

118TH CONGRESS
1ST SESSION

S. 3458

To amend title XVIII of the Social Security Act to clarify the application of the in-office ancillary services exception to the physician self-referral prohibition for drugs furnished under the Medicare program.

IN THE SENATE OF THE UNITED STATES

DECEMBER 11, 2023

Ms. SINEMA (for herself and Mrs. BLACKBURN) 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 clarify the application of the in-office ancillary services exception to the physician self-referral prohibition for drugs furnished under the Medicare program.

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 “Seniors’ Access to Crit-
5 ical Medications Act of 2023”.

1 **SEC. 2. CLARIFYING THE APPLICATION OF THE IN-OFFICE**
2 **ANCILLARY SERVICES EXCEPTION TO THE**
3 **PHYSICIAN SELF-REFERRAL PROHIBITION**
4 **FOR DRUGS FURNISHED UNDER THE MEDI-**
5 **CARE PROGRAM.**

6 (a) IN GENERAL.—Section 1877(b)(2) of the Social
7 Security Act (42 U.S.C. 1395nn(b)(2)) is amended by
8 adding at the end the following new sentence: “With re-
9 spect to services consisting of drugs, and any supplies nec-
10 essary to administer such drugs, furnished on or after
11 May 11, 2023, the requirement that such drugs and sup-
12 plies be furnished in accordance with subparagraph (A)(ii)
13 in order to qualify as a case described in this paragraph
14 shall not apply.”.

15 (b) WITHDRAWAL OF FAQs.—The Secretary of
16 Health and Human Services shall remove the frequently
17 asked questions and answers published on the website of
18 the Centers for Medicare & Medicaid Services on Sep-
19 tember 20, 2021, and May 19, 2023, which prohibit or
20 seek to prohibit the arrangement described in the amend-
21 ment made by subsection (a) and those frequently asked
22 questions and answers shall be deemed to have never been
23 published.

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