

119TH CONGRESS  
1ST SESSION

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

To provide health insurance benefits for outpatient and inpatient items and services related to the diagnosis and treatment of a congenital anomaly or birth defect.

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IN THE SENATE OF THE UNITED STATES

Ms. BALDWIN (for herself, Ms. ERNST, Ms. KLOBUCHAR, Ms. MURKOWSKI, Mr. LUJÁN, Mr. TILLIS, Mr. KING, Mr. MARSHALL, Mr. REED, Mr. GRASSLEY, Mr. BLUMENTHAL, Mr. BOOKER, and Mr. MERKLEY) introduced the following bill; which was read twice and referred to the Committee on \_\_\_\_\_

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**A BILL**

To provide health insurance benefits for outpatient and inpatient items and services related to the diagnosis and treatment of a congenital anomaly or birth defect.

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 “Ensuring Lasting  
5 Smiles Act”.

1 **SEC. 2. COVERAGE OF CONGENITAL ANOMALY OR BIRTH**  
2 **DEFECT.**

3 (a) PUBLIC HEALTH SERVICE ACT AMENDMENTS.—  
4 Part D of title XXVII of the Public Health Service Act  
5 (42 U.S.C. 300gg–111 et seq.) is amended by adding at  
6 the end the following new section:

7 **“SEC. 2799A–11. COVERAGE OF CONGENITAL ANOMALY OR**  
8 **BIRTH DEFECT.**

9 “(a) REQUIREMENTS FOR CARE AND RECONSTRUC-  
10 TIVE TREATMENT.—

11 “(1) IN GENERAL.—A group health plan, and a  
12 health insurance issuer offering group or individual  
13 health insurance coverage, shall provide coverage for  
14 outpatient and inpatient items and services related  
15 to the diagnosis and treatment of a congenital  
16 anomaly or birth defect that primarily impacts the  
17 appearance or function of the eyes, ears, teeth,  
18 mouth, or jaw, consistent with paragraphs (2) and  
19 (3).

20 “(2) FINANCIAL REQUIREMENTS.—Any cov-  
21 erage provided under paragraph (1) under a group  
22 health plan or group or individual health insurance  
23 coverage may be subject to cost-sharing require-  
24 ments (such as coinsurance, copayments, and  
25 deductibles), as required by the plan or issuer offer-  
26 ing such coverage, that are no more restrictive than

1 the predominant cost-sharing requirements applied  
2 to substantially all other medical and surgical bene-  
3 fits covered by the plan or coverage.

4 “(3) APPLICABLE ITEMS AND SERVICES.—

5 “(A) IN GENERAL.—Except as provided in  
6 subparagraph (B), the items and services re-  
7 quired under paragraph (1) to be covered by a  
8 group health plan or group or individual health  
9 insurance coverage offered by a health insur-  
10 ance issuer include—

11 “(i) any item or service to improve,  
12 repair, or restore any body part to achieve  
13 normal body functioning or appearance, or  
14 performed to approximate a normal ap-  
15 pearance, as determined medically nec-  
16 essary by the treating physician (as de-  
17 fined in section 1861(r) of the Social Secu-  
18 rity Act), on account of a congenital anom-  
19 ally or birth defect that primarily impacts  
20 the appearance or function of the eyes,  
21 ears, teeth, mouth, or jaw; and

22 “(ii) any treatment or diagnostic serv-  
23 ice with respect to any and all missing or  
24 abnormal body parts (including teeth, the  
25 oral cavity, and their associated struc-

1 tures), as determined medically necessary  
2 by the treating physician (as defined in  
3 section 1861(r) of the Social Security Act),  
4 including—

5 “(I) reconstructive services and  
6 procedures, and items and services re-  
7 lated to any complications arising  
8 from such services and procedures;

9 “(II) adjunctive dental, ortho-  
10 dontic, or prosthodontic support from  
11 birth until the medical or surgical  
12 treatment of the defect or anomaly  
13 has been completed, including ongoing  
14 or subsequent treatment required to  
15 maintain function or approximate a  
16 normal appearance, notwithstanding  
17 any exclusions, limitations, or restric-  
18 tions under the plan or health insur-  
19 ance coverage on coverage of dental,  
20 orthodontic, or prosthodontic items  
21 and services arising from other inju-  
22 ries or sicknesses; and

23 “(III) items and services related  
24 to secondary conditions and follow-up  
25 treatment associated with the under-

1                   lying congenital anomaly or birth de-  
2                   fect.

3                   “(B) EXCEPTION.—The items and services  
4                   required under this subsection to be covered by  
5                   a group health plan or health insurance issuer  
6                   offering group or individual health insurance  
7                   coverage shall not include cosmetic surgery per-  
8                   formed to reshape normal structures of the  
9                   body to improve appearance or self-esteem, if  
10                  such items and services are not furnished as a  
11                  result of a medical determination of a con-  
12                  genital anomaly or birth defect.

13                  “(b) NOTICE.—Beginning not later January 1, 2026,  
14 a group health plan or health insurance issuer offering  
15 group or individual health insurance coverage shall provide  
16 notice to each participant and beneficiary under such plan  
17 or coverage regarding the coverage required by this section  
18 in any documents describing services, in accordance with  
19 any regulations promulgated by the Secretary.

20                  “(c) DEFINITION.—In this section, the term ‘con-  
21 genital anomaly or birth defect’ means a structural or  
22 functional anomaly that occurs during intrauterine life,  
23 develops prenatally, and may be identified before birth, at  
24 birth, or later in life, and which may—

1           “(1) be caused by genetic or chromosomal dis-  
2           orders, embryotoxic or teratogenic environmental  
3           factors, nutrient deficiency, multifactorial inherit-  
4           ance, or be of an unknown cause;

5           “(2) manifest as abnormal anatomical struc-  
6           tures;

7           “(3) manifest as physical, sensory, or cognitive  
8           functional disabilities;

9           “(4) manifest as syndromes, diseases, or other  
10          health problems; and

11          “(5) manifest as singular anomalies or in com-  
12          bination prenatally, at birth, or later in life.”.

13          (b) ERISA AMENDMENTS.—

14           (1) IN GENERAL.—Subpart B of part 7 of sub-  
15          title B of title I of the Employee Retirement Income  
16          Security Act of 1974 is amended by adding at the  
17          end the following:

18          **“SEC. 726. COVERAGE OF CONGENITAL ANOMALY OR BIRTH**

19                           **DEFECT.**

20           “(a) REQUIREMENTS FOR CARE AND RECONSTRUC-  
21          TIVE TREATMENT.—

22           “(1) IN GENERAL.—A group health plan, and a  
23          health insurance issuer offering group health insur-  
24          ance coverage, shall provide coverage for outpatient  
25          and inpatient items and services related to the diag-

1        nosis and treatment of a congenital anomaly or birth  
2        defect that primarily impacts the appearance or  
3        function of the eyes, ears, teeth, mouth, or jaw, con-  
4        sistent with paragraphs (2) and (3).

5            “(2) FINANCIAL REQUIREMENTS.—Any cov-  
6        erage provided under paragraph (1) under a group  
7        health plan or group health insurance coverage of-  
8        fered by a health insurance issuer may be subject to  
9        cost-sharing requirements (such as coinsurance, co-  
10       payments, and deductibles), as required by the plan  
11       or issuer offering such coverage, that are no more  
12       restrictive than the predominant cost-sharing re-  
13       quirements applied to substantially all other medical  
14       and surgical benefits covered by the plan or cov-  
15       erage.

16            “(3) APPLICABLE ITEMS AND SERVICES.—

17            “(A) IN GENERAL.—Except as provided in  
18        subparagraph (B), the items and services re-  
19        quired under paragraph (1) to be covered by a  
20        group health plan or group health insurance  
21        coverage offered by a health insurance issuer  
22        include—

23            “(i) any item or service to improve,  
24            repair, or restore any body part to achieve  
25            normal body functioning or appearance, or

1 performed to approximate a normal ap-  
2 pearance, as determined medically nec-  
3 essary by the treating physician (as de-  
4 fined in section 1861(r) of the Social Secu-  
5 rity Act), on account of a congenital anom-  
6 ally or birth defect that primarily impacts  
7 the appearance or function of the eyes,  
8 ears, teeth, mouth, or jaw; and

9 “(ii) any treatment or diagnostic serv-  
10 ice with respect to any and all missing or  
11 abnormal body parts (including teeth, the  
12 oral cavity, and their associated struc-  
13 tures), as determined medically necessary  
14 by the treating physician (as defined in  
15 section 1861(r) of the Social Security Act),  
16 including—

17 “(I) reconstructive services and  
18 procedures, and items and services re-  
19 lated to any complications arising  
20 from such services and procedures;

21 “(II) adjunctive dental, ortho-  
22 dontic, or prosthodontic support from  
23 birth until the medical or surgical  
24 treatment of the defect or anomaly  
25 has been completed, including ongoing



1 or subsequent treatment required to  
2 maintain function or approximate a  
3 normal appearance, notwithstanding  
4 any exclusions, limitations, or restric-  
5 tions under the plan or health insur-  
6 ance coverage on coverage of dental,  
7 orthodontic, or prosthodontic items  
8 and services arising from other inju-  
9 ries or sicknesses; and

10 “(III) items and services related  
11 to secondary conditions and follow-up  
12 treatment associated with the under-  
13 lying congenital anomaly or birth de-  
14 fect.

15 “(B) EXCEPTION.—The items and services  
16 required under this subsection to be covered by  
17 a group health plan or health insurance issuer  
18 offering group health insurance coverage shall  
19 not include cosmetic surgery performed to re-  
20 shape normal structures of the body to improve  
21 appearance or self-esteem, if such items and  
22 services are not furnished as a result of a med-  
23 ical determination of a congenital anomaly or  
24 birth defect.

1       “(b) NOTICE.—Beginning not later than January 1,  
2 2026, a group health plan or health insurance issuer offer-  
3 ing group health insurance coverage shall provide notice  
4 to each participant and beneficiary under such plan or cov-  
5 erage regarding the coverage required by this section, in  
6 any documents describing services, in accordance with any  
7 regulations promulgated by the Secretary.

8       “(c) DEFINITION.—In this section, the term ‘con-  
9 genital anomaly or birth defect’ means a structural or  
10 functional anomaly that occurs during intrauterine life,  
11 develops prenatally, and may be identified before birth, at  
12 birth, or later in life, and which may—

13               “(1) be caused by genetic or chromosomal dis-  
14 orders, embryotoxic or teratogenic environmental  
15 factors, nutrient deficiency, multifactorial inherit-  
16 ance, or be of an unknown cause;

17               “(2) manifest as abnormal anatomical struc-  
18 tures;

19               “(3) manifest as physical, sensory, or cognitive  
20 functional disabilities;

21               “(4) manifest as syndromes, diseases, or other  
22 health problems; and

23               “(5) manifest as singular anomalies or in com-  
24 bination prenatally, at birth, or later in life.”.

25               (2) TECHNICAL AMENDMENTS.—

1 (A) Section 732(a) of such Act (29 U.S.C.  
2 1191a(a)) is amended by striking “section 711”  
3 and inserting “sections 711 and 726”.

4 (B) The table of contents in section 1 of  
5 such Act is amended by inserting after the item  
6 relating to section 725 the following new item:

“Sec. 726. Coverage of congenital anomaly or birth defect.”.

7 (c) INTERNAL REVENUE CODE AMENDMENTS.—

8 (1) IN GENERAL.—Subchapter B of chapter  
9 100 of the Internal Revenue Code of 1986 is amend-  
10 ed by adding at the end the following:

11 **“SEC. 9826. COVERAGE OF CONGENITAL ANOMALY OR**  
12 **BIRTH DEFECT.**

13 “(a) REQUIREMENTS FOR CARE AND RECONSTRUC-  
14 TIVE TREATMENT.—

15 “(1) IN GENERAL.—A group health plan shall  
16 provide coverage for outpatient and inpatient items  
17 and services related to the diagnosis and treatment  
18 of a congenital anomaly or birth defect that pri-  
19 marily impacts the appearance or function of the  
20 eyes, ears, teeth, mouth, or jaw, consistent with  
21 paragraphs (2) and (3).

22 “(2) FINANCIAL REQUIREMENTS.—Any cov-  
23 erage provided under paragraph (1) under a group  
24 health plan may be subject to cost-sharing require-  
25 ments (such as coinsurance, copayments, and

1 deductibles), as required by the plan, that are no  
2 more restrictive than the predominant cost-sharing  
3 requirements applied to substantially all other med-  
4 ical and surgical benefits covered by the plan.

5 “(3) APPLICABLE ITEMS AND SERVICES.—

6 “(A) IN GENERAL.—Except as provided in  
7 subparagraph (B), the items and services re-  
8 quired under paragraph (1) to be covered by a  
9 group health plan include—

10 “(i) any item or service to improve,  
11 repair, or restore any body part to achieve  
12 normal body functioning or appearance, or  
13 performed to approximate a normal ap-  
14 pearance, as determined medically nec-  
15 essary by the treating physician (as de-  
16 fined in section 1861(r) of the Social Secu-  
17 rity Act), on account of a congenital anom-  
18 ally or birth defect that primarily impacts  
19 the appearance or function of the eyes,  
20 ears, teeth, mouth, or jaw; and

21 “(ii) any treatment or diagnostic serv-  
22 ice with respect to any and all missing or  
23 abnormal body parts (including teeth, the  
24 oral cavity, and their associated struc-  
25 tures), as determined medically necessary

1 by the treating physician (as defined in  
2 section 1861(r) of the Social Security Act),  
3 including—

4 “(I) reconstructive services and  
5 procedures, and items and services re-  
6 lated to any complications arising  
7 from such services and procedures;

8 “(II) adjunctive dental, ortho-  
9 dontic, or prosthodontic support from  
10 birth until the medical or surgical  
11 treatment of the defect or anomaly  
12 has been completed, including ongoing  
13 or subsequent treatment required to  
14 maintain function or approximate a  
15 normal appearance, notwithstanding  
16 any exclusions, limitations, or restric-  
17 tions under the plan on coverage of  
18 dental, orthodontic, or prosthodontic  
19 items and services arising from other  
20 injuries or sicknesses; and

21 “(III) items and services related  
22 to secondary conditions and follow-up  
23 treatment associated with the under-  
24 lying congenital anomaly or birth de-  
25 fect.

1           “(B) EXCEPTION.—The items and services  
2           required under this subsection to be covered by  
3           a group health plan shall not include cosmetic  
4           surgery performed to reshape normal structures  
5           of the body to improve appearance or self-es-  
6           teem, if such items and services are not fur-  
7           nished as a result of a medical determination of  
8           a congenital anomaly or birth defect.

9           “(b) NOTICE.—Beginning not later January 1, 2026,  
10 a group health plan shall provide notice to each partici-  
11 pant and beneficiary under such plan or coverage regard-  
12 ing the coverage required by this section in any documents  
13 describing services, in accordance with any regulations  
14 promulgated by the Secretary.

15           “(c) DEFINITION.—In this section, the term ‘con-  
16 genital anomaly or birth defect’ means a structural or  
17 functional anomaly that occurs during intrauterine life,  
18 develops prenatally, and may be identified before birth, at  
19 birth, or later in life, and which may—

20           “(1) be caused by genetic or chromosomal dis-  
21 orders, embryotoxic or teratogenic environmental  
22 factors, nutrient deficiency, multifactorial inherit-  
23 ance, or be of an unknown cause;

24           “(2) manifest as abnormal anatomical struc-  
25 tures;

1           “(3) manifest as physical, sensory, or cognitive  
2 functional disabilities;

3           “(4) manifest as syndromes, diseases, or other  
4 health problems; and

5           “(5) manifest as singular anomalies or in com-  
6 bination prenatally, at birth, or later in life.”.

7           (2) CLERICAL AMENDMENT.—The table of sec-  
8 tions for such subchapter is amended by adding at  
9 the end the following new item:

“Sec. 9826. Coverage of congenital anomaly or birth defect.”.

10           (d) STUDY AND REPORT ON NETWORK ADEQUACY.—  
11 The Secretary of Health and Human Services shall con-  
12 duct a study, and not later than December 31, 2027, sub-  
13 mit a report to Congress, on the matters relating to access  
14 of services for coverage of outpatient and inpatient items  
15 and services related to the diagnosis and treatment of a  
16 congenital anomaly or birth defect that primarily impacts  
17 the appearance or function of the eyes, ears, teeth, mouth,  
18 or jaw. Such study and report shall—

19           (1) evaluate the sufficiency and accessibility of  
20 networks of providers that perform services related  
21 to the diagnosis and treatment of such congenital  
22 anomalies and birth defects under group health  
23 plans and group and individual health insurance cov-  
24 erage (as such terms are defined in section 2791 of

1 the Public Health Service Act (42 U.S.C. 300gg–  
2 91)); and

3 (2) assess any change in out-of-pocket costs for  
4 patients, by procedure type, resulting from the cov-  
5 erage requirements under sections 2799A–11 of the  
6 Public Health Service Act, 726 of the Employee Re-  
7 tirement Income Security Act of 1974, and 9826 of  
8 the Internal Revenue Code of 1986, as added by this  
9 section, and any change in the overall procedure cost  
10 for such services.

11 (e) EFFECTIVE DATE.—The amendments made by  
12 subsections (a), (b), and (c) shall apply with respect to  
13 plan years beginning on or after January 1, 2026.