

119TH CONGRESS  
1ST SESSION

**S.** \_\_\_\_\_

To amend title XXVII of the Public Health Service Act to apply financial assistance towards the cost-sharing requirements of health insurance plans, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

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Mr. MARSHALL (for himself, Mr. KAINE, Mr. TILLIS, Mr. MARKEY, Ms. MURKOWSKI, and Mr. MERKLEY) introduced the following bill; which was read twice and referred to the Committee on \_\_\_\_\_

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**A BILL**

To amend title XXVII of the Public Health Service Act to apply financial assistance towards the cost-sharing requirements of health insurance plans, 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 “Help Ensure Lower  
5 Patient Copays Act” or the “HELP Copays Act”.

1 **SEC. 2. APPLICATION OF FINANCIAL ASSISTANCE TOWARD**  
2 **COST-SHARING REQUIREMENTS.**

3 (a) APPLICATION TOWARD COST-SHARING REQUIRE-  
4 MENTS.—Section 2715(g)(1) of the Public Health Service  
5 Act (42 U.S.C. 300gg–15(g)(1)) is amended by adding at  
6 the end the following: “In developing the standards for  
7 defining the terms ‘deductible’, ‘coinsurance’, ‘copayment’,  
8 and ‘out-of-pocket limit’ (as described in paragraph (2)),  
9 such standards shall provide that such terms include  
10 amounts paid by, or on behalf of, an individual enrolled  
11 in a group health plan or group or individual health insur-  
12 ance coverage, including financial assistance offered by  
13 non-profit organizations and prescription drug manufac-  
14 turers, and that such amounts shall be counted toward  
15 such deductible, coinsurance, copayment, or limit, respec-  
16 tively.”.

17 (b) CONFORMING AMENDMENTS.—

18 (1) PPACA.—Section 1302(c)(3) of the Patient  
19 Protection and Affordable Care Act (42 U.S.C.  
20 18022(c)(3)) is amended by adding at the end the  
21 following new subparagraph:

22 “(C) APPLICATION OF TERMS.—For pur-  
23 poses of subparagraph (A), the terms ‘deduct-  
24 ible’, ‘coinsurance’, ‘copayment’, or ‘similar  
25 charge’ and any other expenditure described in  
26 clause (ii) of such subparagraph shall include

1 amounts paid by, or on behalf of, an individual  
2 enrolled in a group health plan or group or in-  
3 dividual health insurance coverage, including fi-  
4 nancial assistance offered by non-profit organi-  
5 zations and prescription drug manufacturers,  
6 and such amounts shall be counted toward such  
7 deductible, co-insurance, co-payment, charge, or  
8 other expenditure, respectively.”.

9 (2) PHSA.—Section 2707(b) of the Public  
10 Health Service Act (42 U.S.C. 300gg-6(b)) is  
11 amended by adding at the end the following new  
12 sentence: “For purposes of the previous sentence,  
13 such limitation shall be applied to prescription drugs  
14 as if the reference to ‘essential health benefits’ in  
15 section 1302(c)(3) of the Patient Protection and Af-  
16 fordable Care Act were a reference to ‘any item or  
17 service covered under the plan included within the  
18 prescription drug category of essential health bene-  
19 fits as described in (b)(1)(F) of such section’.”.

20 (3) INTERNAL REVENUE CODE OF 1986 SAFE  
21 HARBOR FOR CERTAIN AMOUNTS APPLIED TO  
22 DEDUCTIBLES.—Section 223(c)(2) of the Internal  
23 Revenue Code of 1986 is amended by adding at the  
24 end the following new subparagraph:

1           “(H) SAFE HARBOR FOR CERTAIN  
2           AMOUNTS APPLIED TO DEDUCTIBLES.—In the  
3           case of plan years beginning after December  
4           31, 2025, a plan shall not fail to be treated as  
5           a high deductible health plan by reason of  
6           counting amounts paid by, or on behalf of, an  
7           individual, including financial assistance offered  
8           by non-profit organizations and prescription  
9           drug manufacturers for outpatient prescription  
10          drugs, when determining whether the minimum  
11          deductible under subparagraph (A) has been  
12          satisfied.”.

13          (c) RULE OF CONSTRUCTION.—The amendments  
14          made by this section shall —

15                 (1) apply to standards relating to deductibles,  
16                 coinsurance, copayments, or limits with respect to  
17                 prescription drugs that are specialty drugs;

18                 (2) apply to standards relating to deductibles,  
19                 coinsurance, copayments, or limits with respect to  
20                 drugs that are subject to utilization management;  
21                 and

22                 (3) not impact the use of utilization manage-  
23                 ment tools, including prior authorization and step  
24                 therapy.

1           (d) EFFECTIVE DATE.—This section, and the amend-  
2 ments made by this section, shall apply to group health  
3 plans and health insurance issuers for plan years begin-  
4 ning on or after January 1, 2026.