H. R. 4650

To amend title XVIII of the Social Security Act to provide coverage for certain dental items and services under part B of the Medicare program.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 11, 2019

Ms. KELLY of Illinois (for herself and Mr. HORSFORD) 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 coverage for certain dental items and services under part B of 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 “Medicare Dental Act of 2019”.

SEC. 2. DENTAL AND ORAL HEALTH CARE.

(a) COVERAGE.—Section 1861(s)(2) of the Social Security Act (42 U.S.C. 1395x(s)(2)) is amended—
(1) in subparagraph (GG), by striking “and” after the semicolon at the end;

(2) in subparagraph (HH), by striking the period at the end and adding “; and”; and

(3) by adding at the end the following new sub-

paragraph:

“(II) dental and oral health services (as defined in subsection (kkk));”.

(b) DENTAL AND ORAL HEALTH SERVICES DE-

FINED.—Section 1861 of the Social Security Act (42 U.S.C. 1395x) is amended by adding at the end the fol-

lowing new subsection:

“(kkk) DENTAL AND ORAL HEALTH SERVICES.—

“(1) IN GENERAL.—The term ‘dental and oral health services’ means items and services (other than such items and services for which payment may be made under part A as inpatient hospital services) that are furnished during 2022 or a subsequent year, for which coverage was not provided under part B as of the date of the enactment of this sub-

section, and that are—

“(A) the preventive and screening services described in paragraph (2) furnished by a doc-

tor of dental surgery or of dental medicine (as
described in subsection (r)(2)) or an oral health professional (as defined in paragraph (4)); or

“(B) the basic treatments specified for such year by the Secretary pursuant to paragraph (3)(A) and the major treatments specified for such year by the Secretary pursuant to paragraph (3)(B) furnished by such a doctor or such a professional.

“(2) PREVENTIVE AND SCREENING SERVICES.—The preventive and screening services described in this paragraph are the following:

“(A) Oral exams.

“(B) Dental cleanings.

“(C) Dental x-rays performed in the office of a doctor or professional described in paragraph (1)(A).

“(D) Fluoride treatments.

“(3) BASIC AND MAJOR TREATMENTS.—For 2022 and each subsequent year, the Secretary shall specify—

“(A) basic treatments (which may include basic tooth restorations, basic periodontic services, tooth extractions, and oral disease management services); and
“(B) major treatments (which may include major tooth restorations, major periodontic services, bridges, crowns, dental implants, and root canals);

that shall be included as dental and oral health services for such year.

“(4) ORAL HEALTH PROFESSIONAL.—The term ‘oral health professional’ means, with respect to dental and oral health services, a health professional who is licensed to furnish such services, acting within the scope of such license, by the State in which such services are furnished.”.

(e) Payment; Coinsurance; and Limitations.—

(1) In general.—Section 1833(a)(1) of the Social Security Act (42 U.S.C. 1395l(a)(1)) is amended—

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

(B) by inserting before the semicolon at the end the following: “, and (DD) with respect to dental and oral health services (as defined in section 1861(kkk)), the amount paid shall be the payment amount specified under section 1834(x)”.

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

“(x) PAYMENT AND LIMITS FOR DENTAL AND ORAL HEALTH SERVICES.—

“(1) IN GENERAL.—The payment amount under this part for dental and oral health services (as defined in section 1861(kkk)) shall be, subject to paragraph (3), the applicable percent (specified in paragraph (2)) of the lesser of the actual charge for the services or the amount determined under the payment basis determined under section 1848.

“(2) APPLICABLE PERCENT.—For purposes of paragraph (1), the applicable percent specified in this paragraph is, with respect to dental and oral health services (as defined in section 1861(kkk)) furnished in a year—

“(A) that are preventive and screening services described in paragraph (2) or basic treatments specified for such year pursuant to paragraph (3)(A) of such section, 80 percent; and

“(B) that are major treatments specified for such year pursuant to paragraph (3)(B) of such section—
“(i) in the case such services are furnished during 2022, 10 percent;

“(ii) in the case such services are furnished during 2023 or a subsequent year before 2026, the applicable percent specified under this subparagraph for the previous year, increased by 10 percentage points; and

“(iii) in the case such services are furnished during 2026 or a subsequent year, 50 percent.

“(3) LIMITATIONS.—With respect to dental and oral health services that are—

“(A) oral exams, payment may be made under this part for not more than two such exams during a 12-month period;

“(B) dental cleanings, payment may be made under this part for not more than two such cleanings during a 12-month period; and

“(C) not described in subparagraph (A) or (B), payment may be made under this part only at such frequencies and under such circumstances determined appropriate by the Secretary.”.

(d) PAYMENT UNDER PHYSICIAN FEE SCHEDULE.—
(1) IN GENERAL.—Section 1848(j)(3) of the Social Security Act (42 U.S.C. 1395w–4(j)(3)) is amended by inserting ``(2)(II),'' before ``(3).''

(2) BUDGET NEUTRALITY.—Section 1848(c)(2)(B)(iv) of the Social Security Act (42 U.S.C. 1395–w(c)(2)(B)(iv)) is amended—

(A) in subclause (III), by striking ``and'' at the end;

(B) in subclause (IV), by striking the period at the end and inserting ``; and''; and

(C) by adding at the end the following new subclause:

``(V) the amendment made by section 2(d)(1) of the Medicare Dental Act of 2019 shall not be taken into account in applying clause (ii)(II) for 2022 and 2023.''.

(3) EXCLUSION FROM MIPS.—Section 1848(q)(1)(C)(ii) of the Social Security Act (42 U.S.C. 1395w–4(q)(1)(C)(ii)) is amended—

(A) in subclause (II), by striking ``or'' at the end;

(B) in subclause (III), by striking the period at the end and inserting ``; or''; and
(C) by adding at the end the following new subclause:

“(IV) with respect to 2022 and each subsequent year, is a doctor of dental surgery or of dental medicine (as described in section 1861(r)(2)) or is an oral health professional (as defined in section 1861(kkk)(4)).”.

(4) INCLUSION OF ORAL HEALTH PROFESSIONALS AS CERTAIN PRACTITIONERS.—Section 1842(b)(18)(C) of the Social Security Act (42 U.S.C. 1395u(b)(18)(C)) is amended by adding at the end the following new clause:

“(vii) With respect to 2022 and each subsequent year, an oral health professional (as defined in section 1861(kkk)(4)).”.

(e) DENTURES.—

(1) IN GENERAL.—Section 1861(s)(8) of the Social Security Act (42 U.S.C. 1395x(s)(8)) is amended—

(A) by striking “(other than dental)”;

(B) by inserting “and excluding dental, except for a full or partial set of dentures fur-
nished on or after January 1, 2022” after “co-
lostomy care”.

(2) SPECIAL PAYMENT RULES.—

(A) LIMITATIONS.—Section 1834(h) of the
Social Security Act (42 U.S.C. 1395m(h)) is
amended by adding at the end the following
new paragraph:

“(6) SPECIAL PAYMENT RULE FOR DENT-
URES.—Payment may be made under this part
with respect to an individual for dentures—

“(A) not more than once during any 5-year
period (except in the case that a doctor or pro-
fessional described in section 1861(kkk)(1)(A)
determines such dentures do not fit the indi-
vidual); and

“(B) only to the extent that such dentures
are furnished pursuant to a written order of
such a doctor or professional.”.

(B) APPLICATION OF COMPETITIVE ACQUI-
SITION.—

(i) IN GENERAL.—Section
1834(h)(1)(H) of the Social Security Act
(42 U.S.C. 1395m(h)(1)(H)) is amended—
(I) in the subparagraph heading, by inserting “, DENTURES” after “ORTHOTICS”;

(II) by inserting “and of dentures described in paragraph (2)(D) of such section,” after “2009,”; and

(III) in clause (i), by inserting “or such dentures” after “orthotics”.

(ii) CONFORMING AMENDMENT.—Section 1847(a)(2) of the Social Security Act (42 U.S.C. 1395w–3(a)(2)) is amended by adding at the end the following new sub-
paragraph:

“(D) DENTURES.—Dentures for which payment would otherwise be made under section 1834(h).”.

(iii) EXEMPTION OF CERTAIN ITEMS FROM COMPETITIVE ACQUISITION.—Section 1847(a)(7) of the Social Security Act (42 U.S.C. 1395w–3(a)(7)) is amended by adding at the end the following new sub-
paragraph:

“(C) CERTAIN DENTURES.—Those items and services described in paragraph (2)(D) if furnished by a physician or other practitioner
(as defined by the Secretary) to the physician’s or practitioner’s own patients as part of the physician’s or practitioner’s professional service.”.

(f) EXCLUSION MODIFICATIONS.—Section 1862(a) of the Social Security Act (42 U.S.C. 1395y(a)) is amended—

(1) in paragraph (1)—

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

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

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

“(Q) in the case of dental and oral health services (as defined in section 1861(kkk)) that are preventive and screening services described in paragraph (2) of such section, which are furnished more frequently than provided under section 1834(x)(3);”; and

(2) in paragraph (12), by inserting before the semicolon at the end the following: “and except that payment may be made under part B for dental and oral health services that are covered under section 1861(s)(2)(II)”.

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SEC. 3. IMPLEMENTATION FUNDING.

The Secretary of Health and Human Services shall provide for the transfer from the Federal Supplementary Medical Insurance Trust Fund under section 1841 of the Social Security Act (42 U.S.C. 1395t) to the Centers for Medicare & Medicaid Services Program Management Account for the period of 2020 through 2024 of such sums as may be necessary for purposes of implementing the amendments made by section 2.