

118TH CONGRESS
1ST SESSION

S. 1367

To amend title XIX of the Social Security Act to cover physician services delivered by podiatric physicians to ensure access by Medicaid beneficiaries to appropriate quality foot and ankle care, to amend title XVIII of such Act to modify the requirements for diabetic shoes to be included under Medicare, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 27, 2023

Ms. STABENOW (for herself and Mr. YOUNG) introduced the following bill;
which was read twice and referred to the Committee on Finance

A BILL

To amend title XIX of the Social Security Act to cover physician services delivered by podiatric physicians to ensure access by Medicaid beneficiaries to appropriate quality foot and ankle care, to amend title XVIII of such Act to modify the requirements for diabetic shoes to be included under Medicare, 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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Helping Ensure Life-
5 and Limb-saving access to Podiatric Physicians Act” or
6 the “HELLPP Act”.

1 **SEC. 2. RECOGNIZING DOCTORS OF PODIATRIC MEDICINE**
2 **AS PHYSICIANS UNDER THE MEDICAID PRO-**
3 **GRAM.**

4 (a) **IN GENERAL.**—Section 1905(a)(5)(A) of the So-
5 cial Security Act (42 U.S.C. 1396d(a)(5)(A)) is amended
6 by striking “section 1861(r)(1)” and inserting “para-
7 graphs (1) and (3) of section 1861(r)”.

8 (b) **EFFECTIVE DATE.**—

9 (1) **IN GENERAL.**—Except as provided in para-
10 graph (2), the amendment made by subsection (a)
11 shall apply to services furnished on or after January
12 1, 2024.

13 (2) **EXTENSION OF EFFECTIVE DATE FOR**
14 **STATE LAW AMENDMENT.**—In the case of a State
15 plan under title XIX of the Social Security Act (42
16 U.S.C. 1396 et seq.) which the Secretary of Health
17 and Human Services determines requires State legis-
18 lation in order for the plan to meet the additional
19 requirement imposed by the amendment made by
20 subsection (a), the State plan shall not be regarded
21 as failing to comply with the requirements of such
22 title solely on the basis of its failure to meet these
23 additional requirements before the first day of the
24 first calendar quarter beginning after the close of
25 the first regular session of the State legislature that
26 begins after the date of enactment of this Act. For

1 purposes of the previous sentence, in the case of a
 2 State that has a 2-year legislative session, each year
 3 of the session is considered to be a separate regular
 4 session of the State legislature.

5 **SEC. 3. CLARIFYING MEDICARE DOCUMENTATION RE-**
 6 **QUIREMENTS FOR THERAPEUTIC SHOES FOR**
 7 **PERSONS WITH DIABETES.**

8 (a) IN GENERAL.—Section 1861(s)(12) of the Social
 9 Security Act (42 U.S.C. 1395x(s)(12)) is amended to read
 10 as follows:

11 “(12) subject to section 4072(e) of the Omni-
 12 bus Budget Reconciliation Act of 1987, extra-depth
 13 shoes with inserts or custom molded shoes with in-
 14 serts (in this paragraph referred to as ‘therapeutic
 15 shoes’) for an individual with diabetes, if—

16 “(A) the physician who is managing the in-
 17 dividual’s diabetic condition—

18 “(i) documents that the individual has
 19 diabetes;

20 “(ii) certifies that the individual is
 21 under a comprehensive plan of care related
 22 to the individual’s diabetic condition; and

23 “(iii) documents agreement with the
 24 prescribing podiatrist or other qualified
 25 physician (as established by the Secretary)

1 that it is medically necessary for the indi-
2 vidual to have therapeutic shoes;

3 “(B) the therapeutic shoes are prescribed
4 by a podiatrist or other qualified physician (as
5 established by the Secretary) who—

6 “(i) examines the individual and de-
7 termines the medical necessity for the indi-
8 vidual to receive the therapeutic shoes; and

9 “(ii) communicates in writing the
10 medical necessity to a certifying doctor of
11 medicine or osteopathy for the individual
12 to have therapeutic shoes along with find-
13 ings that the individual has peripheral neu-
14 ropathy with evidence of callus formation,
15 a history of pre-ulcerative calluses, a his-
16 tory of previous ulceration, foot deformity,
17 previous amputation, or poor circulation;
18 and

19 “(C) the therapeutic shoes are fitted and
20 furnished by a podiatrist or other qualified sup-
21 plier individual (as established by the Sec-
22 retary), such as a pedorthist or orthotist, who
23 is not the physician described in subparagraph
24 (A) (unless the Secretary finds that the physi-

1 cian is the only such qualified individual in the
2 area);”.

3 (b) **EFFECTIVE DATE.**—The amendment made by
4 subsection (a) shall apply with respect to items and serv-
5 ices furnished on or after January 1, 2024.

6 (c) **RULE OF CONSTRUCTION.**—Nothing in this sec-
7 tion shall be construed as expanding Medicare coverage
8 for therapeutic shoes for individuals with diabetes.

9 **SEC. 4. BUDGET SAVINGS: STRENGTHENING MEDICAID**
10 **PROGRAM INTEGRITY THROUGH CONTIN-**
11 **UOUS LEVY ON PAYMENTS TO MEDICAID**
12 **PROVIDERS AND SUPPLIERS.**

13 (a) **IN GENERAL.**—Section 6331(h)(2) of the Inter-
14 nal Revenue Code of 1986 (defining specified payment)
15 is amended by striking “and” at the end of subparagraph
16 (B), by striking the period at the end of subparagraph
17 (C) and inserting “, and”, and by adding at the end the
18 following new subparagraph:

19 “(D) any payment to any Medicaid pro-
20 vider or supplier under a State plan under title
21 XIX of the Social Security Act.”.

22 (b) **EFFECTIVE DATE.**—The amendments made by
23 this section shall apply to levies issued after the date of
24 the enactment of this Act.

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