AMENDMENT IN THE NATURE OF A SUBSTITUTE

OFFERED BY M__.

[Amendment to the HEARTS and Rural Relief Act, as posted on the website of the Committee on Ways and Means]

Strike all after the enactment clause and insert the following:

1 SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

2 (a) SHORT TITLE.—This Act may be cited as the “HEARTS and Rural Relief Act”.

3 (b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

   Sec. 1. Short title; table of contents.
   Sec. 3. Ambulatory Surgical Center Payment Transparency.
   Sec. 4. Exclusion of complex rehabilitative manual wheelchairs from Medicare competitive acquisition program; Non-application of Medicare fee-schedule adjustments for certain wheelchair accessories and cushions.
   Sec. 5. Extension of enforcement instruction on supervision requirements for outpatient therapeutic services in critical access and small rural hospitals through 2021.

6 SEC. 2. HEALTH EQUITY AND ACCESS FOR RETURNING TROOPS AND SERVICEMEMBERS ACT OF 2019.

7 (a) MODIFICATION OF REQUIREMENT FOR CERTAIN FORMER MEMBERS OF THE ARMED FORCES TO ENROLL IN MEDICARE PART B TO BE ELIGIBLE FOR TRICARE FOR LIFE.—

8 (1) TRICARE ELIGIBILITY.—
(A) IN GENERAL.—Subsection (d) of section 1086 of title 10, United States Code, is amended by adding at the end the following new paragraph:

“(6)(A) The requirement in paragraph (2)(A) to enroll in the supplementary medical insurance program under part B of title XVIII of the Social Security Act (42 U.S.C. 1395j et seq.) shall not apply to a person described in subparagraph (B) during any month in which such person is not entitled to a benefit described in subparagraph (A) of section 226(b)(2) of the Social Security Act (42 U.S.C. 426(b)(2)) if such person has received the counseling and information under subparagraph (C).

“(B) A person described in this subparagraph is a person—

“(i) who is under 65 years of age;

“(ii) who is entitled to hospital insurance benefits under part A of title XVIII of the Social Security Act pursuant to subparagraph (A) or (C) of section 226(b)(2) of such Act (42 U.S.C. 426(b)(2));

“(iii) whose entitlement to a benefit described in subparagraph (A) of such sec-
tion has terminated due to performance of substantial gainful activity; and

“(iv) who is retired under chapter 61 of this title.

“(C) The Secretary of Defense shall co-ordinate with the Secretary of Health and Human Services and the Commissioner of Social Security to notify persons described in subparagraph (B) of, and provide information and counseling regarding, the effects of not enrolling in the supplementary medical insurance program under part B of title XVIII of the Social Security Act (42 U.S.C. 1395j et seq.), as described in subparagraph (A).”.

(B) CONFORMING AMENDMENT.—Paragraph (2)(A) of such subsection is amended by striking “is enrolled” and inserting “except as provided by paragraph (6), is enrolled”.

(C) IDENTIFICATION OF PERSONS.—Section 1110a of such title is amended by adding at the end the following new subsection:

“(c) CERTAIN INDIVIDUALS NOT REQUIRED TO ENROLL IN MEDICARE PART B.—In carrying out subsection (a), the Secretary of Defense shall coordinate with the
Secretary of Health and Human Services and the Commissioner of Social Security to—

“(1) identify persons described in subparagraph (B) of section 1086(d)(6) of this title; and

“(2) provide information and counseling pursuant to subparagraph (C) of such section.”.

(2) NON-APPLICATION OF MEDICARE PART B LATE ENROLLMENT PENALTY.—Section 1839(b) of the Social Security Act (42 U.S.C. 1395r(b)) is amended, in the second sentence, by inserting “or months for which the individual can demonstrate that the individual is an individual described in paragraph (6)(B) of section 1086(d) of title 10, United States Code, who is enrolled in the TRICARE program pursuant to such section” after “an individual described in section 1837(k)(3)”.

(3) REPORT.—Not later than October 1, 2024, the Secretary of Defense, the Secretary of Health and Human Services, and the Commissioner of Social Security shall jointly submit to the Committees on Armed Services of the House of Representatives and the Senate, the Committee on Ways and Means and the Committee on Energy and Commerce of the House of Representatives, and the Committee on Finance of the Senate a report on the implementation
of section 1086(d)(6) of title 10, United States Code, as added by paragraph (1). Such report shall include, with respect to the period covered by the report—

(A) the number of individuals enrolled in TRICARE for Life who are not enrolled in the supplementary medical insurance program under part B of title XVIII of the Social Security Act (42 U.S.C. 1395j et seq.) by reason of such section 1086(d)(6); and

(B) the number of individuals who—

(i) are retired from the Armed Forces under chapter 61 of title 10, United States Code;

(ii) are entitled to hospital insurance benefits under part A of title XVIII of the Social Security Act pursuant to receiving benefits for 24 months as described in subparagraph (A) or (C) of section 226(b)(2) of such Act (42 U.S.C. 426(b)(2)); and

(iii) because of such entitlement, are no longer enrolled in TRICARE Standard, TRICARE Prime, TRICARE Extra, or TRICARE Select under chapter 55 of title 10, United States Code.
(4) Deposit of savings into Medicare Improvement Fund.—Section 1898(b)(1) of the Social Security Act (42 U.S.C. 1395iii(b)(1)) is amended by striking “during and after fiscal year 2021, $0” and inserting “during and after fiscal year 2024, $5,000,000”.

(5) Application.—The amendments made by paragraphs (1) and (2) shall apply with respect to a person who, on or after October 1, 2023, is a person described in section 1086(d)(6)(B) of title 10, United States Code, as added by paragraph (1).

(b) Coverage of Certain DNA Specimen Provenance Assay Tests Under Medicare.—

(1) Benefit.—

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

(i) in subsection (s)(2)—

(I) in subparagraph (GG), by striking “and” at the end;

(II) in subparagraph (HH), by striking the period and inserting “; and”;

(III) by adding at the end the following new subparagraph:
“(II) a prostate cancer DNA Specimen Provenance Assay test (DSPA test) (as defined in subsection (kkk));”;

(ii) by adding at the end the following new subsection:

“(kkk) PROSTATE CANCER DNA SPECIMEN PROVENANCE ASSAY TEST.—The term ‘prostate cancer DNA Specimen Provenance Assay Test’ (DSPA test) means a test that, after a determination of cancer in one or more prostate biopsy specimens obtained from an individual, assesses the identity of the DNA in such specimens by comparing such DNA with the DNA that was separately taken from such individual at the time of the biopsy.”.

(B) EXCLUSION FROM COVERAGE.—Section 1862(a)(1) of the Social Security Act (42 U.S.C. 1395y(a)(1)) is amended—

(i) in subparagraph (O), by striking “and” at the end;

(ii) in subparagraph (P), by striking the semicolon at the end and inserting “, and”; and

(iii) by adding at the end the following new subparagraph:

“(Q) in the case of a prostate cancer DNA Specimen Provenance Assay test (DSPA test) (as
defined in section 1861(kkk)), unless such test is
furnished on or after January 1, 2021, and before
January 1, 2026, and such test is ordered by the
physician who furnished the prostate cancer biopsy
that obtained the specimen tested;”.

(2) Payment amount and related requirements.—Section 1834 of the Social Security Act
(42 U.S.C. 1395m) is amended by adding at the end
the following new subsection:

“(x) Prostate Cancer DNA Specimen Provenance Assay Tests.—

“(1) Payment for covered tests.—

“(A) In general.—Subject to subparagraph (B), the payment amount for a prostate
cancer DNA Specimen Provenance Assay test
(DSPA test) (as defined in section 1861(kkk))
shall be $200. Such payment shall be payment
for all of the specimens obtained from the bi-
opsy furnished to an individual that are tested.

“(B) Limitation.—Payment for a DSPA
test under subparagraph (A) may only be made
on an assignment-related basis.

“(C) Prohibition on separate pay-
ment.—No separate payment shall be made for
obtaining DNA that was separately taken from
an individual at the time of a biopsy described in subparagraph (A).

“(2) HCPCS CODE AND MODIFIER ASSIGNMENT.—

“(A) IN GENERAL.—The Secretary shall assign one or more HCPCS codes to a prostate cancer DNA Specimen Provenance Assay test and may use a modifier to facilitate making payment under this section for such test.

“(B) IDENTIFICATION OF DNA MATCH ON CLAIM.—The Secretary shall require an indication on a claim for a prostate cancer DNA Specimen Provenance Assay test of whether the DNA of the prostate biopsy specimens match the DNA of the individual diagnosed with prostate cancer. Such indication may be made through use of a HCPCS code, a modifier, or other means, as determined appropriate by the Secretary.

“(3) DNA MATCH REVIEW.—

“(A) IN GENERAL.—The Secretary shall review at least three years of claims under part B for prostate cancer DNA Specimen Provenance Assay tests to identify whether the DNA of the prostate biopsy specimens match the
DNA of the individuals diagnosed with prostate cancer.

“(B) Posting on Internet Website.—

Not later than July 1, 2023, the Secretary shall post on the internet website of the Centers for Medicare & Medicaid Services the findings of the review conducted under subparagraph (A).”.

(3) Cost-Sharing.—Section 1833(a)(1) of the Social Security Act (42 U.S.C. 1395l(a)(1)) is amended—

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

(B) by inserting before the semicolon at the end the following: “, and (DD) with respect to a prostate cancer DNA Specimen Provenance Assay test (DSPA test) (as defined in section 1861(kkk)), the amount paid shall be an amount equal to 80 percent of the lesser of the actual charge for the test or the amount specified under section 1834(x)”.

SEC. 3. AMBULATORY SURGICAL CENTER PAYMENT TRANSPARENCY.

(a) Advisory Panel on Hospital Outpatient Payment Representation.—
(1) ASC REPRESENTATIVE.—The second sentence of section 1833(t)(9)(A) of the Social Security Act (42 U.S.C. 1395l(t)(9)(A)) is amended by inserting “and at least one ambulatory surgical center representative” after “an appropriate selection of representatives of providers”.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply with respect to advisory panels consulted on or after the date that is 1 year after the date of the enactment of this Act.

(b) REASONS FOR EXCLUDING ADDITIONAL PROCEDURES FROM ASC APPROVED LIST.—Section 1833(i)(1) of the Social Security Act (42 U.S.C. 1395l(i)(1)) is amended by adding at the end the following: “In updating such lists for application in years beginning with the second year beginning after the date of the enactment of this sentence, for each procedure that was not proposed to be included in such lists in the proposed rule with respect to such lists and that was subsequently requested to be included in such lists during the public comment period with respect to such proposed rule and that is not included in the final rule updating such lists, the Secretary shall cite in such final rule the specific criteria in paragraph (b) or (c) of section 416.166 of title 42, Code of Federal Regulations (or any successor regulation), based on which
the procedure was excluded. If paragraph (b) of such sec-
tion is cited for exclusion of a procedure, the Secretary
shall identify the peer-reviewed research, if any, or the evi-
dence upon which such determination is based.”.

SEC. 4. EXCLUSION OF COMPLEX REHABILITATIVE MAN-
UAL WHEELCHAIRS FROM MEDICARE COM-
PETITIVE ACQUISITION PROGRAM; NON-AP-
PLICATION OF MEDICARE FEE-SCHEDULE
ADJUSTMENTS FOR CERTAIN WHEELCHAIR
ACCESSORIES AND CUSHIONS.

(a) Exclusion of Complex Rehabilitative Man-
ual Wheelchairs From Competitive Acquisition
Program.—Section 1847(a)(2)(A) of the Social Security
Act (42 U.S.C. 1395w–3(a)(2)(A)) is amended—

(1) by inserting “, complex rehabilitative man-
ual wheelchairs (as determined by the Secretary),
and certain manual wheelchairs (identified, as of Oc-
tober 1, 2018, by HCPCS codes E1235, E1236,
E1237, E1238, and K0008 or any successor to such
codes)” after “group 3 or higher”; and

(2) by striking “such wheelchairs” and insert-
ing “such complex rehabilitative power wheelchairs,
complex rehabilitative manual wheelchairs, and cer-
tain manual wheelchairs”.

(b) NON-APPLICATION OF MEDICARE FEE SCHEDULE ADJUSTMENTS FOR WHEELCHAIR ACCESSORIES AND SEAT AND BACK CUSHIONS WHEN FURNISHED IN CONNECTION WITH COMPLEX REHABILITATIVE MANUAL WHEELCHAIRS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary of Health and Human Services shall not, during the period beginning on January 1, 2020, and ending on December 31, 2020, use information on the payment determined under the competitive acquisition programs under section 1847 of the Social Security Act (42 U.S.C. 1395w–3) to adjust the payment amount that would otherwise be recognized under section 1834(a)(1)(B)(ii) of such Act (42 U.S.C. 1395m(a)(1)(B)(ii)) for wheelchair accessories (including seating systems) and seat and back cushions when furnished in connection with complex rehabilitative manual wheelchairs (as determined by the Secretary), and certain manual wheelchairs (identified, as of October 1, 2018, by HCPCS codes E1235, E1236, E1237, E1238, and K0008 or any successor to such codes).
(2) IMPLEMENTATION.—Notwithstanding any
other provision of law, the Secretary may implement
this subsection by program instruction or otherwise.

SEC. 5. EXTENSION OF ENFORCEMENT INSTRUCTION ON
SUPERVISION REQUIREMENTS FOR OUT-
PATIENT THERAPEUTIC SERVICES IN CRIT-
ICAL ACCESS AND SMALL RURAL HOSPITALS
THROUGH 2021.

Section 1 of Public Law 113–198, as amended by sec-
tion 1 of Public Law 114–112, section 16004 of Public
Law 114–255, and section 51007 of Public Law 115–123,
is amended—

(1) in the section heading, by striking “2017”
and inserting “2021”; and

(2) by striking “and 2017” and inserting “,
2017, 2020, and 2021”.