AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO COMMITTEE PRINT 117–3
OFFERED BY M. __________

In lieu of the matter proposed by the Committee Print, insert the following:

SECTION 1. 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 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 or individual health insurance coverage 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 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 imposition, 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 subtitle 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 sec-
tion 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-

“(2) NOTIFICATION.—In the case that a group health plan or health insurance issuer offering group health insurance coverage receives a claim for a forensics medical exam to which the provisions of subsection (a) would apply but for application 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 imposition, 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, 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 responsible 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 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), 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.”.

(2) TECHNICAL AMENDMENT.—The table of contents in section 1 of such Act is amended by inserting after the item relating to section 725 the following 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 amended—

(A) in section 9816(a)(3)(C)(ii), by inserting “forensic medical exams (as defined in section 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 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 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 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 imposition, 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 of the Employee Retirement Income Secu-
rity Act of 1974, and 9816 shall apply to a forensic
medical exam for which a group health plan is re-
ponsible for providing coverage at no cost sharing
under this section furnished to an enrollee, partici-
pant, or beneficiary of such plan by a provider that
does not have in effect a contractual relationship de-
scribed in subsection (a) with such plan for fur-
ishing such exam as if such exam was an emer-
gency service furnished by a nonparticipating pro-
vider in an emergency 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,

“(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 interim final rules, subregulatory guidance, program instruction, or otherwise.

(f) EFFECTIVE DATE.—The amendments made by subsections (a) through (d) shall apply with respect to plan years beginning on or after January 1, 2025.