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(Original Signature of Member)

118TH CONGRESS
1ST SESSION

H. R.

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

IN THE HOUSE OF REPRESENTATIVES

Ms. KELLY of Illinois introduced the following bill; which was referred to the Committee on _____

A BILL

To amend title XVIII of the Social Security Act to expand the availability of medical nutrition therapy services 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 “Medical Nutrition
5 Therapy Act of 2023”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

1 (1) Over two-thirds of Medicare fee-for-service
2 beneficiaries have 2 or more chronic conditions,
3 many of which can be prevented, delayed, treated, or
4 managed through nutrition.

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

10 (3) Coverage for medical nutrition therapy is
11 only available to Medicare Part B beneficiaries with
12 diabetes or a renal disease, despite medical nutrition
13 therapy being part of the standard of care, in clin-
14 ical guidelines, and medically necessary for many
15 more chronic conditions.

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

21 **SEC. 3. EXPANDING THE AVAILABILITY OF MEDICAL NU-**
22 **TRITION THERAPY SERVICES UNDER THE**
23 **MEDICARE PROGRAM.**

24 (a) IN GENERAL.—Section 1861 of the Social Secu-
25 rity Act (42 U.S.C. 1395x) is amended—

1 (1) in subsection (s)(2)(V), by striking “in the
2 case of” and all that follows through “organiza-
3 tions”; and

4 (2) in subsection (vv)—

5 (A) in paragraph (1)—

6 (i) by striking “disease management”
7 and inserting “the prevention, manage-
8 ment, or treatment of a disease or condi-
9 tion specified in paragraph (4)”; and

10 (ii) by striking “by a physician” and
11 all that follows through the period at the
12 end and inserting the following: “by—

13 “(A) a physician (as defined in subsection
14 (r)(1));

15 “(B) a physician assistant (as defined in sub-
16 section (aa)(5));

17 “(C) a nurse practitioner (as defined in sub-
18 section (aa)(5));

19 “(D) a clinical nurse specialist (as defined in
20 subsection (aa)(5)(B)); or

21 “(E) in the case of such services furnished to
22 manage such a disease or condition that is an eating
23 disorder, a clinical psychologist (as defined by the
24 Secretary).”; and

1 (iii) by adding at the end the fol-
2 lowing new sentence: “Such term shall not
3 include any such services furnished to an
4 individual for the prevention, management,
5 or treatment of a renal disease if such in-
6 dividual is receiving maintenance dialysis
7 for which payment is made under section
8 1881.”; and

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

11 “(4) For purposes of paragraph (1), the dis-
12 eases and conditions specified in this paragraph are
13 the following:

14 “(A) Diabetes

15 “(B) Prediabetes.

16 “(C) A renal disease.

17 “(D) Obesity (as defined for purposes of
18 subsection (yy)(2)(C) or as otherwise defined by
19 the Secretary).

20 “(E) Hypertension.

21 “(F) Dyslipidemia.

22 “(G) Malnutrition.

23 “(H) Eating disorders.

24 “(I) Cancer.

1 “(J) Gastrointestinal diseases, including
2 Celiac disease.

3 “(K) HIV.

4 “(L) AIDS.

5 “(M) Cardiovascular disease.

6 “(N) Any other disease or condition—

7 “(i) specified by the Secretary relating
8 to unintentional weight loss;

9 “(ii) for which the Secretary deter-
10 mines the services described in paragraph
11 (1) to be medically necessary and appro-
12 priate for the prevention, management, or
13 treatment of such disease or condition,
14 consistent with any applicable rec-
15 ommendations of the United States Pre-
16 ventive Services Task Force; or

17 “(iii) for which the Secretary deter-
18 mines the services described in paragraph
19 (1) are medically necessary, consistent ei-
20 ther with protocols established by reg-
21 istered dietitian or nutrition professional
22 organizations or with accepted clinical
23 guidelines identified by the Secretary.”.

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

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

3 (2) in subparagraph (P), by striking the semi-
4 colon at the end and inserting “, and”; and

5 (3) by adding at the end the following new sub-
6 paragraph:

7 “(Q) in the case of medical nutrition ther-
8 apy services (as defined in section 1861(vv)),
9 which are not furnished for the prevention,
10 management, or treatment of a disease or con-
11 dition specified in paragraph (4) of such sec-
12 tion;”.

13 (c) EFFECTIVE DATE.—The amendments made by
14 this section shall apply with respect to items and services
15 furnished in years beginning on or after the date that is
16 2 years after the date of the enactment of this Act.