

117TH CONGRESS
1ST SESSION

H. R. 3108

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

MAY 11, 2021

Ms. KELLY of Illinois (for herself and Mr. UPTON) 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 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 2021”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

1 (1) Over two-thirds of Medicare fee-for-service
2 beneficiaries have two 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) The Centers for Disease Control and Pre-
11 vention finds that individuals are at an increased
12 risk of severe illness from COVID–19 if they have
13 cancer, chronic kidney disease, diabetes, heart condi-
14 tions such as health failure or coronary artery dis-
15 ease, or obesity.

16 (4) Coverage for medical nutrition therapy is
17 only available to Medicare part B beneficiaries with
18 diabetes or a renal disease, despite medical nutrition
19 therapy being part of the standard of care, in clin-
20 ical guidelines, and medically necessary for many
21 more chronic conditions.

22 (5) Medical nutrition therapy has been shown
23 to be a cost-effective component of treatment for
24 obesity, diabetes, hypertension, dyslipidemia, HIV

1 infection, unintended weight loss in older adults and
2 other chronic conditions.

3 **SEC. 3. EXPANDING THE AVAILABILITY OF MEDICAL NU-**
4 **TRITION THERAPY SERVICES UNDER THE**
5 **MEDICARE PROGRAM.**

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

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

11 (2) in subsection (vv)—

12 (A) in paragraph (1)—

13 (i) by striking “disease management”
14 and inserting “the prevention, manage-
15 ment, or treatment of a disease or condi-
16 tion specified in paragraph (4)”; and

17 (ii) by striking “by a physician” and
18 all that follows through the period at the
19 end and inserting the following: “by a—

20 “(A) physician (as defined in subsection
21 (r)(1));

22 “(B) physician assistant;

23 “(C) nurse practitioner;

24 “(D) clinical nurse specialist (as defined in
25 subsection (aa)(5)(B)); or

1 “(E) in the case of such services furnished
2 to manage such a disease or condition that is
3 an eating disorder, a clinical psychologist (as
4 defined by the Secretary).

5 Such term shall not include any services furnished
6 to an individual for the prevention, management, or
7 treatment of a renal disease if such individual is re-
8 ceiving maintenance dialysis for which payment is
9 made under section 1881.”; and

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

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

14 “(A) Diabetes and prediabetes.

15 “(B) A renal disease.

16 “(C) Obesity (as defined for purposes of sub-
17 section (yy)(2)(C) or as otherwise defined by the
18 Secretary).

19 “(D) Hypertension.

20 “(E) Dyslipidemia.

21 “(F) Malnutrition.

22 “(G) Eating disorders.

23 “(H) Cancer.

24 “(I) Gastrointestinal diseases, including celiac
25 disease.

1 “(J) HIV.

2 “(K) AIDS.

3 “(L) Cardiovascular disease.

4 “(M) Any other disease or condition—

5 “(i) specified by the Secretary relating to
6 unintentional weight loss;

7 “(ii) for which the Secretary determines
8 the services described in paragraph (1) to be
9 medically necessary and appropriate for the
10 prevention, management, or treatment of such
11 disease or condition, consistent with any appli-
12 cable recommendations of the United States
13 Preventive Services Task Force; or

14 “(iii) for which the Secretary determines
15 the services described in paragraph (1) are
16 medically necessary, consistent with either pro-
17 tocols established by registered dietitians or nu-
18 trition professional organizations or with ac-
19 cepted clinical guidelines identified by the Sec-
20 retary.”.

21 (b) EXCLUSION MODIFICATION.—Section 1862(a)(1)

22 is amended—

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

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

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

5 “(Q) in the case of medical nutrition therapy
6 services (as defined in section 1861(vv)), which are
7 not furnished for the prevention, management, or
8 treatment of a disease or condition specified in para-
9 graph (4) of such section;”.

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

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