To amend title XVIII of the Social Security Act to improve access to diabetes outpatient self-management training services, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 10, 2018

Mr. REED (for himself and Ms. DEGETTE) 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 improve access to diabetes outpatient self-management training services, and for other purposes.

1 Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

3 SECTION 1. SHORT TITLE.

4 This Act may be cited as the “Expanding Access to Diabetes Self-Management Training Act of 2018” or the “Expanding Access to DSMT Act of 2018”.

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SEC. 2. IMPROVING ACCESS TO DIABETES OUTPATIENT SELF-MANAGEMENT TRAINING SERVICES.

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

(1) in paragraph (1)—

(A) by striking “the Secretary determines appropriate” and inserting “specified in paragraph (3)”;

(B) by inserting “or qualified nonphysician practitioner” after “only if the physician”; and

(C) by inserting “(or other physician or qualified nonphysician practitioner furnishing items or services to such individual, in coordination with the physician or qualified nonphysician practitioner managing such individual’s diabetic condition)” after “managing the individual’s diabetic condition”;

(2) in paragraph (2)(B), by striking “paragraph” and inserting “subparagraph”; and

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

“(3) For purposes of paragraph (1), the times specified in this paragraph are the following:

“(A) An initial 10 hours of educational and training services described in paragraph (1), to remain available until used.
“(B) Six additional hours (or a greater number of hours if determined appropriate by the Secretary) of such services during the year in which the individual exhausts the initial hours described in subparagraph (A), provided that the physician or qualified nonphysician practitioner who is managing the individual’s diabetic condition (or other physician or qualified nonphysician practitioner furnishing items or services to such individual, in coordination with the physician or qualified nonphysician practitioner managing such individual’s diabetic condition) certifies the medical necessity of such additional hours.

“(C) Six additional hours (or a greater number of hours if determined appropriate by the Secretary) of such services per year for each year beginning after the year in which the individual exhausts the initial hours described in subparagraph (A), provided that the physician or qualified nonphysician practitioner who is managing the individual’s diabetic condition (or other physician or qualified nonphysician practitioner furnishing items or services to such individual, in coordination with the physician or qualified nonphysician practitioner managing such individual’s diabetic condition) certifies the medical necessity of such additional hours.
“(D) For a year in which the individual has received additional hours described in subparagraph (B) or (C) and exhausted such hours, an additional number of hours determined appropriate by the physician or qualified nonphysician practitioner who is managing the individual’s diabetic condition (or other physician or qualified nonphysician practitioner furnishing items or services to such individual, in coordination with the physician or qualified nonphysician practitioner managing such individual’s diabetic condition), provided that the physician or qualified nonphysician practitioner who is managing the individual’s diabetic condition (or other physician or qualified nonphysician practitioner furnishing items or services to such individual, in coordination with the physician or qualified nonphysician practitioner managing such individual’s diabetic condition) certifies that—

“(i) there has been a change in the individual’s diagnosis, medical condition, or treatment regimen;

“(ii) the individual is not meeting appropriate clinical outcomes (as determined by such physician or qualified nonphysician practitioner) for such condition; or
“(iii) the individual meets other criteria that necessitates such additional number of hours, as determined by the Secretary.

“(4) For purposes of this section, the term ‘qualified nonphysician practitioner’ means a physician assistant, nurse practitioner, or clinical nurse specialist (as defined in section 1861(aa)(5)).”.

(b) MEDICAL NUTRITION THERAPY SERVICES.—Section 1861(s)(2)(V) of such Act (42 U.S.C. 1395x(s)(2)(V)) is amended—

(1) by striking clause (i);

(2) by redesignating clauses (ii) and (iii) as clauses (i) and (ii), respectively; and

(3) in clause (ii), as so redesignated, by striking “after consideration of” and inserting “consistent with”.

(c) COST-SHARING.—Section 1833 of such Act (42 U.S.C. 1395l) is amended—

(1) in subsection (a)(1)—

(A) by striking “and (BB)” and inserting “(BB)”;

and

(B) by striking the semicolon at the end and inserting “, and (CC) with respect to diabetes outpatient self-management training services (as defined in section 1861(qq)), the
amount paid shall be 100 percent of the lesser of the actual charge for the services or the amount determined under the fee schedule that applies to such services under this part;”; and

(2) in subsection (b)—

(A) by striking “and (10)” and inserting “(10)”;

(B) by striking “1861(hhh)(1)).” and inserting “1861(hhh)(1)), and (11) such deductible shall not apply with respect to diabetes outpatient self-management training services (as defined in section 1861(qq)).”

(d) REVISION OF MANUAL.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Health and Human Services shall revise the Medicare Benefit Policy Manual to ensure that diabetes outpatient self-management training services (as defined in section 1861(qq) of the Social Security Act (42 U.S.C. 1395x(qq)), as amended by subsection (a)) may be furnished by an entity that is a hospital outpatient department at alternate, nonhospital sites (including community-based locations).

(e) APPLICATION.—The amendments made by this section shall apply with respect to items and services furnished on or after January 1, 2019.
SEC. 3. VIRTUAL DIABETES OUTPATIENT SELF-MANAGEMENT TRAINING SERVICES DEMONSTRATION PROGRAM.

(a) IN GENERAL.—Beginning not later than January 1, 2019, the Secretary of Health and Human Services (in this section referred to as the “Secretary”) shall select an appropriate number of applicable beneficiaries to participate in a 2-year demonstration program to test the impact of furnishing diabetes outpatient self-management training services through a qualified online platform with respect to cost and clinical outcomes for such applicable beneficiaries. Under such program, diabetes outpatient self-management training services furnished through a qualified online platform to an applicable beneficiary shall be covered under title XVIII of the Social Security Act, and payment for such services shall be made in the same manner as payment is made under such title for such services furnished in an outpatient setting.

(b) DEFINITIONS.—In this section:

(1) APPLICABLE BENEFICIARY.—The term “applicable beneficiary” means an individual—

(A) who is enrolled under part B of title XVIII of the Social Security Act;

(B) who has a diagnosis of diabetes; and

(C) who agrees to take part in the demonstration program described in subsection (a).
(2) Qualified Online Platform.—The term “qualified online platform” means an online-based platform—

(A) designed to furnish educational and training services to an individual with diabetes to ensure therapy compliance with respect to the individual’s diabetic condition or to provide the individual with necessary skills and knowledge (including skills related to the self-administration of injectable drugs) to participate in the individual’s management of such condition; and

(B) that meets the National Standards for Diabetes Self-Management Education and Support, as jointly published by the American Association of Diabetes Educators and the American Diabetes Association.

(3) Diabetes Self-Management Training Services.—The term “diabetes outpatient self-management training services” has the meaning given such term in section 1861(qq) of the Social Security Act (42 U.S.C. 1395x(qq)) except that the requirement in paragraph (1) of such section with respect to such services being furnished in an outpatient setting shall not apply.
(c) **EVALUATION.**—The Secretary shall evaluate the demonstration program described in subsection (a) based on the following criteria:

1. **The improvement, if any, in health outcomes with respect to the diabetic conditions of applicable beneficiaries participating in such program as evidenced by—**

   (A) any improvement attributable to such program in the knowledge of such beneficiaries with respect to such conditions;

   (B) any behavioral changes attributable to such program;

   (C) any clinical outcome improvements attributable to such program;

   (D) any quality of life improvements attributable to such program; and

   (E) the overall satisfaction of such beneficiaries with such program.

2. **Reductions, if any, in expenditures under title XVIII of the Social Security Act attributable to such program.**

3. **Other criteria determined appropriate by the Secretary.**

(d) **REPORT.**—Not later than 18 months after the date of the completion of the demonstration program de-
scribed in subsection (a), the Secretary shall submit to Congress a report containing—

(1) the results of the evaluation described in subsection (c);

(2) an analysis of the demographic characteristics of applicable beneficiaries who participated in such program; and

(3) a recommendation on whether such program should be continued or expanded.

(e) WAIVER AUTHORITY.—The Secretary may waive such requirements of titles XI and XVIII of the Social Security Act (42 U.S.C. 1301 et seq., 1395 et seq.) as may be necessary to carry out the provisions of this section.

(f) AUTHORITY TO EXPAND DEMONSTRATION PROGRAM.—Notwithstanding subsection (a), taking into account the evaluation described in subsection (c), the Secretary may, through rulemaking, expand the duration and the scope of the demonstration program described in subsection (a), to the extent determined appropriate by the Secretary, if—

(1) the Secretary determines that such expansion is expected to—
(A) reduce spending under title XVIII of the Social Security Act without reducing quality of care; or

(B) improve the quality of care for individuals enrolled under part B of such title without increasing spending under such title;

(2) the Chief Actuary of the Centers for Medicare & Medicaid Services certifies that such expansion would reduce (or would not result in any increase in) net program spending under such title; and

(3) the Secretary determines that such expansion would not deny or limit the coverage or provision of benefits under such title for individuals enrolled under part B of such title.