II

117TH CONGRESS
1ST SESSION

S. 1536

To amend title XVIII of the Social Security Act to expand the availability of medical nutrition therapy services under the Medicare program.

IN THE SENATE OF THE UNITED STATES

MAY 10, 2021

Ms. COLLINS (for herself and Mr. PETERS) introduced the following bill; which was read twice and referred to the Committee on Finance

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A BILL

To amend title XVIII of the Social Security Act to expand the availability of medical nutrition therapy services 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 ''Medical Nutrition Therapy Act of 2021''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) Over two-thirds of Medicare fee-for-service beneficiaries have 2 or more chronic conditions,

many of which can be prevented, delayed, treated, or managed through nutrition.

(2) Individuals from many racial and ethnic minority backgrounds are more likely to be diagnosed with chronic diseases such as diabetes, prediabetes, chronic kidney disease, end-stage renal disease, and obesity.

(3) The Centers for Disease Control and Prevention finds that individuals are at an increased risk of severe illness from COVID–19 if they have cancer, chronic kidney disease, diabetes, heart conditions such as health failure or coronary artery disease, or obesity.

(4) Coverage for medical nutrition therapy is only available to Medicare Part B beneficiaries with diabetes or a renal disease, despite medical nutrition therapy being part of the standard of care, in clinical guidelines, and medically necessary for many more chronic conditions.

(5) Medical nutrition therapy has been shown to be a cost-effective component of treatment for obesity, diabetes, hypertension, dyslipidemia, HIV infection, unintended weight loss in older adults, and other chronic conditions.

SEC. 3. EXPANDING THE AVAILABILITY OF MEDICAL NUTRITION THERAPY SERVICES UNDER THE MEDICARE PROGRAM.

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

(1) in subsection (s)(2)(V), by striking ''in the case of'' and all that follows through ''organizations''; and

(2) in subsection (vv)—

(A) in paragraph (1)—

(i) by striking ''disease management'' and inserting ''the prevention, management, or treatment of a disease or condition specified in paragraph (4)'';

(ii) by inserting '', physician assistant, nurse practitioner, clinical nurse specialist (as such terms are defined in subsection (aa)(5)), or, in the case of such services furnished to manage such a disease or condition that is an eating disorder, clinical psychologist (as defined by the Secretary)'' before the period at the end; and

(iii) by adding at the end the following new sentence: ''Such term shall not include any such services furnished to an individual for the prevention, management,

or treatment of a renal disease if such individual is receiving maintenance dialysis for which payment is made under section 1881.''; and

(B) by adding at the end the following new paragraph:

''(4) For purposes of paragraph (1), the diseases and conditions specified in this paragraph are the following:

''(A) Diabetes and prediabetes.

''(B) A renal disease.

''(C) Obesity (as defined for purposes of subsection (yy)(2)(C) or as otherwise defined by the Secretary).

''(D) Hypertension.

''(E) Dyslipidemia.

''(F) Malnutrition.

''(G) Eating disorders.

''(H) Cancer.

''(I) Gastrointestinal diseases, including Celiac disease.

''(J) HIV.

''(K) AIDS.

''(L) Cardiovascular disease.

''(M) Any other disease or condition—

"(i) specified by the Secretary relating to unintentional weight loss;

"(ii) for which the Secretary determines the services described in paragraph (1) to be medically necessary and appropriate for the prevention, management, or treatment of such disease or condition, consistent with any applicable recommendations of the United States Preventive Services Task Force; or

"(iii) for which the Secretary determines the services described in paragraph (1) are medically necessary, consistent with either protocols established by registered dietitians or nutrition professional organizations or with accepted clinical guidelines identified by the Secretary.".

(b) EXCLUSION MODIFICATION.—Section 1862(a)(1) is amended—

(1) in subparagraph (O), by striking "and" at the end;

(2) in subparagraph (P), by striking the semicolon at the end and inserting ", and"; and

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

''(Q) in the case of medical nutrition therapy services (as defined in section 1861(vv)), which are not furnished for the prevention, management, or treatment of a disease or condition specified in paragraph (4) of such section;''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to items and services furnished on or after January 1, 2023.

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