

118TH CONGRESS
1ST SESSION

H. R. 6860

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 HOUSE OF REPRESENTATIVES

DECEMBER 19, 2023

Mr. KELLY of Pennsylvania (for himself, Ms. CLARKE of New York, Mr. DUNN of Florida, Mr. DAVIS of Illinois, Mr. JOYCE of Pennsylvania, and Mr. RUIZ) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, 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

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 the following:

1 (1) To restore the MSPA’s protections for
2 ESRD patients by ensuring that private health plans
3 do not discriminate against such patients or ad-
4 versely classify dialysis as compared to other covered
5 medical services.

6 (2) To prohibit health insurance plans from
7 shifting primary responsibility for covering the cost
8 of health care services needed by patients with
9 ESRD to the Medicare program.

10 (3) To affirm Congress’ intent by clarifying
11 that singling out dialysis services for disfavored
12 treatment through coverage limitations as compared
13 to other covered health services constitutes inappro-
14 priate differentiations between the benefits provided
15 to individuals having ESRD and other individuals,
16 but does not change a plan’s current ability to limit
17 which renal dialysis providers it includes in the pro-
18 vider network it elects to offer its enrollees.

19 **SEC. 3. CLARIFICATION AND PRESERVATION OF PROHIBI-**
20 **TION UNDER THE MEDICARE PROGRAM.**

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

23 (1) by striking clause (ii) and inserting the fol-
24 lowing new clause:

1 “(ii) may not differentiate, directly or
2 indirectly, in the benefits it provides be-
3 tween individuals obtaining renal dialysis
4 or having end stage renal disease and
5 other individuals covered by such plan on
6 the basis of—

7 “(I) the diagnosis of end stage
8 renal disease;

9 “(II) the need for renal dialysis;
10 or

11 “(III) in any other manner;”;
12 and

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

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