

111TH CONGRESS
1ST SESSION

H. R. 3092

To amend title XIX of the Social Security Act to require States to cover medical nutritional therapy as part of Medicaid.

IN THE HOUSE OF REPRESENTATIVES

JUNE 26, 2009

Mrs. DAHLKEMPER (for herself, Mr. TIM MURPHY of Pennsylvania, Ms. SCHWARTZ, Mrs. HALVORSON, Mr. KENNEDY, Mr. PLATTS, Mrs. CAPPs, and Mr. KIND) introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To amend title XIX of the Social Security Act to require States to cover medical nutritional therapy as part of Medicaid.

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 “Obesity Treatment and
5 Wellness Act of 2009”.

6 **SEC. 2. FINDINGS.**

7 (a) Congress finds the following:

8 (1) The Centers for Disease Control and Pre-
9 vention (CDC) reports that between 1976 and 1980

1 approximately five percent of youth aged 2–19 were
2 obese. In 2006, the rate had increased to 16.3 per-
3 cent.

4 (2) The National Center for Education Statis-
5 tics report in 2009 finds that almost 1 in 5 Amer-
6 ican 4-year-olds are obese.

7 (3) A New England Journal of Medicine study
8 in 1997 found that children who become obese after
9 age 6 have a 50 percent greater chance of being
10 obese adults.

11 (4) The CDC reports that in 2003, approxi-
12 mately half the costs of treating obesity were paid
13 through Medicare or Medicaid.

14 (5) The CDC reports that in 2000, the total
15 cost of obesity in the United States was estimated
16 to be \$117 billion.

17 (6) To address the obesity epidemic, both pre-
18 vention and treatment strategies are needed.

19 **SEC. 3. REQUIRING MEDICAID COVERAGE TO INCLUDE**
20 **COVERAGE OF MEDICAL NUTRITION THER-**
21 **APY.**

22 (a) REQUIREMENT.—Section 1902(a)(10)(A) of the
23 Social Security Act (42 U.S.C. 1395a(a)(10)(A)) is
24 amended by striking “and (21)” and inserting “, (21), and
25 (28)”.

1 (b) SERVICES DESCRIBED.—Section 1905 of such
2 Act (42 U.S.C. 1396D–(a)) is amended—

3 (1) by striking “and” at the end of paragraph
4 (27);

5 (2) by redesignating paragraph (28) as para-
6 graph (29); and

7 (3) by inserting after paragraph (27) the fol-
8 lowing new paragraph:

9 “(28) medical nutrition therapy (as defined in
10 section 1861(vv)(1)) where a physician or primary
11 care provider considers it medically necessary to
12 treat or prevent the progression of a chronic condi-
13 tion or disease which the individual is considered as
14 having, or at risk of developing, as the result of
15 being overweight and obese; and”.

16 (c) EFFECTIVE DATE.—

17 (1) Except as provided in paragraph (2), the
18 amendments made by subsections (a) and (b) shall
19 apply to calendar quarters beginning on or after Oc-
20 tober 1, 2010, without regard to whether or not
21 final regulations to carry out such amendments have
22 been promulgated by such date.

23 (2) In the case of a State plan for medical as-
24 sistance under title XIX of the Social Security Act
25 which the Secretary of Health and Human Services

1 determines requires State legislation (other than leg-
2 islation appropriating funds) in order for the plan to
3 meet the additional requirements imposed by the
4 amendments made by subsections (a) and (b), the
5 State plan shall not be regarded as failing to comply
6 with the requirements of such title solely on the
7 basis of its failure to meet these additional require-
8 ments before the first day of the first calendar quar-
9 ter beginning after the close of the first regular ses-
10 sion of the State legislature that begins after the
11 date of the enactment of this Act. For purposes of
12 the previous sentence, in the case of a State that has
13 a 2-year legislative session, each year of such session
14 shall be deemed to be a separate regular session of
15 the State legislature.

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