

114TH CONGRESS
1ST SESSION

S. 1253

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.

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 “Patient Access to Dis-
5 posable Medical Technology Act of 2015”.

1 **SEC. 2. COVERAGE OF CERTAIN DISPOSABLE MEDICAL**
2 **TECHNOLOGIES UNDER THE MEDICARE PRO-**
3 **GRAM.**

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

6 (1) in subsection (n)—

7 (A) by inserting “substitute disposable
8 medical technologies (as defined in subsection
9 (iii)) and services and supplies used in conjunc-
10 tion with such technologies,” after “hospital
11 beds,”; and

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

16 (2) by adding at the end the following new sub-
17 section:

18 “Substitute Disposable Medical Technology

19 “(iii) The term ‘substitute disposable medical tech-
20 nology’ means medical equipment that—

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

23 “(2) would otherwise be covered as durable
24 medical equipment under this title but for the fact
25 that such equipment is not durable (as defined by

1 the Secretary for purposes of coverage of durable
2 medical equipment under this title); and

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

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

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

13 “(23) SPECIAL PAYMENT RULE FOR SUB-
14 STITUTE DISPOSABLE MEDICAL TECHNOLOGIES.—
15 Notwithstanding the preceding provisions of this
16 subsection, the Secretary shall determine the pay-
17 ment amount under this subsection for a substitute
18 disposable medical technology (as defined in section
19 1861(iii)), and for any related supplies and service
20 fees incurred in conjunction with the use and main-
21 tenance of such technology, in accordance with the
22 following:

23 “(A) SINGLE PAYMENT AMOUNT.—The
24 Secretary shall determine a single payment
25 amount that shall be paid for a substitute dis-

1 posable medical technology and for any related
2 supplies and service fees incurred in conjunc-
3 tion with the use and maintenance of such tech-
4 nology. A payment for such a technology and
5 for any such related supplies and service fees
6 made in the amount of such single payment
7 amount shall constitute full payment under this
8 title for such technology and such related sup-
9 plies and service fees.

10 “(B) CALCULATION OF PAYMENT
11 AMOUNT.—The single payment amount de-
12 scribed in subparagraph (A) for a substitute
13 disposable medical technology and for any re-
14 lated supplies and service fees incurred in con-
15 junction with the use and maintenance of such
16 technology shall be calculated by—

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

20 “(I) the item of durable medical
21 equipment for which the Secretary de-
22 termines, pursuant to section
23 1861(iii)(3), that such substitute dis-
24 posable medical technology sub-
25 stitutes; and

1 “(II) all related supplies and
2 service fees incurred in conjunction
3 with the use and maintenance of such
4 item of durable medical equipment;

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

8 “(iii) calculating the single payment
9 amount for the substitute disposable med-
10 ical technology and for any related supplies
11 and service fees incurred in conjunction
12 with the use and maintenance of such tech-
13 nology such that the sum of the payments
14 under this subsection for—

15 “(I) all substitute disposable
16 medical technologies that the Sec-
17 retary determines, pursuant to section
18 1861(iii)(3), will be necessary to pro-
19 vide a substitute for the item of dura-
20 ble medical equipment described in
21 clause (i)(I); and

22 “(II) any related supplies and
23 service fees incurred in conjunction
24 with the use and maintenance of such
25 technologies,

1 and is equal to the amount calculated
2 under clause (ii). In making such calcula-
3 tion, the Secretary shall consult with med-
4 ical specialty societies, medical device man-
5 ufacturers, patient groups, and other
6 stakeholders to ensure that an appropriate
7 comparison is made that captures use of
8 the various technologies (including related
9 supplies, if any) over an average course of
10 therapy for a typical patient.

11 “(C) LUMP-SUM PAYMENT.—The single
12 payment amount described in subparagraph (A)
13 for a substitute disposable medical technology
14 and for any related supplies and service fees in-
15 curred in conjunction with the use and mainte-
16 nance of such technology shall be made in a
17 lump-sum amount.

18 “(D) PAYMENT FOR PHYSICIANS’ AND
19 HOSPITAL OUTPATIENT DEPARTMENT SERV-
20 ICES.—Nothing in this paragraph should be
21 construed as limiting or changing payment for
22 items or services for which payment is made
23 under section 1848 or section 1833(t).”.

1 (c) CONFORMING AMENDMENT.—Section
2 1847(a)(7)(B) of the Social Security Act (42 U.S.C.
3 1395w-3(a)(7)(B)) is amended—

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

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

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

9 “(iii) that are substitute disposable
10 medical technologies (as defined in section
11 1861(iii)).”.

12 (d) EFFECTIVE DATE.—The provisions of, and
13 amendments made by, this section shall apply with respect
14 to items and services furnished on or after January 1,
15 2016.

16 (e) RULE OF CONSTRUCTION; IMPLEMENTATION.—

17 (1) RULE OF CONSTRUCTION.—Nothing in this
18 section or the amendments made by this section
19 shall be construed as—

20 (A) affecting the ability of a physician (or
21 any other prescribing practitioner) to exercise
22 their judgment in prescribing or ordering for a
23 Medicare beneficiary appropriate durable med-
24 ical equipment or other medical device or tech-

1 nology for the treatment of an illness, injury, or
2 condition of the Medicare beneficiary; or

3 (B) affecting the ability of the Medicare
4 beneficiary to access appropriate durable med-
5 ical equipment or other appropriate medical de-
6 vice or technology for such treatment.

7 (2) IMPLEMENTATION.—The Secretary shall
8 implement the provisions of, and amendments made
9 by, this section in a manner such that the meth-
10 odologies for determining coverage of an item of du-
11 rable medical equipment (as defined in section
12 1861(n) of the Social Security Act (42 U.S.C.
13 1395x(n))) (other than such an item that is a sub-
14 stitute disposable medical technology (as defined in
15 section 1861(iii))) and the payment amount for the
16 item of durable medical equipment (other than such
17 an item that is a substitute disposable medical tech-
18 nology (as so defined)) under section 1834 or 1847
19 of such Act (42 U.S.C. 1395m, 1395w-3), as the
20 case may be, is not affected by the coverage of and
21 payment amount for a substitute disposable medical
22 technology under sections 1861(iii) and 1834(a)(23)
23 of such Act, respectively, as added by subsections (a)
24 and (b), respectively.

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