

118TH CONGRESS  
2D SESSION

# H. R. 8128

To require health insurance coverage for scalp cooling items.

---

## IN THE HOUSE OF REPRESENTATIVES

APRIL 26, 2024

Ms. DELAURO introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committees on Ways and Means, Education and the Workforce, Armed Services, Veterans' Affairs, and Oversight and Accountability, 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 require health insurance coverage for scalp cooling items.

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 “Access to Scalp Cool-  
5       ing Therapy Act of 2024”.

1 **SEC. 2. REQUIRING COVERAGE FOR SCALP COOLING ITEMS**  
2 **UNDER GROUP HEALTH PLANS AND GROUP**  
3 **AND INDIVIDUAL HEALTH INSURANCE COV-**  
4 **ERAGE, SPECIFIED FEDERAL HEALTH CARE**  
5 **PROGRAMS, AND THE FEDERAL EMPLOYEES**  
6 **HEALTH BENEFITS PROGRAM.**

7 (a) GROUP HEALTH PLANS AND HEALTH INSUR-  
8 ANCE COVERAGE.—Subpart II of part A of title XXVII  
9 of the Public Health Service Act (42 U.S.C. 300gg–11 et  
10 seq.) is amended by adding at the end the following new  
11 section:

12 **“SEC. 2730. REQUIRED COVERAGE OF SCALP COOLING**  
13 **ITEMS.**

14 “(a) IN GENERAL.—With respect to a plan year be-  
15 ginning on or after January 1, 2025, a group health plan  
16 and a health insurance issuer offering group or individual  
17 health insurance coverage shall provide benefits under  
18 such plan or such coverage for scalp cooling items (as de-  
19 fined in subsection (c)) in accordance with the require-  
20 ment described in subsection (b).

21 “(b) COVERAGE REQUIREMENT.—For purposes of  
22 subsection (a), the requirement described in this sub-  
23 section is, with respect to the imposition or application of  
24 any financial requirement (as defined in subsection (c))  
25 with respect to coverage of scalp cooling items under a  
26 group health plan or group or individual health insurance

1 coverage, the requirement that such financial requirement  
2 be the same as such requirement applicable to intravenous  
3 or injection anticancer drugs furnished under such plan  
4 or such coverage for which benefits are provided under  
5 such plan or such coverage.

6 “(c) DEFINITIONS.—In this section:

7 “(1) FINANCIAL REQUIREMENT.—The term ‘fi-  
8 nancial requirement’ means, with respect to an item  
9 or service furnished under a group health plan or  
10 group or individual health insurance coverage, any  
11 copayment, coinsurance, deductible, annual limit,  
12 lifetime limit, or out-of-pocket maximum applied  
13 under such plan or such coverage with respect to  
14 such item or service.

15 “(2) SCALP COOLING ITEM.—The term ‘scalp  
16 cooling item’ means a cooling cap, hypothermia cap,  
17 cold cap, or any other therapeutic device used to cool  
18 the scalp of an individual to prevent or reduce hair  
19 loss during chemotherapy.”.

20 (b) ERISA.—Subpart B of part 7, of subtitle B, of  
21 title I of the Employee Retirement Income Security Act  
22 of 1974 (29 U.S.C. 1185 et seq.) is amended by adding  
23 at the end the following:

1 **“SEC. 726. REQUIRED COVERAGE OF SCALP COOLING**  
2 **ITEMS.**

3 “(a) IN GENERAL.—With respect to a plan year be-  
4 ginning on or after January 1, 2025, a group health plan  
5 and a health insurance issuer offering group or individual  
6 health insurance coverage shall provide benefits under  
7 such plan or such coverage for scalp cooling items (as de-  
8 fined in subsection (c)) in accordance with the require-  
9 ment described in subsection (b).

10 “(b) COVERAGE REQUIREMENT.—For purposes of  
11 subsection (a), the requirement described in this sub-  
12 section is, with respect to the imposition or application of  
13 any financial requirement (as defined in subsection (c))  
14 with respect to coverage of scalp cooling items under a  
15 group health plan or group or individual health insurance  
16 coverage, the requirement that such financial requirement  
17 be the same as such requirement applicable to intravenous  
18 or injection anticancer drugs furnished under such plan  
19 or such coverage for which benefits are provided under  
20 such plan or such coverage.

21 “(c) DEFINITIONS.—In this section:

22 “(1) FINANCIAL REQUIREMENT.—The term ‘fi-  
23 nancial requirement’ means, with respect to an item  
24 or service furnished under a group health plan or  
25 group or individual health insurance coverage, any  
26 copayment, coinsurance, deductible, annual limit,

1 lifetime limit, or out-of-pocket maximum applied  
 2 under such plan or such coverage with respect to  
 3 such item or service.

4 “(2) SCALP COOLING ITEM.—The term ‘scalp  
 5 cooling item’ means a cooling cap, hypothermia cap,  
 6 cold cap, or any other therapeutic device used to cool  
 7 the scalp of an individual to prevent or reduce hair  
 8 loss during chemotherapy.”.

9 (2) CLERICAL AMENDMENT.—The table of con-  
 10 tents in section 1 of the Employee Retirement In-  
 11 come Security Act of 1974 (29 U.S.C. 1001 et seq.)  
 12 is amended by inserting after the item relating to  
 13 section 725 the following:

“Sec. 726. Required coverage of scalp cooling items.”.

14 (c) IRC.—

15 (1) IN GENERAL.—Subchapter B of chapter  
 16 100 of the Internal Revenue Code of 1986 is amend-  
 17 ed by adding at the end the following:

18 **“SEC. 9826. REQUIRED COVERAGE OF SCALP COOLING**  
 19 **ITEMS.**

20 “(a) IN GENERAL.—With respect to a plan year be-  
 21 ginning on or after January 1, 2025, a group health plan  
 22 and a health insurance issuer offering group or individual  
 23 health insurance coverage shall provide benefits under  
 24 such plan or such coverage for scalp cooling items (as de-

1 fined in subsection (c)) in accordance with the require-  
2 ment described in subsection (b).

3 “(b) COVERAGE REQUIREMENT.—For purposes of  
4 subsection (a), the requirement described in this sub-  
5 section is, with respect to the imposition or application of  
6 any financial requirement (as defined in subsection (c))  
7 with respect to coverage of scalp cooling items under a  
8 group health plan or group or individual health insurance  
9 coverage, the requirement that such financial requirement  
10 be the same as such requirement applicable to intravenous  
11 or injection anticancer drugs furnished under such plan  
12 or such coverage for which benefits are provided under  
13 such plan or such coverage.

14 “(c) DEFINITIONS.—In this section:

15 “(1) FINANCIAL REQUIREMENT.—The term ‘fi-  
16 nancial requirement’ means, with respect to an item  
17 or service furnished under a group health plan or  
18 group or individual health insurance coverage, any  
19 copayment, coinsurance, deductible, annual limit,  
20 lifetime limit, or out-of-pocket maximum applied  
21 under such plan or such coverage with respect to  
22 such item or service.

23 “(2) SCALP COOLING ITEM.—The term ‘scalp  
24 cooling item’ means a cooling cap, hypothermia cap,  
25 cold cap, or any other therapeutic device used to cool

1 the scalp of an individual to prevent or reduce hair  
 2 loss during chemotherapy.”.

3 (2) CLERICAL AMENDMENT.—The table of sec-  
 4 tions for subchapter B of chapter 100 of the Inter-  
 5 nal Revenue Code of 1986 is amended by adding at  
 6 the end the following new item:

“Sec. 9826. Required coverage of scalp cooling items.”.

7 (d) MEDICARE.—

8 (1) COVERAGE.—

9 (A) IN GENERAL.—Section 1861 of the So-  
 10 cial Security Act (42 U.S.C. 1395x) is amend-  
 11 ed—

12 (i) in subsection (s)(2)—

13 (I) in subparagraph (GG), by  
 14 striking “and” at the end;

15 (II) in subparagraph (HH), by  
 16 striking the period and inserting “;  
 17 and”; and

18 (III) by adding at the end the  
 19 following new subparagraph:

20 “(II) scalp cooling items (as de-  
 21 fined in subsection (lll));”; and

22 (ii) by adding at the end the following  
 23 new subsection:

24 “(lll) SCALP COOLING ITEMS.—The term ‘scalp cool-  
 25 ing item’ means a cooling cap, hypothermia cap, cold cap,

1 or any other therapeutic device used to cool the scalp of  
 2 an individual to prevent or reduce hair loss during chemo-  
 3 therapy furnished on or after January 1, 2025.”

4 (B) EXCLUSION MODIFICATION.—Section  
 5 1862(a)(1) of the Social Security Act (42  
 6 U.S.C. 1395y(a)(1)) is amended—

7 (i) in subparagraph (O), by striking  
 8 “and” at the end;

9 (ii) in subparagraph (P), by striking  
 10 the semicolon and inserting “, and”; and

11 (iii) by adding at the end the fol-  
 12 lowing new subparagraph:

13 “(Q) in the case of scalp cooling  
 14 items (as defined in section 1861(l)),  
 15 which are not furnished to prevent or  
 16 reduce hair loss during chemo-  
 17 therapy;”.

18 (2) PAYMENT.—Section 1833(a)(1) of the So-  
 19 cial Security Act (42 U.S.C. 1395l(a)(1)) is amend-  
 20 ed—

21 (A) by striking “and (DD)” and inserting  
 22 “(DD)”; and

23 (B) by inserting before the semicolon at  
 24 the end the following: “and (EE) with respect  
 25 to scalp cooling items (as defined in section



1           1861(lll)), the amount paid shall be equal to 80  
 2           percent of the lesser of the actual charge or an  
 3           amount determined appropriate by the Sec-  
 4           retary;”.

5           (e) MEDICAID.—

6           (1) IN GENERAL.—Title XIX of the Social Se-  
 7           curity Act (42 U.S.C. 1396 et seq.) is amended—

8                   (A) in section 1902(a)(10)(A), by striking  
 9                   “and (30)” and inserting “(30), and (31)”; and

10                  (B) in section 1905(a)—

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

13                          (ii) by redesignating paragraph (31)  
 14                          as paragraph (32); and

15                          (iii) by inserting after paragraph (30)  
 16                          the following new paragraph:

17                               “(31) cooling caps, hypothermia caps, cold caps,  
 18                               and any other therapeutic devices used to cool the  
 19                               scalp of an individual to prevent or reduce hair loss  
 20                               during chemotherapy.”.

21           (2) EFFECTIVE DATE.—

22                   (A) IN GENERAL.—Subject to subpara-  
 23                   graph (B), the amendments made by this sub-  
 24                   section shall apply with respect to medical as-

1           sistance furnished in calendar quarters begin-  
2           ning on or after January 1, 2025.

3           (B) EXCEPTION FOR STATE LEGISLA-  
4           TION.—In the case of a State plan under title  
5           XIX of the Social Security Act (or a waiver of  
6           such plan), which the Secretary of Health and  
7           Human Services determines requires State leg-  
8           islation in order for the respective plan (or  
9           waiver) to meet any requirement imposed by  
10          the amendments made by this subsection, the  
11          respective plan (or waiver) shall not be re-  
12          garded as failing to comply with the require-  
13          ments of such title solely on the basis of its fail-  
14          ure to meet such an additional requirement be-  
15          fore the first day of the first calendar quarter  
16          beginning after the close of the first regular  
17          session of the State legislature that begins after  
18          the date of enactment of this subsection. For  
19          purposes of the previous sentence, in the case  
20          of a State that has a 2-year legislative session,  
21          each year of the session shall be considered to  
22          be a separate regular session of the State legis-  
23          lature.

24       (f) CHIP.—

1           (1) IN GENERAL.—Section 2103 of the Social  
2       Security Act (42 U.S.C. 1397cc) is amended—

3           (A) in subsection (a), by striking “para-  
4       graphs (5), (6), (7) and (8) of”; and

5           (B) in subsection (c), by adding at the end  
6       the following new paragraph:

7           “(11) Coverage of scalp cooling items.—The  
8       child health assistance provided to a targeted low-in-  
9       come child shall include cooling caps, hypothermia  
10      caps, cold caps, and any other therapeutic devices  
11      used to cool the scalp of an individual to prevent or  
12      reduce hair loss during chemotherapy.”.

13          (2) EFFECTIVE DATE.—

14          (A) IN GENERAL.—Subject to subpara-  
15      graph (B), the amendments made by this sub-  
16      section shall take effect with respect to child  
17      health assistance provided on or after January  
18      1, 2025.

19          (B) EXCEPTION FOR STATE LEGISLA-  
20      TION.—In the case of a State child health plan  
21      under title XXI of the Social Security Act (or  
22      a waiver of such plan), which the Secretary of  
23      Health and Human Services determines re-  
24      quires State legislation in order for the respec-  
25      tive plan (or waiver) to meet any requirement

1 imposed by the amendments made by this sec-  
2 tion, the respective plan (or waiver) shall not be  
3 regarded as failing to comply with the require-  
4 ments of such title solely on the basis of its fail-  
5 ure to meet such an additional requirement be-  
6 fore the first day of the first calendar quarter  
7 beginning after the close of the first regular  
8 session of the State legislature that begins after  
9 the date of enactment of this section. For pur-  
10 poses of the previous sentence, in the case of a  
11 State that has a 2-year legislative session, each  
12 year of the session shall be considered to be a  
13 separate regular session of the State legislature.

14 (g) FEHBP.—Section 8902 of title 5, United States  
15 Code, is amended by adding at the end the following new  
16 subsection:

17 “(p) A contract may not be made or a plan ap-  
18 proved which does not provide for the coverage re-  
19 quired under section 2730 of the Public Health  
20 Service Act.”.

21 (h) TRICARE.—Section 1077(a) of title 10, United  
22 States Code, is amended by adding at the end the fol-  
23 lowing new paragraph:

24 “(19) A cooling cap, hypothermia cap, cold cap,  
25 or any other therapeutic device used to cool the

1 scalp of an individual to prevent or reduce hair loss  
2 during chemotherapy.”.

3 (i) VA.—

4 (1) IN GENERAL.—Chapter 17 of title 38,  
5 United States Code, is amended by inserting after  
6 section 1720I the following new section:

7  
“Sec. 1720J. Provision of scalp cooling items.

8 “The Secretary shall make available to a vet-  
9 eran who receives chemotherapy pursuant to this  
10 chapter a cooling cap, hypothermia cap, cold cap, or  
11 any other therapeutic device used to cool the scalp  
12 of an individual to prevent or reduce hair loss during  
13 chemotherapy.”.

14 (2) CLERICAL AMENDMENT.—The table of sec-  
15 tions at the beginning of such chapter is amended  
16 by inserting after the item relating to section 1720I  
17 the following new item:

18  
“1720J. Provision of scalp cooling items.”.

○