

106TH CONGRESS
2D SESSION

H. R. 5156

To amend title XVIII of the Social Security Act to establish standards for payment under the Medicare Program for certain orthotic, prosthetic, and pedorthic devices.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 12, 2000

Mrs. MCCARTHY of New York introduced the following bill; which was referred to the Committee on 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 establish standards for payment under the Medicare Program for certain orthotic, prosthetic, and pedorthic devices.

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. STANDARDS REGARDING PAYMENT FOR CER-**
 4 **TAIN ORTHOTICS, PROSTHETICS, AND**
 5 **PEDORTHICS.**

6 (a) STANDARDS.—Section 1834(h)(1) of the Social
 7 Security Act (42 U.S.C. 1395m(h)(1)) is amended by add-
 8 ing at the end the following new subparagraph

1 “(F) ESTABLISHMENT OF STANDARDS FOR
2 CERTAIN ITEMS.—

3 “(i) IN GENERAL.—No payment shall
4 be made for an applicable item unless the
5 item is provided by a qualified practitioner
6 or a qualified supplier under the system es-
7 tablished by the Secretary under clause
8 (iii). For purposes of the preceding sen-
9 tence, if a qualified practitioner or a quali-
10 fied supplier contracts with an entity to
11 provide an applicable item, then no pay-
12 ment shall be made for such item unless
13 the entity is also a qualified supplier.

14 “(ii) DEFINITIONS.—In this subpara-
15 graph:

16 “(I) APPLICABLE ITEM.—The
17 term ‘applicable item’ means
18 orthotics, prosthetics, and pedorthics
19 that require education, training, and
20 experience to dispense such item as a
21 part of a treatment plan.

22 “(II) QUALIFIED PRACTI-
23 TIONER.—The term ‘qualified practi-
24 tioner’ means a physician or health
25 care professional who—

1 “(aa) is specifically trained
2 and educated to provide or man-
3 age the provision of custom-de-
4 signed, fabricated, modified, and
5 fitted orthotics, prosthetics, and
6 pedorthics, and is certified by the
7 American Board for Certification
8 in Orthotics and Prosthetics,
9 Inc., to dispense orthotics, pros-
10 thetic, or pedorthic devices, is
11 specifically trained and educated
12 to provide or manage the provi-
13 sion of custom-designed, fab-
14 ricated, modified, and fitted
15 pedorthics and is certified by the
16 Board for Certification in
17 Pedorthics to dispense pedorthic
18 devices, or is credentialed and
19 approved by a program that the
20 Secretary determines, in con-
21 sultation with appropriate ex-
22 perts in orthotics, prosthetics,
23 and pedorthics, has training and
24 education standards that are nec-

1 essary to provide applicable
2 items;

3 “(bb) is licensed in
4 orthotics, prosthetics, or
5 pedorthics by the State in which
6 the applicable item is supplied; or

7 “(cc) has completed at least
8 10 years of practice in the provi-
9 sion of applicable items.

10 “(III) QUALIFIED SUPPLIER.—

11 The term ‘qualified supplier’ means
12 any entity that is—

13 “(aa) accredited by the
14 American Board for Certification
15 in Orthotics and Prosthetics,
16 Inc.;

17 “(bb) accredited by the
18 Board for Certification in
19 Pedorthics, Inc., to dispense
20 pedorthic devices; or

21 “(cc) accredited and ap-
22 proved by a program that the
23 Secretary determines has accredi-
24 tation and approval standards

1 that are essentially equivalent to
2 those of such Boards.

3 “(iii) SYSTEM.—The Secretary, in
4 consultation with appropriate experts in
5 orthotics, prosthetics, and pedorthics, shall
6 establish a system under which the Sec-
7 retary shall—

8 “(I) determine which items are
9 applicable items and formulate a list
10 of such items;

11 “(II) review the applicable items
12 billed under the coding system estab-
13 lished under this title; and

14 “(III) limit payment for applica-
15 ble items pursuant to clause (i).”.

16 (b) REVISION OF DEFINITION OF ORTHOTICS.—Sec-
17 tion 1861(s)(9) of the Social Security Act (42 U.S.C.
18 1395x(s)(9)) is amended by inserting “(including such
19 braces that are used in conjunction with, or as components
20 of, other medical or nonmedical equipment when provided
21 by a qualified practitioner (as defined in subclause (II)
22 of section 1834(h)(1)(F)(ii)) or a qualified supplier (as de-
23 fined in subclause (III) of such section)” after “braces”.

24 (c) DEFINITION OF PEDORTHIC DEVICES.—

1 (1) IN GENERAL.—Section 1861(s) of the So-
2 cial Security Act (42 U.S.C. 1395x(s)) is amended—

3 (A) by redesignating paragraphs (16) and
4 (17) as paragraphs (17) and (18), respectively;

5 (B) by striking “and” at the end of para-
6 graph (14);

7 (C) by striking the period at the end of
8 paragraph (15) and inserting “; and”; and

9 (D) by inserting after paragraph (15) the
10 following new paragraph:

11 “(16)(A) pedorthic devices consisting of thera-
12 peutic shoes, shoe modifications made for thera-
13 peutic purposes, partial foot prostheses, and foot
14 orthoses for use from the ankle and below, but not
15 including non-therapeutic, accommodative inlays and
16 non-therapeutic accommodative footwear (regardless
17 of method of manufacture) or prefabricated foot care
18 products; and

19 “(B) in subparagraph (A)—

20 “(i) a pedorthic device is therapeutic if the
21 device addresses a medical condition and is pre-
22 scribed by a physician or practitioner; and

23 “(ii) an inlay or footwear is accommodative
24 is an inlay or footwear that is designed with a

1 primary goal of conforming to an individual’s
2 anatomy.”.

3 (2) CONFORMING AMENDMENTS.—Sections
4 1864(a), 1902(a)(9)(C), and 1915(a)(1)(B)(ii)(I) of
5 such Act (42 U.S.C. 1395aa(a), 1396a(a)(9)(C), and
6 1396n(a)(1)(B)(ii)(I)) are each amended by striking
7 “paragraphs (16) and (17)” each place it appears
8 and inserting “paragraphs (17) and (18)”.

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