

118TH CONGRESS
1ST SESSION

H. R. 5395

To amend title XVIII of the Social Security Act to establish a demonstration program relating to medical necessity determinations under the Medicare program.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 12, 2023

Mrs. HARSHBARGER introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, 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 establish a demonstration program relating to medical necessity determinations 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 “Coverage Parity for
5 Medicare Patients Act of 2023”.

1 **SEC. 2. ESTABLISHING A DEMONSTRATION PROGRAM RE-**
2 **LATING TO MEDICAL NECESSITY DETER-**
3 **MINATIONS UNDER THE MEDICARE PRO-**
4 **GRAM.**

5 Section 1862 of the Social Security Act (42 U.S.C.
6 1395y) is amended by adding at the end the following new
7 subsection:

8 “(p) DEMONSTRATION PROGRAM RELATING TO
9 MEDICAL NECESSITY DETERMINATIONS.—

10 “(1) IN GENERAL.—Not later than January 1,
11 2026, the Secretary shall establish a demonstration
12 program (in this subsection referred to as the ‘pro-
13 gram’) under which an item or service furnished to
14 an individual entitled to benefits under part A or en-
15 rolled under part B is deemed to be reasonable and
16 necessary for purposes of subsection (a)(1) if such
17 item or service meets the criteria specified in para-
18 graph (3).

19 “(2) SELECTION OF PARTICIPATING AREAS.—
20 The Secretary shall select no fewer than 5 States
21 (or, at the option of the Secretary, no fewer than 3
22 Medicare administrative contractor jurisdictions re-
23 lating to the administration of parts A and B (as
24 specified by the Secretary)) in which to carry out the
25 program.

26 “(3) SPECIFIED CRITERIA.—

1 “(A) IN GENERAL.—For purposes of para-
2 graph (1), the criteria specified in this para-
3 graph are, with respect to an item or service
4 furnished to an individual in a State or jurisdic-
5 tion (as applicable) selected by the Secretary
6 under paragraph (2), the following:

7 “(i) Such item or service so furnished
8 would be covered under a significant num-
9 ber of group health plans and group or in-
10 dividual health insurance coverage offered
11 in such State or jurisdiction if so furnished
12 to a similarly situated individual enrolled
13 under such plan or coverage (as applica-
14 ble).

15 “(ii) The item or service is safe and
16 effective.

17 “(iii) The item or service—

18 “(I) is not experimental or inves-
19 tigational; or

20 “(II) is experimental or inves-
21 tigational, but is furnished as part of
22 a clinical trial that meets the stand-
23 ards of coverage applicable under any
24 national coverage determination relat-
25 ing to clinical trials.

1 “(B) SIGNIFICANT COVERAGE.—The Sec-
2 retary shall through notice-and-comment rule-
3 making establish requirements for what con-
4 stitutes coverage of an item or service under a
5 significant number of group health plans and
6 group or individual health insurance coverage in
7 a State or jurisdiction. Such requirements may
8 provide that such significant number is dem-
9 onstrated through a showing that a majority of
10 similarly situated individuals covered under
11 such a plan or group or individual health insur-
12 ance coverage in such State or jurisdiction
13 would have benefits available under such plan
14 or coverage for such item or service or through
15 such other similar metrics determined appro-
16 priate by the Secretary.

17 “(4) DURATION.—

18 “(A) IN GENERAL.—The program shall be
19 in effect for a period of not less than 4 years.

20 “(B) EXPANSION.—The Secretary may,
21 during the period in which the program is in ef-
22 fect and as determined appropriate by the Sec-
23 retary, expand the program to additional States
24 or jurisdictions not originally selected under
25 paragraph (2).

1 “(C) TERMINATION.—The Secretary may
2 terminate the program—

3 “(i) only on or after the date that is
4 4 years after the effective date of the pro-
5 gram; and

6 “(ii) only once the Secretary has con-
7 cluded a 60-day public comment period
8 with respect to such termination.”.

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