

109TH CONGRESS
2D SESSION

H. R. 6260

To amend title XVIII of the Social Security Act to provide for coverage under the Medicare Program of certain medical mobility devices approved as class III medical devices.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 29, 2006

Mr. BASS (for himself, Mr. LANGEVIN, Mr. RAMSTAD, Mr. FERGUSON, Mr. NUNES, Mr. ISSA, and Mr. JINDAL) 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

A BILL

To amend title XVIII of the Social Security Act to provide for coverage under the Medicare Program of certain medical mobility devices approved as class III medical devices.

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. MEDICARE COVERAGE OF CLASS III MEDICAL**
4 **MOBILITY DEVICES.**

5 (a) COVERED BENEFIT.—Section 1861(s)(2) of the
6 Social Security Act (42 U.S.C. 1395x(s)(2)) is amended—

1 (1) in subparagraph (Z), by striking “and” at
2 the end;

3 (2) in subparagraph (AA), by inserting “and”
4 at the end; and

5 (3) by adding at the end the following new sub-
6 paragraph:

7 “(BB) class III medical mobility devices (as de-
8 fined in subsection (ccc)(1)) furnished to a class III
9 medical mobility-device eligible individual (as defined
10 in subsection (ccc)(2));”.

11 (b) DEFINITIONS.—Section 1861 of such Act (42
12 U.S.C. 1395x) is amended by adding at the end the fol-
13 lowing new subsection:

14 “Class III Medical Mobility Device; Class III Medical
15 Mobility-Device Eligible Individual

16 “(ccc)(1) The term ‘class III medical mobility device’
17 means a medical mobility device that has been approved
18 as a class III medical device pursuant to a premarket ap-
19 proval application under the Federal Food, Drug, and
20 Cosmetic Act and that—

21 “(A) is able, among other functions—

22 “(i) to ascend and descend stairs using a
23 climbing and descending function;

24 “(ii) to traverse different terrain and var-
25 ious obstacles (including uneven terrain, curbs

1 of 5 inches in height, grass, gravel and other
2 soft surfaces) using a 4-wheel drive function;
3 and

4 “(iii) to provide mobility in a seated posi-
5 tion at an elevated height using a balance func-
6 tion;

7 “(B) has been prescribed for a class III medical
8 mobility-device eligible individual (as defined in
9 paragraph (2)) by the individual’s treating physician
10 (as defined in subsection (r)(1)) for an approved in-
11 dication of the class III medical mobility device; and

12 “(C) is only dispensed after an assessment of
13 the class III medical mobility-device eligible indi-
14 vidual has been completed by a health care profes-
15 sional specified in paragraph (3) who has success-
16 fully completed training in making such assessments
17 under standards specified by the Secretary in con-
18 sultation with representatives of appropriate indus-
19 try and medical organizations.

20 “(2) The term ‘class III medical mobility-device eligi-
21 ble individual’ means, with respect to a class III medical
22 mobility device, an individual who, at the time the pre-
23 scription for the device is written, meets each of the fol-
24 lowing requirements:

1 “(A) The individual suffers from a functional
2 limitation of mobility that hinders the individual’s
3 ability to perform mobility-related activities of daily
4 living.

5 “(B) The individual demonstrates sufficient
6 cognitive and physical ability for the proper and safe
7 operation of the device (such as sufficient use of one
8 upper extremity and the ability to dial a push button
9 telephone or operate a hand operated joystick) under
10 such medical standards as the Secretary may speci-
11 fy.

12 “(C) The individual meets drivers licensing cri-
13 teria established in 1996 by the Epilepsy Founda-
14 tion of America.

15 “(D) The individual does not require mechan-
16 ical ventilation.

17 “(E) The individual is not a resident of an in-
18 stitution that meets the requirements of subsection
19 (e)(1) or section 1819(a)(1).

20 “(F) The individual has completed a com-
21 prehensive training program (that meets standards
22 developed by the Secretary in consultation with ap-
23 propriate industry representatives) on the safe oper-
24 ation of the class III medical mobility device and its
25 functions.

1 “(3) A health care professional specified in this para-
2 graph is any of the following:

3 “(A) A physician (as defined in subsection
4 (r)(1)).

5 “(B) A physician assistant.

6 “(C) A nurse practitioner.

7 “(D) A qualified physical therapist.

8 “(E) A qualified occupational therapist.”.

9 (c) CONFORMING AMENDMENTS.—

10 (1) PROVISION OF CLASS III MEDICAL MOBILITY
11 DEVICE ONLY TO CLASS III MEDICAL MOBILITY-DE-
12 VICE ELIGIBLE INDIVIDUALS; MEDICAL NECES-
13 SITY.—Section 1862 of such Act (42 U.S.C. 1395y)
14 is amended—

15 (A) in subsection (a)(1)—

16 (i) in subparagraph (M), by striking
17 “and” at the end;

18 (ii) in subparagraph (N), by striking
19 the semicolon at the end and inserting “,
20 and”; and

21 (iii) by inserting after subparagraph
22 (N) the following new subparagraph:

23 “(O) in the case of a class III medical mo-
24 bility device (as defined in paragraph (1) of sec-
25 tion 1861(ccc)), which is furnished other than

1 to a class III medical mobility-device eligible in-
 2 dividual (as defined in paragraph (2) of such
 3 section);” and

4 (B) by adding at the end the following new
 5 subsection:

6 “(n) CLARIFICATION OF COVERAGE OF AND PAY-
 7 MENT FOR ALL FUNCTIONS OF CLASS III MEDICAL MO-
 8 BILITY DEVICES.—In the case of a class III medical mo-
 9 bility device (as defined in section 1861(ccc)(1)) furnished
 10 to a class III medical mobility-device eligible individual,
 11 each function of such device, including the functions de-
 12 scribed in subparagraph (A) of such section, are deemed
 13 for purposes of subsection (a)(1), to be reasonable and
 14 necessary for the treatment of an illness or injury or to
 15 improve the functioning of a malformed body member.”.

16 (2) PAYMENT IN CONNECTION WITH COVERED
 17 ITEMS; PURCHASE AGREEMENT OPTION; MAINTENANCE.—Section 1834(a) of such Act (42 U.S.C.
 18 1395m(a)) is amended—

20 (A) in paragraph (1)(B)(ii), by inserting
 21 “and (22) in the case of a class III medical mo-
 22 bility device,” after “(7)”;

23 (B) in paragraph (13), by inserting before
 24 the period at the end the following: “, and also

1 includes a class III medical mobility device (as
2 defined in section 1861(ccc)(1))”; and

3 (C) by adding at the end the following new
4 paragraph:

5 “(22) PAYMENT FOR CLASS III MEDICAL MOBIL-
6 ITY DEVICES.—

7 “(A) IN GENERAL.—Subject to the suc-
8 ceeding provisions of this paragraph, in the case
9 of a class III medical mobility device (as de-
10 fined in section 1861(ccc)(1)), the provisions of
11 paragraph (7) (including the option for a pur-
12 chase agreement under subparagraph (A)(iii) of
13 such paragraph) shall apply to such device
14 under this paragraph in the same manner as
15 those provisions apply to a covered item under
16 paragraph (7).

17 “(B) PAYMENT FOR ALL FUNCTIONS OF
18 CLASS III MEDICAL MOBILITY DEVICES.—In the
19 case of a class III medical mobility device, pay-
20 ment under this paragraph for such device shall
21 be made taking into account all functions of
22 such device, consistent with section 1862(n).

23 “(C) LIMITATION ON AGGREGATE NUMBER
24 OF DEVICES COVERED DURING 2007 THROUGH
25 2011.—With respect to class III medical mobil-

ity devices furnished during each of 2007 through 2011, payment shall only be made under this subsection for 1,000 such devices furnished in each such year. The limitation on payment under the preceding sentence for class III medical mobility devices shall not apply with respect to any year beginning after 2011.”.

(3) REQUIREMENT FOR FACE-TO-FACE ENCOUNTER WITH A PHYSICIAN AND FOR WRITTEN PRESCRIPTION.—Clause (iv) of section 1834(a)(1)(E) of such Act (42 U.S.C. 1395m(a)(1)(E)) is amended—

(A) by adding at the end the following: “In the case of a covered item consisting of a class III medical mobility device (as defined in paragraph (1) of section 1861(ccc)) for a class III medical mobility-device eligible individual (as defined in paragraph (2) of such section), payment may not be made for such item unless a physician (as so defined) has conducted a face-to-face examination and written a prescription for the item, and after an assessment of such individual has been completed by a health care professional specified in paragraph (3) of such section.”; and

1 (B) in the heading, by inserting “AND
2 CLASS III MEDICAL MOBILITY DEVICES” after
3 “WHEELCHAIRS”.

4 (d) EFFECTIVE DATE.—The amendments made by
5 this section shall apply to items and services furnished on
6 or after January 1, 2007.

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