

118TH CONGRESS
1ST SESSION

H. R. 1770

To amend title XVIII of the Social Security Act to provide pharmacy payment of certain services.

IN THE HOUSE OF REPRESENTATIVES

MARCH 23, 2023

Mr. SMITH of Nebraska (for himself, Mr. SCHNEIDER, Mr. BUCSHON, Ms. MATSUI, Mr. CARTER of Georgia, Mrs. HARSHBARGER, Mr. BILIRAKIS, Mr. BLUMENAUER, Mr. FITZPATRICK, Mr. PETERS, and Ms. SEWELL) 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 provide pharmacy payment of certain services.

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 “Equitable Community
5 Access to Pharmacist Services Act”.

1 **SEC. 2. COVERAGE OF PHARMACIST SERVICES UNDER**
2 **MEDICARE PART B.**

3 (a) **COVERAGE.**—Section 1861(s) of the Social Secu-
4 rity Act (42 U.S.C. 1395x(s)) is amended—

5 (1) in paragraph (2)—

6 (A) in subparagraph (II), by striking
7 “and” at the end;

8 (B) in subparagraph (JJ), by striking the
9 period at the end and inserting “; and”; and

10 (C) by adding at the end the following new
11 subparagraph:

12 “(KK) pharmacist services and such services
13 and supplies furnished as an incident to the phar-
14 macist’s service as would otherwise be covered under
15 part B if furnished by a physician or as an incident
16 to a physician’s service that—

17 “(i) are furnished by a pharmacist—

18 “(I) as licensed under State law; or

19 “(II) pursuant to a Federal emer-
20 gency authority described under section
21 319F–3 or section 361 of the Public
22 Health Service Act, or other similar Fed-
23 eral law;

24 “(ii) would otherwise be covered under part
25 B if furnished by a physician; and

26 “(iii) are services—

1 “(I) for encounters for the evaluation
2 and management of patients for testing or
3 treatment for COVID–19, influenza, res-
4 piratory syncytial virus, or streptococcal
5 pharyngitis; or

6 “(II) that address a public health
7 need related to a public health emergency
8 under section 319F–3 or section 361 of
9 the Public Health Service Act, or other
10 similar Federal law.”; and

11 (2) in paragraph (10), in each of subpara-
12 graphs (A) and (B), by inserting “, including when
13 furnished by a pharmacist” before the semicolon in
14 each such subparagraph.

15 (b) PAYMENT.—Section 1833(a)(1) of the Social Se-
16 curity Act (42 U.S.C. 1395l(a)(1)) is amended—

17 (1) by striking “and (HH)” and inserting
18 “(HH)”; and

19 (2) by inserting before the semicolon at the end
20 the following: “and (II) with respect to pharmacist
21 services described in section 1861(s)(2)(KK), the
22 amounts paid shall be equal to 80 percent of the
23 lesser of (i) the actual charge for the services or (ii)
24 85 percent (or 100 percent, in the case of such serv-
25 ices furnished pursuant to a Federal emergency au-

1 thority described in clause (i)(II) of such section) of
2 the amount determined under the payment basis
3 under section 1848 for such services.”.

4 (c) PROHIBITION ON BALANCE BILLING FOR PHAR-
5 MACIST SERVICES.—Section 1842(b)(18)(C) of the Social
6 Security Act (42 U.S.C. 1395u(b)(18)(C)) is amended by
7 adding at the end the following:

8 “(ix) A pharmacist.”.

9 (d) RULE OF CONSTRUCTION.—Nothing in this sec-
10 tion shall be construed to restrict the ability of pharmacies
11 and pharmacists to enroll and obtain reimbursement
12 under existing pathways under title XVIII of the Social
13 Security Act (42 U.S.C. 1395 et seq.) as of the date of
14 the enactment of this Act, including payment as mass
15 immunizers.

16 (e) IMPLEMENTATION AUTHORITY.—Notwith-
17 standing any other provision of law, the Secretary of
18 Health and Human Services shall implement the provi-
19 sions of, and the amendments made by, this section by
20 interim final rule, program instruction, or otherwise not
21 later than the date that is 60 days after the date of the
22 enactment of this Act.

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