

112TH CONGRESS
1ST SESSION

H. R. 1774

To provide for an evidence-based strategy for voluntary screening for HIV/AIDS and other common sexually transmitted infections, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 5, 2011

Mr. HASTINGS of Florida (for himself, Mr. CONYERS, Mr. GRIJALVA, Ms. LEE of California, Mr. MCGOVERN, Mr. JACKSON of Illinois, Ms. WASSERMAN SCHULTZ, Mr. BRADY of Pennsylvania, Mr. HINCHEY, Ms. NORTON, Mr. DEUTCH, Mr. PAYNE, Mr. SERRANO, Mr. RUSH, Mrs. CHRISTENSEN, Ms. MOORE, Mr. CLAY, Mr. JOHNSON of Georgia, Mr. QUIGLEY, Mr. FRANK of Massachusetts, Ms. SCHAKOWSKY, Mr. RANGEL, Mr. POLIS, Mr. CICILLINE, Mr. DAVIS of Illinois, and Ms. BALDWIN) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committees on Education and the Workforce, Ways and Means, and Oversight and Government Reform, 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 provide for an evidence-based strategy for voluntary screening for HIV/AIDS and other common sexually transmitted infections, 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,*

1 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

2 (a) SHORT TITLE.—This Act may be cited as the
3 “Increasing Access to Voluntary Screening for HIV/AIDS
4 and STIs Act of 2011”.

5 (b) TABLE OF CONTENTS.—The table of contents for
6 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Findings.
- Sec. 3. Purpose.
- Sec. 4. Definitions.

TITLE I—COVERAGE OF HIV/AIDS AND STI SCREENING UNDER
PUBLIC HEALTH CARE PROGRAMS AND GROUP HEALTH
PLANS; COVERAGE OF CARE UNDER MEDICAID.

- Sec. 101. Coverage of routine HIV/AIDS and STI screening tests under Medicaid.
- Sec. 102. Coverage of HIV/AIDS and STI screening tests under Medicare.
- Sec. 103. Coverage for routine HIV/AIDS and STI screening under group health plans.
- Sec. 104. Optional Medicaid coverage of low-income HIV/AIDS infected individuals.

TITLE II—INCREASED DATA COLLECTION AND EDUCATION FOR
HISTORICALLY UNDER-REPRESENTED POPULATIONS

- Sec. 201. People living with disabilities.
- Sec. 202. Women who have sex with women.
- Sec. 203. Transgender community.
- Sec. 204. Report.

7 **SEC. 2. FINDINGS.**

8 Congress finds the following:

9 (1) Almost 19,000,000 new sexually trans-
10 mitted infections (STIs) occur each year in the
11 United States, and 50 percent of sexually active
12 Americans will contract a STI at some point in their
13 lives, the majority of which may be asymptomatic for
14 an extended amount of time.

1 (2) Over 1,000,000 people in the United States
2 are living with HIV, and someone is infected with
3 HIV in the United States every 9.5 minutes.

4 (3) HIV/AIDS and STIs are syndemics. HIV
5 infection can increase a person's risk for acquiring
6 certain STIs, as well as affect their frequency, sever-
7 ity, and healing time, while STIs increase the risk
8 of HIV transmission, impaired fertility, reproductive
9 tract cancer, and adverse pregnancy outcomes.

10 (4) Many common long-term and initially
11 asymptomatic STIs such as chlamydia, gonorrhea,
12 herpes, syphilis, inflammatory pelvic disease, viral
13 hepatitis, and HIV/AIDS remain undiagnosed, or di-
14 agnosed at later stages, leading to increased rates of
15 mortality, morbidity, disability, and transmission.

16 (5) In fact, an estimated 4.4 million Americans
17 are living with chronic hepatitis and most do not
18 know they are infected. Chronic hepatitis B can re-
19 main asymptomatic for years and, left undiagnosed
20 and untreated, can lead to serious complications.
21 Additionally, individuals infected with hepatitis C
22 virus (HCV) are at risk for chronic liver disease or
23 other HCV-related chronic diseases decades after in-
24 fection.

1 (6) Stigma, culture, language, lack of edu-
2 cation, lack of insurance, limited time, cost and re-
3 sources in medical settings, and an inaccurate per-
4 ception of risk among communities and providers all
5 contribute to insufficient rates of screening for HIV/
6 AIDS and STIs.

7 (7) The Centers for Disease Control and Pre-
8 vention and the United States Preventive Services
9 Task Force recognize screening as an effective pub-
10 lic health tool that allows providers to administer
11 treatment before symptoms develop and implement
12 interventions that will reduce the likelihood of HIV/
13 AIDS and STI transmission and reduce the develop-
14 ment of adverse outcomes.

15 (8) The CDC recommends that voluntary
16 screening for HIV/AIDS be integrated into routine
17 clinical care while preserving patient confidentiality
18 and the right of the patient to decline testing and
19 screening.

20 (9) The CDC also recommends that all
21 unvaccinated, uninfected persons being evaluated for
22 a STI should receive hepatitis B vaccination. Fur-
23 thermore, anti-HCV testing is recommended for rou-
24 tine screening of asymptomatic persons based on

1 their risk for infection or based on a recognized ex-
2 posure.

3 (10) Inaccurate perceptions of risk among
4 health care providers and patients, misdiagnosis,
5 ageism, generational mind-sets, and biological fac-
6 tors have contributed to increased rates in trans-
7 mission and late detection of HIV/AIDS and STIs
8 over the past decade.

9 (11) Health equity and disparities remain a sig-
10 nificant public health challenge, with the burden of
11 HIV/AIDS and STIs falling disproportionately on
12 different populations.

13 (12) Although African-Americans account for
14 about 12 percent of the United States population,
15 they account for nearly half of all HIV/AIDS cases
16 and infections and have higher instances of mor-
17 tality and morbidity for most STIs and HIV/AIDS.
18 Also, African-American women who have sex with
19 men account for the majority of HIV/AIDS infec-
20 tions among all women in the United States.

21 (13) HIV/AIDS continues to be most prevalent
22 among men who have sex with men (MSM). Contin-
23 ued support and increased funding for community-
24 based programs and behavioral interventions that

1 are culturally competent are key to reaching MSM,
2 especially young MSM of color.

3 (14) Transgender persons are particularly vul-
4 nerable to contracting HIV/AIDS and STIs due to
5 high rates of survival sex among trans-females, dis-
6 crimination in education, employment, and housing,
7 and the absence of education and prevention meth-
8 ods culturally relevant to the transgender commu-
9 nity.

10 (15) Health care providers must be properly
11 educated to treat groups, such as MSM, transgender
12 persons, African-Americans, and Latinos who are
13 disproportionately affected by HIV/AIDS and other
14 STIs, and also improve interventions for groups that
15 have been historically under-represented in health
16 interventions for STIs, such as women who have sex
17 with women, individuals over the age of 50, Asian
18 and Pacific Islander Americans, Native Americans,
19 and persons living with disabilities.

20 (16) Women living with mobility impairments
21 often lack access to screening for STIs and other
22 women's health services such as pelvic examinations
23 and mammograms due to, among other factors, the
24 lack of provider awareness, experience, and access to
25 equipment.

1 (17) All individuals engaging in oral, anal, or
2 genital sexual contact must have access to voluntary
3 screening for HIV/AIDS and other STIs. Screening
4 must be confidential, rapid, accurate, and medically
5 appropriate. Screening must be offered regardless of
6 age, race, class, sexual behavior, sexual orientation,
7 gender identity, or disability.

8 (18) The Congress supports the goals of the
9 National HIV/AIDS Strategy and, in particular, the
10 goal of 90 percent of individuals knowing their HIV/
11 AIDS status.

12 **SEC. 3. PURPOSE.**

13 The purposes of this Act are as follows:

14 (1) Increase access, quality, and affordability
15 for voluntary and medically appropriate screening
16 for HIV/AIDS and other STIs, including chlamydia,
17 gonorrhea, syphilis, viral hepatitis, and human
18 papillomavirus, for all persons engaging in various
19 forms of sexual activity, including oral, genital, or
20 anal sex.

21 (2) Reduce the spread, morbidity, and mortality
22 of HIV/AIDS and other STIs.

23 (3) Reduce the disproportionate incidence of
24 HIV/AIDS and other STIs in certain groups
25 through early detection and treatment and com-

1 prehensive education for health care providers, cen-
2 ters, and communities.

3 (4) Support the execution of other scientifically
4 based interventions that are culturally competent
5 and age appropriate and are proven to reduce the in-
6 cidence of HIV/AIDS and other STIs.

7 **SEC. 4. DEFINITIONS.**

8 In this Act:

9 (1) CDC.—The term “CDC” means the Cen-
10 ters for Disease Control and Prevention.

11 (2) CMS.—The term “CMS” means the Cen-
12 ters for Medicare & Medicaid Services.

13 (3) DIRECTOR.—The term “Director” means
14 the Director of the Centers for Disease Control and
15 Prevention.

16 (4) HIV/AIDS.—The term “HIV/AIDS” means
17 infection with the human immunodeficiency virus
18 and includes acquired immune deficiency syndrome
19 and any condition arising from such syndrome.

20 (5) MSM.—The term “MSM” means men who
21 have sex with men.

22 (6) SECRETARY.—The term “Secretary” means
23 the Secretary of Health and Human Services.

24 (7) STATE.—The term “State” means each of
25 the 50 States, the District of Columbia, the United

1 States Virgin Islands, Guam, the Commonwealth of
2 Puerto Rico, the Commonwealth of the Northern
3 Mariana Islands, and American Samoa.

4 (8) STI.—The term “STI” means a sexually
5 transmitted infection that is recognized by the CDC,
6 including chlamydia, gonorrhea, syphilis, viral hepa-
7 titis, and human papillomavirus.

8 (9) WSW.—The term “WSW” means women
9 who have sex with women.

10 **TITLE I—COVERAGE OF HIV/
11 AIDS AND STI SCREENING
12 UNDER PUBLIC HEALTH
13 CARE PROGRAMS AND GROUP
14 HEALTH PLANS; COVERAGE
15 OF CARE UNDER MEDICAID.**

16 **SEC. 101. COVERAGE OF ROUTINE HIV/AIDS AND STI
17 SCREENING TESTS UNDER MEDICAID.**

18 (a) INCLUSION IN STATE PLAN.—Section 1902(a) of
19 the Social Security Act (42 U.S.C. 1396a(a)) is amended
20 in paragraph (10)(A), in the matter before clause (i), by
21 striking “and (28)” and inserting “(28), and (29)”.

22 (b) INCLUSION IN MEDICAL ASSISTANCE.—

23 (1) IN GENERAL.—Section 1905(a) of the So-
24 cial Security Act (42 U.S.C. 1396d(a)) is amend-
25 ed—

1 (A) in paragraph (28), by striking “and”
2 at the end;

3 (B) by redesignating paragraph (29) as
4 paragraph (30); and

5 (C) by inserting after paragraph (28) the
6 following:

7 “(29) routine HIV/AIDS and STI screening
8 services (as defined in subsection (ee)).”.

9 (2) DEFINITION OF SERVICES.—Section 1905
10 of such Act is amended by adding at the end the fol-
11 lowing:

12 “(ee)(1) For purposes of this section, the term ‘rou-
13 tine HIV/AIDS and STI screening services’ means all of
14 the following:

15 “(A) A screening test for HIV/AIDS or
16 any other STI, if such test is provided to an in-
17 dividual who—

18 “(i) is eligible for medical assistance
19 under the State plan; and

20 “(ii) is described in clauses (ii)
21 through (v) of section 1861(iii)(1)(A).

22 “(B) Each of the services described in sub-
23 paragraphs (B) through (F) of section
24 1861(iii)(1).

1 “(2) DEFINITIONS.—For purposes of this sub-
2 section, the terms ‘HIV/AIDS’ and ‘STI’ have the
3 same meaning given such terms in section
4 1861(iii)(2).”.

5 (c) NO COST SHARING FOR HIV/AIDS TESTING.—

6 (1) IN GENERAL.—Section 1916(a)(2) of the
7 Social Security Act (42 U.S.C. 1396o(a)(2)) is
8 amended—

9 (A) in subparagraph (D), by striking “or”
10 at the end;

11 (B) in subparagraph (E), by striking “;
12 and” at the end and inserting “, or”; and

13 (C) by adding at the end the following:

14 “(F) routine HIV/AIDS and STI screening
15 services (as such term is defined in section
16 1905(ee)); and”.

17 (2) LIMITATION ON STATE OPTION FOR ALTER-
18 NATIVE COST SHARING.—Section 1916A(b)(3)(B) of
19 the Social Security Act (42 U.S.C. 1396o-
20 1(b)(3)(B)) is amended by adding at the end the fol-
21 lowing:

22 “(xi) Routine HIV/AIDS and STI
23 screening services (as such term is defined
24 in section 1905(ee)).”.

25 (d) EFFECTIVE DATE.—

1 (1) IN GENERAL.—Except as provided by para-
2 graph (2), the amendments made by this section
3 shall take effect on the date of the enactment of this
4 section and shall apply to services furnished on or
5 after such date.

6 (2) RULES FOR CHANGES REQUIRING STATE
7 LEGISLATION.—In the case of a State plan for med-
8 ical assistance under title XIX of the Social Security
9 Act which the Secretary of Health and Human Serv-
10 ices determines requires State legislation (other than
11 legislation appropriating funds) in order for the plan
12 to meet the additional requirement imposed by the
13 amendments made by this section, the State plan
14 shall not be regarded as failing to comply with the
15 requirements of such title solely on the basis of its
16 failure to meet this additional requirement before
17 the first day of the first calendar quarter beginning
18 after the close of the first regular session of the
19 State legislature that begins after the date of the en-
20 actment of this Act. For purposes of the previous
21 sentence, in the case of a State that has a 2-year
22 legislative session, each year of such session shall be
23 deemed to be a separate regular session of the State
24 legislature.

1 **SEC. 102. COVERAGE OF HIV/AIDS AND STI SCREENING**
2 **TESTS UNDER MEDICARE.**

3 Section 1861 of the Social Security Act is amended—

4 (1) in subsection (s)—

5 (A) by striking “and” at the end of para-
6 graph (14);

7 (B) by striking the period at the end of
8 paragraph (15) and inserting “; and”;

9 (C) by redesignating paragraphs (16) and
10 (17) as paragraphs (17) and (18), respectively;
11 and

12 (D) by inserting after paragraph (15) the
13 following:

14 “(16) routine HIV/AIDS and STI screening
15 services (as such term is defined in subsection
16 (iii)).”; and

17 (2) by adding at the end the following:

18 “(iii) **ROUTINE HIV/AIDS AND STI SCREENING**
19 **SERVICES.**—(1) For purposes of this section, the term
20 ‘routine HIV/AIDS and STI screening services’ means all
21 of the following:

22 “(A) A screening test for HIV/AIDS or
23 any other STI, if such test is provided in any
24 health care setting (other than an inpatient
25 hospital setting) and is provided to an indi-
26 vidual who—

- 1 “(i) is enrolled in part B;
- 2 “(ii) is at least 13 years of age;
- 3 “(iii) with respect to a test for HIV/
4 AIDS, is not known to the health care pro-
5 vider (directly, through information pro-
6 vided by the individual, or through access
7 to an electronic medical record) to have
8 had a previous positive test for HIV/AIDS;
- 9 “(iv) subject to subparagraph (B),
10 with respect to a test for HIV/AIDS or a
11 STI, is not known to the health care pro-
12 vider (directly, through information pro-
13 vided by the individual, or through access
14 to an electronic medical record) to have
15 had a test for the same condition within
16 the previous 6 months; and
- 17 “(v) has been informed that such a
18 test will be administered and has not ob-
19 jected to such a test.
- 20 “(B) If a test described under subpara-
21 graph (A) is reactive—
- 22 “(i) and is for HIV/AIDS, a confirm-
23 atory test;

1 “(ii) and is for a STI other than HIV/
2 AIDS, if reasonable and necessary, a con-
3 firmatory test.

4 “(C) The interpretation of any tests pro-
5 vided under subparagraph (A) and subpara-
6 graph (B).

7 “(D) Informing an individual who receives
8 a test under subparagraph (A) or subparagraph
9 (B) of the results of such tests as close in time
10 as possible to the determination of such results.

11 “(E) If an individual tests positive for
12 HIV/AIDS on a screening test under subpara-
13 graph (A) and any confirmatory test under sub-
14 paragraph (B)—

15 “(i) post-test counseling concerning
16 HIV/AIDS and STIs at the time the indi-
17 vidual is informed of the results of the
18 test; and

19 “(ii) if appropriate, a referral to med-
20 ical or mental health services.

21 “(F) If an individual tests positive for a
22 STI on a screening test under subparagraph
23 (A) and any confirmatory test under subpara-
24 graph (B), the provision of information to such
25 individual on the risk of STIs and HIV/AIDS

1 and behaviors that reduce the risk of exposure
2 to such conditions.

3 “(2) DEFINITIONS.—For purposes of this sub-
4 section:

5 “(A) HIV/AIDS.—The term ‘HIV/AIDS’
6 means infection with the human immuno-
7 deficiency virus and includes acquired immune
8 deficiency syndrome and any condition arising
9 from such syndrome.

10 “(B) STI.—The term ‘STI’ means a sexu-
11 ally transmitted infection or sexually trans-
12 mitted disease that is recognized by the Centers
13 for Disease Control and Prevention, including
14 chlamydia, gonorrhea, syphilis, hepatitis B, hep-
15 atitis C, and human papillomavirus.”.

16 **SEC. 103. COVERAGE FOR ROUTINE HIV/AIDS AND STI**
17 **SCREENING UNDER GROUP HEALTH PLANS.**

18 (a) GROUP HEALTH PLANS.—

19 (1) PUBLIC HEALTH SERVICE ACT AMEND-
20 MENTS.—

21 (A) IN GENERAL.—Title XXVII of the
22 Public Health Service Act is amended by insert-
23 ing after section 2728 of such Act (42 U.S.C.
24 300gg–28), as redesignated by section 1001(2)

1 of the Patient Protection and Affordable Care
2 Act (Public Law 111–148), the following:

3 **“SEC. 2729. COVERAGE FOR ROUTINE HIV/AIDS AND STI**
4 **SCREENING.**

5 “(a) COVERAGE.—A group health plan, and a health
6 insurance issuer providing group or individual health in-
7 surance coverage, shall provide coverage for routine HIV/
8 AIDS and STI screening under terms and conditions that
9 are no less favorable than the terms and conditions appli-
10 cable to other routine health screenings.

11 “(b) PROHIBITIONS.—A group health plan, and a
12 health insurance issuer providing group or individual
13 health insurance coverage, shall not—

14 “(1) deny to an individual eligibility, or contin-
15 ued eligibility, to enroll or to renew coverage under
16 the terms of the plan, solely for the purpose of
17 avoiding the requirements of this section;

18 “(2) deny coverage for routine HIV/AIDS or
19 STI screening on the basis that there are no known
20 risk factors present, or the screening is not clinically
21 indicated, medically necessary, or pursuant to a re-
22 ferral, consent, or recommendation by any health
23 care provider;

24 “(3) provide monetary payments, rebates, or
25 other benefits to individuals to encourage such indi-

1 individuals to accept less than the minimum protections
2 available under this section;

3 “(4) penalize or otherwise reduce or limit the
4 reimbursement of a provider because such provider
5 provided care to an individual participant or bene-
6 ficiary in accordance with this section;

7 “(5) provide incentives (monetary or otherwise)
8 to a provider to induce such provider to provide care
9 to an individual participant or beneficiary in a man-
10 ner inconsistent with this section; or

11 “(6) deny to an individual participant or bene-
12 ficiary continued eligibility to enroll or to renew cov-
13 erage under the terms of the plan, solely because of
14 the results of an HIV/AIDS or STI test, or other
15 HIV/AIDS and STI screening procedure, for the in-
16 dividual or any other individual.

17 “(c) RULES OF CONSTRUCTION.—Nothing in this
18 section shall be construed—

19 “(1) to require an individual who is a partici-
20 pant or beneficiary to undergo HIV/AIDS or STI
21 screening; or

22 “(2) as preventing a group health plan or issuer
23 from imposing deductibles, coinsurance, or other
24 cost-sharing in relation to HIV/AIDS or STI screen-
25 ing, except that such deductibles, coinsurance or

1 other cost-sharing may not be greater than the
2 deductibles, coinsurance, or other cost-sharing im-
3 posed on other routine health screenings.

4 “(d) NOTICE.—A group health plan under this part
5 shall comply with the notice requirement under section
6 716(d) of the Employee Retirement Income Security Act
7 of 1974 with respect to the requirements of this section
8 as if such section applied to such plan.

9 “(e) PREEMPTION.—Nothing in this section shall be
10 construed to preempt any State law in effect on the date
11 of enactment of this section with respect to health insur-
12 ance coverage that requires coverage of at least the cov-
13 erage of HIV/AIDS or STI screening otherwise required
14 under this section.”.

15 (B) APPLICATION RULE.—For purposes of
16 applying section 2729 of the Public Health
17 Service Act, as inserted by subparagraph (A),
18 to individual health insurance coverage before
19 2014, the provisions of such section shall be
20 treated as also included under part B of title
21 XXVII of the Public Health Service Act.

22 (2) ERISA AMENDMENTS.—The Employee Re-
23 tirement Income Security Act of 1974 is amended as
24 follows:

1 (A) In subpart B of part 7 of subtitle B
2 of title I, by adding at the end the following
3 new section:

4 **“SEC. 716. COVERAGE FOR ROUTINE HIV/AIDS AND STI**
5 **SCREENING.**

6 “(a) **COVERAGE.**—A group health plan, and a health
7 insurance issuer offering group health insurance coverage,
8 shall provide coverage for routine HIV screening under
9 terms and conditions that are no less favorable than the
10 terms and conditions applicable to other routine health
11 screenings.

12 “(b) **PROHIBITIONS.**—A group health plan, and a
13 health insurance issuer offering group health insurance
14 coverage, shall not—

15 “(1) deny to an individual eligibility, or contin-
16 ued eligibility, to enroll or to renew coverage under
17 the terms of the plan, solely for the purpose of
18 avoiding the requirements of this section;

19 “(2) deny coverage for routine HIV screening
20 on the basis that there are no known risk factors
21 present, or the screening is not clinically indicated,
22 medically necessary, or pursuant to a referral, con-
23 sent, or recommendation by any health care pro-
24 vider;

1 “(3) provide monetary payments, rebates, or
2 other benefits to individuals to encourage such indi-
3 viduals to accept less than the minimum protections
4 available under this section;

5 “(4) penalize or otherwise reduce or limit the
6 reimbursement of a provider because such provider
7 provided care to an individual participant or bene-
8 ficiary in accordance with this section;

9 “(5) provide incentives (monetary or otherwise)
10 to a provider to induce such provider to provide care
11 to an individual participant or beneficiary in a man-
12 ner inconsistent with this section; or

13 “(6) deny to an individual participant or bene-
14 ficiary continued eligibility to enroll or to renew cov-
15 erage under the terms of the plan, solely because of
16 the results of an HIV test or other HIV screening
17 procedure for the individual or any other individual.

18 “(c) RULES OF CONSTRUCTION.—Nothing in this
19 section shall be construed—

20 “(1) to require an individual who is a partici-
21 pant or beneficiary to undergo HIV/AIDS or STI
22 screening; or

23 “(2) as preventing a group health plan or issuer
24 from imposing deductibles, coinsurance, or other
25 cost-sharing in relation to HIV/AIDS or STI screen-

1 ing, except that such deductibles, coinsurance or
2 other cost-sharing may not be greater than the
3 deductibles, coinsurance, or other cost-sharing im-
4 posed on other routine health screenings.

5 “(d) NOTICE UNDER GROUP HEALTH PLAN.—A
6 group health plan, and a health insurance issuer providing
7 health insurance coverage in connection with a group
8 health plan, shall provide notice to each participant and
9 beneficiary under such plan regarding the coverage re-
10 quired by this section in accordance with regulations pro-
11 mulgated by the Secretary. Such notice shall be in writing
12 and prominently positioned in any literature or cor-
13 respondence made available or distributed by the plan or
14 issuer and shall be transmitted, by whichever is earliest
15 of the following:

16 “(1) In the next mailing made by the plan or
17 issuer to the participant or beneficiary.

18 “(2) As part of any yearly informational packet
19 sent to the participant or beneficiary.

20 “(3) Not later than July 1, 2012.

21 “(e) PREEMPTION; RELATION TO STATE LAWS.—

22 “(1) IN GENERAL.—Nothing in this section
23 shall be construed to preempt any State law in effect
24 on the date of enactment of this section with respect
25 to health insurance coverage that requires coverage

1 of at least the coverage of HIV/AIDS or STI screen-
 2 ing otherwise required under this section.

3 “(2) ERISA.—Nothing in this section shall be
 4 construed to affect or modify the provisions of sec-
 5 tion 514 with respect to group health plans.”.

6 (B) In section 732(a) of such Act (29
 7 U.S.C. 1191a(a)), by striking “section 711”
 8 and inserting “sections 711 and 716”.

9 (C) In the table of contents in section 1 of
 10 such Act, by inserting after the item relating to
 11 section 715 the following new item:

“Sec. 716. Coverage for routine HIV/AIDS and STI screening.”.

12 (3) INTERNAL REVENUE CODE AMEND-
 13 MENTS.—The Internal Revenue Code of 1986 is
 14 amended as follows:

15 (A) In subchapter B of chapter 100, by in-
 16 serting after section 9815 the following:

17 **“SEC. 9816. COVERAGE FOR ROUTINE HIV/AIDS AND STI**
 18 **SCREENING.**

19 “(a) COVERAGE.—A group health plan shall provide
 20 coverage for routine HIV/AIDS and STI screening under
 21 terms and conditions that are no less favorable than the
 22 terms and conditions applicable to other routine health
 23 screenings.

24 “(b) PROHIBITIONS.—A group health plan shall
 25 not—

1 “(1) deny to an individual eligibility, or contin-
2 ued eligibility, to enroll or to renew coverage under
3 the terms of the plan, solely for the purpose of
4 avoiding the requirements of this section;

5 “(2) deny coverage for routine HIV/AIDS or
6 STI screening on the basis that there are no known
7 risk factors present, or the screening is not clinically
8 indicated, medically necessary, or pursuant to a re-
9 ferral, consent, or recommendation by any health
10 care provider;

11 “(3) provide monetary payments, rebates, or
12 other benefits to individuals to encourage such indi-
13 viduals to accept less than the minimum protections
14 available under this section;

15 “(4) penalize or otherwise reduce or limit the
16 reimbursement of a provider because such provider
17 provided care to an individual participant or bene-
18 ficiary in accordance with this section;

19 “(5) provide incentives (monetary or otherwise)
20 to a provider to induce such provider to provide care
21 to an individual participant or beneficiary in a man-
22 ner inconsistent with this section; or

23 “(6) deny to an individual participant or bene-
24 ficiary continued eligibility to enroll or to renew cov-
25 erage under the terms of the plan, solely because of

1 the results of an HIV/AIDS or STI test, or other
2 HIV/AIDS and STI screening procedure, for the in-
3 dividual or any other individual.

4 “(c) RULES OF CONSTRUCTION.—Nothing in this
5 section shall be construed—

6 “(1) to require an individual who is a partici-
7 pant or beneficiary to undergo HIV/AIDS or STI
8 screening; or

9 “(2) as preventing a group health plan or issuer
10 from imposing deductibles, coinsurance, or other
11 cost-sharing in relation to HIV/AIDS or STI screen-
12 ing, except that such deductibles, coinsurance or
13 other cost-sharing may not be greater than the
14 deductibles, coinsurance, or other cost-sharing im-
15 posed on other routine health screenings.”.

16 (B) In the table of contents for such sub-
17 chapter, by inserting after the item relating to
18 section 9815 the following new item:

“Sec. 9816. Coverage for HIV/AIDS and STI screening.”.

19 (C) In section 4980D(d)(1), by striking
20 “section 9811” and inserting “sections 9811
21 and 9816”.

22 (b) APPLICATION UNDER FEDERAL EMPLOYEES
23 HEALTH BENEFITS PROGRAM.—Section 8902 of title 5,
24 United States Code, is amended by adding at the end the
25 following new subsection:

1 “(p) A contract may not be made or a plan approved
2 which does not comply with the requirements of section
3 2729 of the Public Health Service Act.”.

4 (c) EFFECTIVE DATES.—Notwithstanding any other
5 provision of law, the amendments made by subsections (a)
6 and (b) shall apply with respect to plan years beginning
7 on or after July 1, 2012, and with respect to health insur-
8 ance coverage issued on or after such date.

9 (d) COORDINATION OF ADMINISTRATION.—The Sec-
10 retary of Labor, the Secretary of Health and Human Serv-
11 ices, and the Secretary of the Treasury shall ensure,
12 through the execution of an interagency memorandum of
13 understanding among such Secretaries, that—

14 (1) regulations, rulings, and interpretations
15 issued by such Secretaries relating to the same mat-
16 ter over which two or more such Secretaries have re-
17 sponsibility under the provisions of this section (and
18 the amendments made thereby) are administered so
19 as to have the same effect at all times; and

20 (2) coordination of policies relating to enforcing
21 the same requirements through such Secretaries in
22 order to have a coordinated enforcement strategy
23 that avoids duplication of enforcement efforts and
24 assigns priorities in enforcement.

1 **SEC. 104. OPTIONAL MEDICAID COVERAGE OF LOW-INCOME**
2 **HIV/AIDS INFECTED INDIVIDUALS.**

3 (a) IN GENERAL.—Section 1902 of the Social Secu-
4 rity Act (42 U.S.C. 1396a) is amended—

5 (1) in subsection (a)(10)(A)(ii)—

6 (A) by striking “or” at the end of sub-
7 clause (XXI);

8 (B) by adding “or” at the end of subclause
9 (XXII); and

10 (C) by adding at the end the following:

11 “(XXIII) on or before December
12 31, 2013, who are described in sub-
13 section (ll) (relating to HIV/AIDS in-
14 fected individuals);” and

15 (2) by adding at the end the following:

16 “(ll) individuals described in this subsection are indi-
17 viduals—

18 “(1) who are not described in subsection
19 (a)(10)(A)(i);

20 “(2) who have HIV/AIDS, as defined under
21 section 1905(ee);

22 “(3) whose income (as determined under the
23 State plan under this title with respect to disabled
24 individuals) does not exceed the maximum amount
25 of income a disabled individual described in sub-

1 section (a)(10)(A)(i) may have to obtain medical as-
2 sistance under the plan; and

3 “(4) whose resources (as determined under the
4 State plan under this title with respect to disabled
5 individuals) do not exceed the maximum amount of
6 resources a disabled individual described in sub-
7 section (a)(10)(A)(i) may have to obtain medical as-
8 sistance under the plan.”.

9 (b) ENHANCED MATCH.—

10 (1) IN GENERAL.—The first sentence of section
11 1905(b) of the Social Security Act (42 U.S.C.
12 1396d(b)) is amended by striking “section
13 1902(a)(10)(A)(ii)(XVIII)” and inserting “subclause
14 (XVIII) and subclause (XXIII) of section
15 1902(a)(10)(A)(ii)”.

16 (2) CONFORMING AMENDMENTS.—Section
17 1905(a) of the Social Security Act (42 U.S.C.
18 1396d(a)) is amended in the matter preceding para-
19 graph (1)—

20 (A) by striking “or” at the end of clause
21 (xv);

22 (B) by striking “or” at the end of clause
23 (xvi), as amended by Public Law 111–148;

24 (C) by adding “or” at the end of clause
25 (xvii); and

1 (D) by inserting after clause (xvii) the fol-
2 lowing:

3 “(xviii) individuals described in sec-
4 tion 1902(a)(10)(A)(ii)(XXIII);”.

5 (c) EXEMPTION FROM FUNDING LIMITATION FOR
6 TERRITORIES.—Section 1108(g) of the Social Security
7 Act (42 U.S.C. 1308(g)) is amended by adding at the end
8 the following:

9 “(6) DISREGARDING MEDICAL ASSISTANCE FOR
10 OPTIONAL LOW-INCOME HIV/AIDS INFECTED INDI-
11 VIDUALS.—The limitations under subsection (f) and
12 the previous provisions of this subsection shall not
13 apply to amounts expended for medical assistance
14 for individuals described in section 1902(l) who are
15 only eligible for such assistance on the basis of sec-
16 tion 1902(a)(10)(A)(ii)(XXIII).”.

17 (d) EFFECTIVE DATE.—

18 (1) IN GENERAL.—Except as provided by para-
19 graph (2), the amendments made by this section
20 shall take effect on the date of the enactment of this
21 section and shall apply to services furnished on or
22 after such date.

23 (2) RULES FOR CHANGES REQUIRING STATE
24 LEGISLATION.—In the case of a State plan for med-
25 ical assistance under title XIX of the Social Security

1 Act which the Secretary of Health and Human Serv-
2 ices determines requires State legislation (other than
3 legislation appropriating funds) in order for the plan
4 to meet the additional requirement imposed by the
5 amendments made by this section, the State plan
6 shall not be regarded as failing to comply with the
7 requirements of such title solely on the basis of its
8 failure to meet this additional requirement before
9 the first day of the first calendar quarter beginning
10 after the close of the first regular session of the
11 State legislature that begins after the date of the en-
12 actment of this Act. For purposes of the previous
13 sentence, in the case of a State that has a 2-year
14 legislative session, each year of such session shall be
15 deemed to be a separate regular session of the State
16 legislature.

17 **TITLE II—INCREASED DATA COL-**
18 **LECTION AND EDUCATION**
19 **FOR HISTORICALLY UNDER-**
20 **REPRESENTED POPULATIONS**

21 **SEC. 201. PEOPLE LIVING WITH DISABILITIES.**

22 (a) TRACKING OF INFORMATION.—The Director
23 shall—

24 (1) track national HIV/AIDS and STI screen-
25 ing trends and the burdens of HIV/AIDS and STIs

1 among people with disabilities, including such per-
2 sons with mental, physical, cognitive, intellectual, or
3 developmental disabilities; and

4 (2) identify and assess the barriers that prevent
5 such persons from accessing HIV/AIDS and STI
6 screening.

7 (b) TRACKING METHODOLOGY.—

8 (1) IN GENERAL.—The tracking methods used
9 by the Secretary under subsection (a) shall—

10 (A) focus upon historically under-rep-
11 resented communities, including the deaf and
12 hearing loss-related community and the cog-
13 nitive, intellectual, developmental, mobility, or
14 mental health disability communities; and

15 (B) consider other factors that may con-
16 tribute to increased burdens of HIV/AIDS and
17 STIs, including race, socio-economic status, re-
18 gion, gender identity, and sexual behavior.

19 (2) SEXUAL ASSAULT DATA.—Tracking under
20 subsection (a) shall include data collection on the in-
21 cidence of sexual assault on people with mental,
22 physical, cognitive, intellectual, or developmental dis-
23 abilities for the purposes of understanding the prev-
24 alence of HIV/AIDS and STIs that result from such
25 assaults.

1 (c) DEAF AND HEARING LOSS COMMUNITY.—

2 (1) IN GENERAL.—The Secretary, acting
3 through the Director, shall work with appropriate
4 organizations and institutions to make comprehen-
5 sive sex education materials that promote voluntary
6 screening for HIV/AIDS and STIs accessible to the
7 deaf and hearing loss community through language
8 (including American Sign Language), modalities (in-
9 cluding highly graphic formats with minimal text),
10 and culturally appropriate information delivery.

11 (2) HEALTH CAREERS AND EDUCATION.—The
12 Secretary shall—

13 (A) work with appropriate individuals, or-
14 ganizations, and institutions to increase the
15 number of people who are deaf or living with
16 hearing loss in public health careers for the
17 purposes of—

18 (i) building the public health infra-
19 structure to improve data collection; and

20 (ii) health information dissemination
21 to people who are deaf or who live with
22 hearing loss; and

23 (B) engage students in elementary school,
24 high school, college, and graduate school for the
25 purposes of carrying out this paragraph.

1 (d) COGNITIVE AND INTELLECTUAL DISABILITY
2 COMMUNITY.—The Secretary, acting through the Direc-
3 tor, shall work with appropriate national and local organi-
4 zations to make comprehensive sex education materials ac-
5 cessible to people with intellectual disabilities by—

6 (1) using plain language;

7 (2) educating service providers about the signs
8 and symptoms of sexual assault among people with
9 cognitive and intellectual disabilities; and

10 (3) using other appropriate information delivery
11 strategies.

12 (e) WOMEN LIVING WITH SEVERE PHYSICAL DIS-
13 ABILITIES.—The Secretary, acting through the Director,
14 shall work with Federal, State, and local entities to track
15 access to pelvic examinations, mammograms, and other
16 women’s health services for women with severe mobility
17 impairments with the goal of improving access to such
18 services.

19 **SEC. 202. WOMEN WHO HAVE SEX WITH WOMEN.**

20 (a) NATIONAL SCREENING GUIDELINES.—The Sec-
21 retary, acting through the Director, shall work with Fed-
22 eral, State, and local health entities to ensure that na-
23 tional screening guidelines for cervical cancer state that
24 WSW should be subject to the same screening guidelines
25 for cervical cancer as women who have sex only with men.

1 (b) INFORMATION COLLECTION.—The Secretary, act-
2 ing through the Director, shall, with respect to the WSW
3 community—

4 (1) track national trends in screening for HIV/
5 AIDS and other STIs; and

6 (2) collect information on—

7 (A) the burdens and behavior of HIV/
8 AIDS and STIs; and

9 (B) other reproductive health concerns.

10 **SEC. 203. TRANSGENDER COMMUNITY.**

11 (a) DATA COLLECTION.—The Secretary, acting
12 through the Director, shall work with Federal, State, and
13 local health entities and transgender communities to im-
14 prove information collection concerning the transmission,
15 morbidity, and screening for HIV/AIDS and other STIs
16 in transgender communities.

17 (b) INFORMATION CLASSIFICATION.—For purposes
18 of acquiring a comprehensive understanding of the unique
19 health trends among, and aspects of, the transgender com-
20 munity, the Secretary shall promulgate regulations requir-
21 ing that, for purposes of public health studies requiring
22 data collection, the fact that an individual is transgender
23 shall be a distinct category and data point.

1 **SEC. 204. REPORT.**

2 (a) IN GENERAL.—Not later than 3 years after the
3 date of the enactment of this Act, the Secretary shall sub-
4 mit a report to Congress on the activities required under
5 this Act.

6 (b) CONTENTS.—The report issued to Congress
7 under subsection (a) shall include—

8 (1) information on the success of voluntary
9 screening for HIV/AIDS and STIs, as well as other
10 methods for preventing the transmission of HIV/
11 AIDS and STIs among Medicaid and Medicare
12 beneficiaries, patients at federally qualified health
13 centers, individuals with health insurance, MSM,
14 WSW, persons living with disabilities, the
15 transgender community, and other groups that have
16 been historically underrepresented in public health
17 interventions for HIV/AIDS and STIs; and

18 (2) recommendations on how to improve exist-
19 ing measures with respect to race, socioeconomic
20 status, region, gender identity, disability, age, and
21 sexual behavior—

22 (A) to increase access to screening; and

23 (B) to decrease the disparities in mortality
24 and morbidity from HIV/AIDS and other STIs.

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