

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 4818
OFFERED BY MR. SMITH OF MISSOURI**

Strike all after the enacting clause and insert the following:

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Treat and Reduce Obe-
3 sity Act of 2024”.

4 **SEC. 2. INCLUDING WEIGHT LOSS AGENTS AS COVERED**
5 **PART D DRUGS UNDER THE MEDICARE PRO-**
6 **GRAM IN CERTAIN CIRCUMSTANCES.**

7 (a) IN GENERAL.—

8 (1) REMOVAL OF EXCLUSION.—Section 1860D–
9 2(e) of the Social Security Act (42 U.S.C. 1395w–
10 102(e)) is amended—

11 (A) in paragraph (2)(A), in the first sen-
12 tence—

13 (i) by striking “and other than” and
14 inserting “other than”; and

15 (ii) by inserting “and, with respect to
16 plan years beginning on or after January
17 1, 2027, other than subparagraph (A) of
18 such section if the drug is approved under

1 section 505 of the Federal Food, Drug,
2 and Cosmetic Act or licensed under section
3 351 of Public Health Service Act for long-
4 term weight reduction in individuals with
5 obesity (as defined in section
6 1861(yy)(2)(C)) and is used for the treat-
7 ment of obesity for a specified individual,”
8 after “benzodiazepines,”; and
9 (B) by adding at the end the following new
10 paragraph:

11 “(5) SPECIFIED INDIVIDUAL DEFINED.—For
12 purposes of paragraph (2)(A), the term ‘specified in-
13 dividual’ means an individual enrolled under a pre-
14 scription drug plan for a plan year who, during the
15 1-year period ending on the first day of such plan
16 year (or, in the case such individual enrolled in such
17 plan after the first day of such plan year, the 1-year
18 period ending on the first day that such individual
19 was enrolled under such plan), was continuously re-
20 ceiving an agent for weight loss (as described in sec-
21 tion 1927(d)(2)(A)) for the treatment of obesity (as
22 defined in section 1861(yy)(2)(C)) for which benefits
23 were provided to such individual under a Federal
24 health care program (as defined in section 1128B),
25 the program established under chapter 89 of title 5,

1 United States Code, or under a group health plan or
2 group or individual health insurance coverage (as
3 such terms are defined in section 2791 of the Public
4 Health Service Act).”.

5 (2) ENSURING ELIGIBILITY.—Section 1860D–4
6 of the Social Security Act (42 U.S.C. 1395w–104)
7 is amended by adding at the end the following new
8 subsection:

9 “(p) ENSURING ELIGIBILITY WITH RESPECT TO AC-
10 CESS TO WEIGHT LOSS AGENTS.—

11 “(1) IN GENERAL.—A PDP sponsor of a pre-
12 scription drug plan may not make payment for a
13 drug for which coverage is available under such plan
14 only to specified individuals (as defined in section
15 1860D–2(e)) that is dispensed to an enrollee of such
16 plan unless such sponsor has determined that such
17 individual is a specified individual.

18 “(2) TIMING.—In the case of an individual en-
19 rolled under a prescription drug plan who requests
20 coverage under such plan of a drug described in
21 paragraph (1), the PDP sponsor of such plan shall,
22 not later than 72 hours after receiving from such in-
23 dividual documentation purporting to demonstrate
24 that such individual is a specified individual, deter-

1 mine whether such individual is in fact a specified
2 individual.

3 “(3) REGULATIONS.—Not later than 1 year
4 after the date of the enactment of this subsection,
5 the Secretary shall through notice-and-comment
6 rulemaking establish requirements relating to a PDP
7 sponsor’s determination of whether an individual is
8 a specified individual. Such requirements shall—

9 “(A) specify the documentation that such
10 sponsor must receive in order to make such a
11 determination; and

12 “(B) provide that such sponsor may not
13 determine an individual to be a specified indi-
14 vidual based solely on the attestation of such
15 individual.

16 “(4) AVAILABILITY OF DOCUMENTATION RE-
17 LATING TO DETERMINATIONS.—A PDP sponsor
18 shall retain all documentation described in para-
19 graph (3)(A) received by such sponsor in deter-
20 mining whether an individual is a specified indi-
21 vidual and make such documentation available to the
22 Secretary upon request.”.

23 (b) REVIEW.—Not later than 5 years after the date
24 of the enactment of this Act, the Inspector General of the
25 Department of Health and Human Services shall conduct

1 a review of prescription drug plans’ and MA–PD plans’
2 compliance with the amendments made by subsection (a).

3 (c) MEDPAC INFORMATION.—The Medicare Pay-
4 ment Advisory Commission shall, to the extent practicable
5 and subject to data availability, as part of the part D sta-
6 tus report chapter in the March 2026 report to Congress,
7 provide information on differences in commercial, indi-
8 vidual, and Medicaid coverage of anti-obesity medications,
9 differences in formulary treatment by prescription drug
10 plans under Medicare of GLP-1 products, and how the
11 amendments made by subsection (a) may be associated
12 with different use of such medications among Medicare
13 beneficiaries, including underserved communities.

14 **SEC. 3. REVIEWING COVERAGE FOR INTENSIVE BEHAV-**
15 **IORAL THERAPY FOR OBESITY UNDER THE**
16 **MEDICARE PROGRAM.**

17 (a) IN GENERAL.—Not later than 1 year after the
18 date of the enactment of this Act, the Secretary of Health
19 and Human Services (in this section referred to as the
20 “Secretary”) shall initiate a reconsideration of the na-
21 tional coverage determination entitled “Intensive Behav-
22 ioral Therapy for Obesity” (Publication Number 100–3).

23 (b) POTENTIAL REVISIONS TO NCD BASED ON CLIN-
24 ICAL GUIDELINES.—As part of the reconsideration of the
25 determination described in subsection (a), the Secretary

1 may, if determined appropriate by the Secretary after tak-
2 ing into account such clinical guidelines and scientific lit-
3 erature with respect to intensive behavioral therapy for
4 obesity as the Secretary finds appropriate, revise such de-
5 termination based on such guidelines and literature.

