

118TH CONGRESS
2D SESSION

S. 5018

To amend title XVIII of the Social Security Act to clarify and preserve the breadth of the protections under the Medicare Secondary Payer Act.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 11, 2024

Mr. CASSIDY (for himself, Mr. BOOKER, and Mr. HEINRICH) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend title XVIII of the Social Security Act to clarify and preserve the breadth of the protections under the Medicare Secondary Payer Act.

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 “Restore Protections
5 for Dialysis Patients Act”.

6 **SEC. 2. PURPOSES.**

7 The purposes of this Act are—

8 (1) to clarify and preserve the breadth of the
9 protections under the Medicare Secondary Payer
10 Act;

1 (2) to prohibit health insurance plans from
2 shifting primary responsibility for covering the cost
3 of health care services needed by patients with end
4 stage renal disease (ESRD) to the Medicare pro-
5 gram; and

6 (3) to affirm Congress' intent by clarifying that
7 singling out dialysis services for disfavored treat-
8 ment through coverage limitations as compared to
9 other covered health services constitutes inappro-
10 pate differentiations between the benefits provided
11 to individuals with ESRD and other individuals, but
12 does not change a plan's current ability to limit
13 which renal dialysis providers it includes in the pro-
14 vider network it elects to offer its enrollees.

15 **SEC. 3. CLARIFICATION AND PRESERVATION OF PROHIBI-**
16 **TION UNDER THE MEDICARE PROGRAM.**

17 Section 1862(b)(1)(C) of the Social Security Act (42
18 U.S.C. 1395y(b)(1)(C)) is amended—

19 (1) by striking clause (ii) and inserting the fol-
20 lowing new clause:

21 “(ii) may not differentiate, directly or
22 indirectly, in the benefits it provides be-
23 tween individuals obtaining renal dialysis
24 or having end stage renal disease and

1 other individuals covered by such plan on
2 the basis of—

3 “(I) the diagnosis of end stage
4 renal disease;

5 “(II) the need for renal dialysis;
6 or

7 “(III) in any other manner;”;
8 and

9 (2) by adding at the end of the matter following
10 clause (ii) the following new sentences: “Nothing in
11 this subsection shall be construed as requiring a
12 group health plan to include a particular renal dialy-
13 sis provider as part of the provider network the
14 group health plan elects to offer its enrollees. The
15 Secretary shall enforce this subparagraph consistent
16 with the nonconformance determination require-
17 ments set forth in part 411 of title 42, Code of Fed-
18 eral Regulations.”.

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