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118TH CONGRESS
1ST SESSION

H. R. 2639

To amend title XVIII of the Social Security Act to provide for additional requirements with respect to electrodiagnostic services under the Medicare program.

IN THE HOUSE OF REPRESENTATIVES

APRIL 17, 2023

Mr. SESSIONS introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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A BILL

To amend title XVIII of the Social Security Act to provide for additional requirements with respect to electrodiagnostic services under the Medicare program.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Electrodiagnostic Medicine Patient Protection and Fraud Elimination Act of 2023''.

SEC. 2. ADDITIONAL REQUIREMENTS FOR ELECTRODIAGNOSTIC SERVICES.

Section 1834 of the Social Security Act (42 U.S.C. 1395m) is amended by adding at the end the following new subsection:

''(z) PAYMENT FOR ELECTRODIAGNOSTIC SERVICES.—

''(1) IN GENERAL.—No payment may be made under this part for electrodiagnostic services described in paragraph (2) furnished on or after a date determined appropriate by the Secretary that is not earlier than 3 years after the date of the enactment of this subsection and not later than 4 years after such date of enactment that are not furnished at a qualified facility.

''(2) ELECTRODIAGNOSTIC SERVICES.—The services described in this paragraph are the following:

''(A) Nerve conduction studies.

''(B) Needle electromyography tests.

''(3) QUALIFIED FACILITY.—In this subsection, the term 'qualified facility' means a facility accredited by an organization specified by the Secretary pursuant to paragraph (4).

''(4) ACCREDITATION ORGANIZATIONS.—

"(A) IN GENERAL.—Not later than 2 years after the date of the enactment of this subsection, the Secretary shall specify accrediting organizations, in consultation with the advisory committee described in paragraph (5), for purposes determining whether a facility is a qualified facility. The Secretary may specify an organization pursuant to the preceding sentence only if such organization requires, as a condition of accreditation of a facility by such organization, that such facility meet the requirements described in subparagraph (B). In making such specification, the Secretary shall—

"(i) ensure that the number of accrediting organizations so specified is adequate to facilitate the accreditation of facilities; and

"(ii) prioritize such specification of accrediting organizations that are widely recognized by both public and private entities as having experience in the accreditation of such facilities.

"(B) FACILITY REQUIREMENTS.—The requirements described in this subparagraph are,

with respect to a facility and electrodiagnostic services furnished at such facility, the following:

''(i) The facility establishes and maintains a quality assurance and control program to ensure the reliability, safety, and accuracy of such service.

''(ii) The facility ensures that such service is conducted using a device capable of performing both nerve conduction studies that record amplitude and latency and needle electromyography tests capable of real-time waveform display and analysis.

''(iii) In the case that such service is a needle electromyography test, the facility ensures that the individual furnishing such test has completed not less than 3 months of training in performing and interpreting electrodiagnostic studies during a residency or fellowship program accredited by the Accreditation Council for Graduate Medical Education or the Royal College of Physicians and Surgeons of Canada, or by an individual described in section 410.32(b)(2)(iv) of title 42, Code of Fed-

eral Regulations (or a successor regulation).

''(iv) The facility ensures that the results are interpreted on-site and at the time of the procedure—

''(I) in the case of a needle electromyography test, by the individual who performed such test; and

''(II) in the case of a nerve conduction study, by the individual who performed or supervised such study.

''(v) Any other requirement determined appropriate by the Secretary.

''(C) REGULATIONS.—Not later than 1 year after the date of the enactment of this subsection, the Secretary shall finalize regulations that outline—

''(i) the process by which an accrediting organization may be specified under subparagraph (A);

''(ii) the duration and the minimum time period between reviews for reaccreditation an organization so specified must provide for with respect to an accreditation of a facility made by such organization;

''(iii) the process by which the Secretary may withdraw approval of an accrediting organization so specified if the Secretary determines that such organization no longer requires, as a condition of accreditation of a facility by such organization, that such facility meet the requirements described in subparagraph (B); and

''(iv) the effect such a withdrawal will have on facilities accredited by such organization as of the date of such withdrawal.

''(5) ADVISORY COMMITTEE.—

''(A) IN GENERAL.—Not later than 2 years after the date of the enactment of this subsection, the Secretary shall establish an advisory committee to be known as the 'National Electrodiagnostic Services Advisory Committee' (in this subsection referred to as the 'committee') for purposes of carrying out the duties specified in subparagraph (B).

''(B) DUTIES.—The duties of the committee are the following:

''(i) To provide to the Secretary recommendations with respect to requirements that may be determined appropriate

by the Secretary pursuant to paragraph (4)(B)(v), including any proposed additions to such requirements or modifications of such requirements. In developing such recommendations, the committee shall prioritize—

"(I) reducing unnecessary treatments and surgeries;

"(II) decreasing the need for retesting of individuals;

"(III) enhancing the reliability of diagnoses and promoting positive health outcomes for individuals;

"(IV) addressing emerging waste, fraud, and abuse schemes; and

"(V) otherwise improving the quality of care for individuals.

"(ii) To provide to the Secretary recommendations regarding the regulations described in paragraph (4)(C).

"(iii) To provide to the Secretary recommendations with respect to whether accrediting organizations seeking to be specified pursuant to paragraph (4)(A) should be so specified.

''(C) COMPOSITION.—The committee shall be composed of not fewer than 9 and not more than 11 individuals selected by the Secretary. Such individuals shall not be officers or employees of the Federal Government and shall include—

''(i) at least one physician with experience in furnishing electrodiagnostic services described in paragraph (2) in a lab accredited by an organization determined appropriate by the Secretary;

''(ii) at least one physical therapist that is certified in clinical electrophysiology by an organization determined appropriate by the Secretary;

''(iii) other health care practitioners;

''(iv) at least one patient representing an affected community; and

''(v) other individuals determined appropriate by the Secretary.

''(D) MEETINGS.—The committee shall convene not less than twice each year.''.

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