

117TH CONGRESS
1ST SESSION

H. R. 5426

To amend title XVIII of the Social Security Act to provide for Medicare coverage of staff-assisted home dialysis for certain hemodialysis and peritoneal dialysis patients and to ensure all patients are educated on modality options and receive the resources, information, and support to succeed on the modality of their choice, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 29, 2021

Mr. RUSH (for himself and Mr. SMITH of Missouri) 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 Medicare coverage of staff-assisted home dialysis for certain hemodialysis and peritoneal dialysis patients and to ensure all patients are educated on modality options and receive the resources, information, and support to succeed on the modality of their choice, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Improving Access to
3 Home Dialysis Act of 2021”.

4 **SEC. 2. PROVIDING FOR STAFF-ASSISTED HOME DIALYSIS**
5 **FOR CERTAIN HEMODIALYSIS AND PERI-**
6 **TONEAL DIALYSIS PATIENTS.**

7 (a) IN GENERAL.—Section 1881(b)(14) of the Social
8 Security Act (42 U.S.C. 1395rr(b)(14)) is amended by
9 adding at the end the following new subparagraph:

10 “(J)(i) For services furnished on or after
11 the date which is 1 year after the date of the
12 enactment of this subparagraph which are staff-
13 assisted home dialysis (as defined in clause
14 (iv)(III)), the Secretary shall increase the single
15 payment that would otherwise apply under this
16 paragraph for renal dialysis services furnished
17 to new and respite individuals in accordance
18 with the payment system established under
19 clause (iii) by qualified providers.

20 “(ii)(I) Subject to subclause (II), staff-as-
21 sisted home dialysis may only be furnished dur-
22 ing—

23 “(aa) with respect to an individual de-
24 scribed in subclause (iv)(I)(aa), one 90-day
25 period which may be renewed up to two
26 30-day periods; and

1 “(bb) with respect to an individual de-
2 scribed in subclause (iv)(I)(bb) and not-
3 withstanding whether such an individual
4 receives any respite care under part A, any
5 30-day period.

6 “(II) Notwithstanding the limits described
7 in subclause (I), staff-assisted home dialysis
8 may be furnished for as long as the Secretary
9 determines appropriate to an individual who—

10 “(aa) is blind;

11 “(bb) has a cognitive or neurological
12 impairment (including a stroke, Alz-
13 heimer’s, dementia amyotrophic lateral
14 sclerosis, or any other impairment deter-
15 mined by the Secretary); or

16 “(cc) has any other illness or injury
17 that reduces mobility (including cerebral
18 palsy, spinal cord injuries, or any other ill-
19 ness or injury determined by the Sec-
20 retary).

21 “(iii) The Secretary shall establish a pro-
22 spective payment system through regulations to
23 determine the amounts payable to qualified pro-
24 viders for staff-assisted home dialysis. In estab-

1 lishing such system, the Secretary may con-
2 sider—

3 “(I) the costs of furnishing staff-as-
4 sisted home dialysis;

5 “(II) consultations with dialysis pro-
6 viders, dialysis patients, private payers,
7 and MA plans;

8 “(III) payment amounts for similar
9 items and services under parts A and B;
10 and

11 “(IV) payment amounts established
12 by MA plans under part C, group health
13 plans, and health insurance coverage of-
14 fered by health insurance issuers.

15 “(iv) In this subparagraph:

16 “(I) The term ‘new and respite indi-
17 vidual’ means an individual described in
18 subsection (a) who is either—

19 “(aa) initiating either peritoneal
20 or home hemodialysis; or

21 “(bb) receiving home dialysis and
22 is unable to self-dialyze due to illness,
23 injury, caregiver issues, or other tem-
24 porary circumstances.

1 “(II) The term ‘qualified provider’
2 means a trained professional (as deter-
3 mined by the Secretary, including nurses
4 and certified patient technicians) who fur-
5 nishes renal dialysis services and—

6 “(aa) meets requirements (as de-
7 termined by the Secretary) that en-
8 sures competency in patient care and
9 modality usage; and

10 “(bb) provides in-person assist-
11 ance to a patient for at least 75 per-
12 cent of staff-assisted home dialysis
13 sessions during a period described in
14 clause (ii)(i).

15 “(III)(aa) The term ‘staff-assisted
16 home dialysis’ means home dialysis using
17 trained professionals to assist individuals
18 who have been determined to have end
19 stage renal disease, and the frequency of
20 such home dialysis is determined by such
21 professionals in coordination with the pa-
22 tient and his or her care partner, and out-
23 lined in a patient plan of care.

24 “(bb) In this subclause, the term ‘care
25 partner’ means anyone who is designated

1 by the patient who assists the individual
2 with the furnishing of home dialysis.

3 “(cc) In this subclause, the term ‘pa-
4 tient plan of care’ has the meaning given
5 such term in section 494.90 of title 42,
6 Code of Federal Regulations.”.

7 (b) PATIENT EDUCATION AND TRAINING RELATING
8 TO STAFF-ASSISTED HOME DIALYSIS.—Section
9 1881(b)(5) of the Social Security Act (42 U.S.C.
10 1395rr(b)(5)) is amended—

11 (1) in subparagraph (C), by striking at the end
12 “and”;

13 (2) in subparagraph (D), by striking the period
14 at the end and inserting a semicolon; and

15 (3) by adding at the end the following new sub-
16 paragraphs:

17 “(D) educate patients of the opportunity to
18 receive staff-assisted home dialysis (as defined
19 in paragraph (14)(J)(iv)(III)) during the period
20 beginning 30 days after the first day such facil-
21 ity furnishes renal dialysis services to an indi-
22 vidual and ending 60 days after such day; and

23 “(E) provide for nurses, certified patient
24 technicians, or other professionals to train pa-
25 tients and their care partners in skills and pro-

1 cedures needed to perform home dialysis (as de-
2 fined in paragraph (14)(J)(iv)(III)) treat-
3 ment—

4 “(i) regularly and independently;

5 “(ii) through telehealth services or
6 through group training (as described in the
7 interpretive guidance relating to tag num-
8 ber V590 of ‘Advance Copy—End Stage
9 Renal Disease (ESRD) Program Interpre-
10 tive Guidance Version 1.1’ (published on
11 October 3, 2008)) in accordance with the
12 Federal regulations (concerning the privacy
13 of individually identifiable health informa-
14 tion) promulgated under section 264(e) of
15 the Health Insurance Portability and Ac-
16 countability Act of 1996; and

17 “(iii) in the home or resident of a pa-
18 tient, in a dialysis facility, or the place in
19 which the patient intends to receive staff-
20 assisted home dialysis.”.

21 (c) OTHER PROVISIONS.—

22 (1) ANTI-KICKBACK STATUTE.—Section
23 1128B(b)(3) of the Social Security Act (42 U.S.C.
24 1320a-7b(b)(3)) is amended—

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

3 (B) in subparagraph (K), by striking the
4 period at the end and inserting “; and”; and

5 (C) by adding at the end the following new
6 subparagraph:

7 “(L) any remuneration relating to the fur-
8 nishing of staff-assisted home dialysis (as de-
9 fined in section 1881(b)(14)(J)(iv)(III)).”.

10 (2) CMI MODEL.—Section 1115A(b)(2)(B) of
11 the Social Security Act (42 U.S.C. 1320b–(b)(2)(B))
12 is amended by adding at the end the following new
13 clause:

14 “(xxviii) Making payment to anyone
15 who is designated by a patient who re-
16 ceives staff-assisted home dialysis (as de-
17 fined in section 1881(b)(14)(J)(iv)(III))
18 and otherwise meets the requirements (as
19 determined by the Secretary), notwith-
20 standing whether an individual is a quali-
21 fied provider (as defined in section
22 1881(b)(14)(J)(iv)(II)) or otherwise eligi-
23 ble for reimbursement under title XVIII.”.

24 (3) STUDY.—Not later than 2 years after the
25 date of the enactment of this Act, the Secretary of

1 Health and Human Services shall submit to the
2 Committee on Energy and Commerce of the House
3 of Representatives and the Committee on Finance of
4 the Senate a report that examines racial disparities
5 in the utilization of the home dialysis defined in sec-
6 tion 1881(b)(14)(J)(iv)(III) of the Social Security
7 Act (42 U.S.C. 1395rr(b)(14)(J)(iv)(III)) and make
8 recommendations on how to improve access to such
9 dialysis for communities of color.

10 (4) PATIENT DECISION TOOL.—Not later than
11 December 31, 2023, for the purpose of section
12 1881(b)(14)(J) of the Social Security Act (42
13 U.S.C. 1395rr(b)(14)(J)), the Secretary of Health
14 and Human Services shall convene a patient panel
15 to create a patient-centered decision tool for dialysis
16 patients to evaluate their lifestyle and goals and be
17 assisted in choosing the dialysis modality that best
18 suits them. This tool should include an acknowledg-
19 ment that they are capable of home dialysis and
20 want home dialysis, if that is the modality they
21 choose.

22 (5) PATIENT QUALITY OF LIFE METRIC.—Sec-
23 tion 1115A(b)(2)(B) of the Social Security Act (42
24 U.S.C. 1315a(b)(2)(B)) is amended by adding at the
25 end the following new subparagraph:

1 “(i) A patient quality of life metric for
2 all patients utilizing dialysis regardless of
3 modality with the intent of measuring and
4 improving patient quality of life on dialy-
5 sis.”.

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