To amend title XVIII of the Social Security Act to provide coverage of certain disposable medical technologies under the Medicare program, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 7, 2015

Mr. BURR (for himself and Mr. BENNET) 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 provide coverage of certain disposable medical technologies under the Medicare program, and for other purposes.

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 “Patient Access to Disposable Medical Technology Act of 2015”.

1

2

3

4

5
SEC. 2. COVERAGE OF CERTAIN DISPOSABLE MEDICAL TECHNOLOGIES UNDER THE MEDICARE PROGRAM.

(a) COVERAGE.—Section 1861 of the Social Security Act (42 U.S.C. 1395x) is amended—

(1) in subsection (n)—

(A) by inserting “substitute disposable medical technologies (as defined in subsection (iii)) and services and supplies used in conjunction with such technologies,” after “hospital beds,”; and

(B) by inserting “(unless such equipment is a substitute disposable medical technology or a service or supply used in conjunction with such a technology)” after “rental basis”; and

(2) by adding at the end the following new subsection:

“Substitute Disposable Medical Technology

“(iii) The term ‘substitute disposable medical technology’ means medical equipment that—

“(1) is primarily and customarily used to serve a medical purpose;

“(2) would otherwise be covered as durable medical equipment under this title but for the fact that such equipment is not durable (as defined by
the Secretary for purposes of coverage of durable medical equipment under this title); and

“(3) the Secretary determines substitutes for durable medical equipment.

In making the determination under paragraph (3), the Secretary shall consult with medical specialty societies, medical device manufacturers, patient groups, and other stakeholders as part of the annual rulemaking process for durable medical equipment under this title.”.

(b) PAYMENT PROVISIONS.—Section 1834(a) of the Social Security Act (42 U.S.C. 1395m(a)) is amended by adding at the end the following new paragraph:

“(23) SPECIAL PAYMENT RULE FOR SUBSTITUTE DISPOSABLE MEDICAL TECHNOLOGIES.—Notwithstanding the preceding provisions of this subsection, the Secretary shall determine the payment amount under this subsection for a substitute disposable medical technology (as defined in section 1861(iii)), and for any related supplies and service fees incurred in conjunction with the use and maintenance of such technology, in accordance with the following:

“(A) SINGLE PAYMENT AMOUNT.—The Secretary shall determine a single payment amount that shall be paid for a substitute dis-
posable medical technology and for any related
supplies and service fees incurred in conjunc-
tion with the use and maintenance of such tech-
nology. A payment for such a technology and
for any such related supplies and service fees
made in the amount of such single payment
amount shall constitute full payment under this
title for such technology and such related sup-
plies and service fees.

“(B) Calculation of payment
amount.—The single payment amount de-
scribed in subparagraph (A) for a substitute
disposable medical technology and for any re-
lated supplies and service fees incurred in con-
junction with the use and maintenance of such
technology shall be calculated by—

“(i) calculating the sum of the
amounts of payment that otherwise would
be made under this section for—

“(I) the item of durable medical
equipment for which the Secretary de-
determines, pursuant to section
1861(iii)(3), that such substitute dis-
posable medical technology sub-
stitutes; and
“(II) all related supplies and service fees incurred in conjunction with the use and maintenance of such item of durable medical equipment;

“(ii) calculating the amount that is 95 percent of the sum calculated under clause (i); and

“(iii) calculating the single payment amount for the substitute disposable medical technology and for any related supplies and service fees incurred in conjunction with the use and maintenance of such technology such that the sum of the payments under this subsection for—

“(I) all substitute disposable medical technologies that the Secretary determines, pursuant to section 1861(iii)(3), will be necessary to provide a substitute for the item of durable medical equipment described in clause (i)(I); and

“(II) any related supplies and service fees incurred in conjunction with the use and maintenance of such technologies,
and is equal to the amount calculated under clause (ii). In making such calculation, the Secretary shall consult with medical specialty societies, medical device manufacturers, patient groups, and other stakeholders to ensure that an appropriate comparison is made that captures use of the various technologies (including related supplies, if any) over an average course of therapy for a typical patient.

“(C) Lump-sum payment.—The single payment amount described in subparagraph (A) for a substitute disposable medical technology and for any related supplies and service fees incurred in conjunction with the use and maintenance of such technology shall be made in a lump-sum amount.

“(D) Payment for physicians’ and hospital outpatient department services.—Nothing in this paragraph should be construed as limiting or changing payment for items or services for which payment is made under section 1848 or section 1833(t).”.
(c) Conforming Amendment.—Section 1847(a)(7)(B) of the Social Security Act (42 U.S.C. 1395w–3(a)(7)(B)) is amended—

(1) in clause (i), by striking “and” at the end;

(2) in clause (ii), by striking the period at the end and inserting “; and”;

(3) by adding at the end the following new clause:

“(iii) that are substitute disposable medical technologies (as defined in section 1861(iii)).”.

(d) Effective Date.—The provisions of, and amendments made by, this section shall apply with respect to items and services furnished on or after January 1, 2016.

(e) Rule of Construction; Implementation.—

(1) Rule of construction.—Nothing in this section or the amendments made by this section shall be construed as—

(A) affecting the ability of a physician (or any other prescribing practitioner) to exercise their judgment in prescribing or ordering for a Medicare beneficiary appropriate durable medical equipment or other medical device or tech-
nology for the treatment of an illness, injury, or condition of the Medicare beneficiary; or

(B) affecting the ability of the Medicare beneficiary to access appropriate durable medical equipment or other appropriate medical device or technology for such treatment.

(2) IMPLEMENTATION.—The Secretary shall implement the provisions of, and amendments made by, this section in a manner such that the methodologies for determining coverage of an item of durable medical equipment (as defined in section 1861(n) of the Social Security Act (42 U.S.C. 1395x(n))) (other than such an item that is a substitute disposable medical technology (as defined in section 1861(iii))) and the payment amount for the item of durable medical equipment (other than such an item that is a substitute disposable medical technology (as so defined)) under section 1834 or 1847 of such Act (42 U.S.C. 1395m, 1395w–3), as the case may be, is not affected by the coverage of and payment amount for a substitute disposable medical technology under sections 1861(iii) and 1834(a)(23) of such Act, respectively, as added by subsections (a) and (b), respectively.