

118TH CONGRESS
2D SESSION

H. R. 5526

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 24, 2024

Received; read twice and referred to the Committee on Finance

AN ACT

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 covered outpatient drugs furnished under the Medicare program, and to provide coverage of external infusion pumps and non-self-administrable home infusion drugs under such 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 2024”.

6 **SEC. 2. CLARIFYING THE APPLICATION OF THE IN-OFFICE**
7 **ANCILLARY SERVICES EXCEPTION TO THE**
8 **PHYSICIAN SELF-REFERRAL PROHIBITION**
9 **FOR COVERED OUTPATIENT DRUGS FUR-**
10 **NISHED UNDER THE MEDICARE PROGRAM.**

11 (a) IN GENERAL.—Section 1877(b)(2) of the Social
12 Security Act (42 U.S.C. 1395nn(b)(2)) is amended by
13 adding at the end the following new sentence: “With re-
14 spect to services described in subsection (h)(6)(J) con-
15 sisting of covered part D drugs (as defined in section
16 1860D–2(e)) furnished to an individual during the period
17 beginning on January 1, 2025, and ending on December
18 31, 2029, such drugs shall be treated as having been fur-
19 nished in accordance with subparagraph (A)(ii) if such
20 drugs are picked up in a building described in subclause
21 (I) or (II) of such subparagraph by such individual, or
22 a family member or caregiver on behalf of such individual,
23 or delivered to such individual by a mail, delivery, or cou-
24 rier service, but only if, during the 1-year period ending
25 on the date such drugs were so furnished, such individual

1 had a face-to-face encounter with the prescriber of such
2 drugs (not including any such encounter conducted via
3 telehealth), and only if such prescriber (or another physi-
4 cian or practitioner (as described in section
5 1842(b)(18)(C)) in the same practice as such prescriber
6 (as determined by tax identification number)) furnished
7 to such individual, during such 1-year period, another item
8 or service for which payment was made under this title,
9 and only if such individual has an ongoing relationship
10 with such prescriber.”.

11 (b) REPORT.—Not later than 3 years after the date
12 of the enactment of this Act, the Secretary of Health and
13 Human Services shall submit to Congress a report that
14 contains—

15 (1) the number of individuals who were fur-
16 nished drugs in a manner that would constitute a
17 violation of section 1877 of the Social Security Act
18 (42 U.S.C. 1395nn) but for the amendment made by
19 subsection (a);

20 (2) an analysis of the change in expenditures
21 under title XVIII of such Act (42 U.S.C. 1395 et
22 seq.) attributable to such amendment;

23 (3) a description of which drugs were furnished
24 in a manner described in paragraph (1); and

1 (4) such amendment’s impact on prices for such
2 drugs.

3 **SEC. 3. MEDICARE COVERAGE OF EXTERNAL INFUSION**
4 **PUMPS AND NON-SELF-ADMINISTRABLE**
5 **HOME INFUSION DRUGS.**

6 Section 1861(n) of the Social Security Act (42 U.S.C.
7 1395x(n)) is amended by adding at the end the following
8 new sentence: “Beginning with the first calendar quarter
9 beginning on or after the date that is one year after the
10 date of the enactment of the ‘Seniors’ Access to Critical
11 Medications Act of 2024’, an external infusion pump and
12 associated home infusion drug (as defined in subsection
13 (iii)(3)(C)) or other associated supplies that do not meet
14 the appropriate for use in the home requirement applied
15 to the definition of durable medical equipment under sec-
16 tion 414.202 of title 42, Code of Federal Regulations (or
17 any successor to such regulation) shall be treated as meet-
18 ing such requirement if each of the following criteria is
19 satisfied:

20 “(1) The prescribing information approved by
21 the Food and Drug Administration for the home in-
22 fusion drug associated with the pump instructs that
23 the drug should be administered by or under the su-
24 pervision of a health care professional.

“(3) The prescribing information described in paragraph (1) instructs that the drug should be infused at least 12 times per year—

“(B) at infusion rates that the Secretary
determines would require the use of an external
infusion pump.”.

Section 1898(b)(1) of the Social Security Act (42 U.S.C. 1395iii(b)(1)) is amended by striking “\$0” and inserting “\$114,000,000”.

Passed the House of Representatives September 23,
2024.

Attest: KEVIN F. MCCUMBER,
Clerk.