnished of the manner in
which such individual may seek reimbursement
for such exam (or for the amount of such cost
sharing so imposed, as applicable) from the
State in which such exam was furnished; and

“(B) after receiving authorization from
such individual, notify the appropriate State
agency of the State in which such exam was furnished of such claim.

“(c) APPLICATION OF SURPRISE BILLING PROVISIONS.—

“(1) IN GENERAL.—The provisions of sections 2799A–1 and 2799B–1 of the Public Health Service Act, 716 of the Employee Retirement Income Security Act of 1974, and 9816 shall apply to a forensic medical exam for which a group health plan is responsible for providing coverage at no cost sharing under this section furnished to an enrollee, participant, or beneficiary of such plan by a provider that does not have in effect a contractual relationship described in subsection (a) with such plan for furnishing such exam as if such exam was an emergency service furnished by a nonparticipating provider in an emergency department of a hospital.

“(2) DEFINITIONS.—In this subsection, the terms ‘emergency service’ and ‘nonparticipating provider’ have the meanings given such terms in subparagraphs (C)(i) and (G), respectively, of sections 2799A–1(a)(3) of the Public Health Service Act, 716(a)(3) of the Employee Retirement Income Security Act of 1974, and section 9816(a)(3).
“(d) DEFINITION.—For purposes of this section, the term ‘forensic medical exam’ means, with respect to an individual—

“(1) an examination for physical trauma;
“(2) a determination of penetration or force;
“(3) an interview of such individual; and
“(4) the collection and evaluation of evidence from such individual.”.

(2) TECHNICAL AMENDMENT.—The table of sections for such subchapter is amended by adding at the end the following new item:

“Sec. 9826. Required coverage of forensic medical exams with no cost sharing.”.

(d) CONFORMING AMENDMENT.—Section 223(c)(2) of the Internal Revenue Code of 1986 is amended by adding at the end the following new subparagraph:

“(H) SAFE HARBOR FOR FORENSIC MEDICAL EXAMS.—A plan shall not fail to be treated as a high deductible health plan by reason of failing to have a deductible for any item or service for which such plan is required to provide coverage at no cost sharing under section 9826.”.

(e) IMPLEMENTATION.—The Secretaries of Labor, Health and Human Services, and the Treasury may implement the amendments made by this section through in-
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1 term final rules, subregulatory guidance, program in-
2 struction, or otherwise.
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4 (f) EFFECTIVE DATE.—The amendments made by
5 subsections (a) through (d) shall apply with respect to
6 plan years beginning on or after January 1, 2025.