To amend title XVIII of the Social Security Act to provide coverage of medical nutrition therapy services for individuals with eating disorders under the Medicare program.

IN THE SENATE OF THE UNITED STATES

OCTOBER 4, 2023

Ms. HASSAN (for herself and Ms. MURKOWSKI) 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 medical nutrition therapy services for individuals with eating disorders under the Medicare program.

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 “Nutrition Counseling Aiding Recovery for Eating Disorders Act of 2023” or the “Nutrition CARE Act of 2023”.

SEC. 2. FINDINGS.

Congress finds the following:
(1) 28,800,000 individuals in the United States, or 9 percent of the national population, will have an eating disorder in their lifetime. It is estimated that 1,619,300 to 2,080,600 individuals on Medicare part B are affected by an eating disorder, including 420,500 to 560,700 beneficiaries who identify as Black, Indigenous, or People of Color.

(2) 10,200 deaths per year in the United States occur as a direct result of an eating disorder, equating to 1 death every 52 minutes. Eating disorders have one of the highest mortality rates of all mental illness due to serious medical comorbidities such as stroke, diabetes, and gastric rupture, in addition to the fact that longitudinal studies have found that the suicide risk for those with an eating disorder is 23 times the expected risk.

(3) Eating disorders can be successfully treated with care encompassing the 4 pillars of successful treatment: medical, psychiatric, therapy, and medical nutrition therapy. In general, Medicare provides some, but not all, care necessary for eating disorders treatment. It doesn’t cover medical nutrition therapy at the outpatient level and provides no coverage at the intensive outpatient or residential treatment levels.
(4) Eating disorders are expensive. The yearly economic cost of eating disorders is $64,700,000,000, with families and individuals experiencing an economic loss of $23,500,000,000 per year. Each year, eating disorders are directly responsible for 23,560 inpatient hospitalizations costing $209,700,000 and 53,918 emergency room visits costing $29,300,000.

(5) Eating disorders in the elderly are particularly serious because chronic disorders or diseases may already compromise a patient’s health and make a patient more prone to serious comorbidities associated with eating disorders, including cardiac, metabolic, gastric, and bone conditions. Early diagnosis and proper treatment of this population is essential.

SEC. 3. PROVIDING COVERAGE OF MEDICAL NUTRITION THERAPY SERVICES FOR INDIVIDUALS WITH EATING DISORDERS UNDER THE MEDICARE PROGRAM.

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

(1) in subsection (s)(2)(V)—
(A) by redesignating clauses (i) through (iii) as subclauses (I) through (III), respectively, and adjusting the margins accordingly;

(B) in subclause (III), as so redesignated, by striking the semicolon at the end and inserting “; or”;

(C) by striking “beneficiary with diabetes” and inserting the following: “beneficiary—

“(i) with diabetes”; and

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

“(ii) beginning January 1, 2024, with an eating disorder (as defined by the Secretary in accordance with most recent edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association);”; and

(2) in subsection (vv)—

(A) in paragraph (1)—

(i) by inserting “(including management of an eating disorder (as defined for purposes of subsection (s)(2)(V)(ii)))” after “disease management”; and
(ii) by striking “which are furnished by” and all that follows through the period and inserting “which are furnished—
“(A) by a registered dietitian or nutrition professional (as defined in paragraph (2));
“(B) pursuant to a referral by—
“(i) a physician (as defined in subsection (r)(1)); or
“(ii) a psychologist (or other mental health professional to the extent authorized under State law); and
“(C) in the case of such services furnished to an individual for the purpose of management of such an eating disorder, at the times specified in paragraph (4).”; and
(B) by adding at the end the following new paragraph:
“(4)(A) For purposes of paragraph (1)(C), the times specified in this paragraph are, with respect to medical nutrition therapy services furnished to an individual for purposes of management of an eating disorder, at least the following:
“(i) 13 hours (including a 1-hour initial assessment and 12 hours of reassessment and interven-
tion) during the 1-year period beginning on the date such individual is first furnished such services.

“(ii) Subject to subparagraph (B), 4 hours during each subsequent 1-year period.

“(B) The Secretary may apply such other reasonable limitations with respect to the furnishing of medical nutrition therapy services for purposes of management of an eating disorder during a period described in subparagraph (A)(ii) as the Secretary determines appropriate.”.