

108TH CONGRESS
1ST SESSION

H. R. 3635

To amend the Social Security Act to provide for coverage under the Medicare Program of chronic kidney disease patients who are not end-stage renal disease patients.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 21, 2003

Mr. STARK (for himself, Mr. McDERMOTT, Mr. KENNEDY of Rhode Island, Mr. FROST, Mrs. CHRISTENSEN, Mr. JEFFERSON, and Mr. McNULTY) 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 the Social Security Act to provide for coverage under the Medicare Program of chronic kidney disease patients who are not end-stage renal disease patients.

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 “Medicare Chronic Kid-
5 ney Disease Management Act of 2003”.

6 **SEC. 2. FINDINGS.**

7 Congress makes the following findings:

1 (1) Clinical research indicates that in 2003,
2 more than 300,000 Americans suffer from end-stage
3 renal disease.

4 (2) Clinical research also indicates that by
5 2010, the number of Americans who will suffer from
6 end-stage renal disease is expected to exceed
7 600,000.

8 (3) Clinical research also indicates that adult
9 patients who are diagnosed as having advanced
10 chronic kidney disease have a high likelihood of re-
11 quiring treatment for end-stage renal disease within
12 6- to 18-month period after such diagnosis.

13 (4) Clinical research also indicates that appro-
14 priate medical treatment, and education and coun-
15 seling services, furnished during the period referred
16 to in paragraph (3) has been found to—

17 (A) decrease significantly both morbidity
18 and mortality rates for such patients when
19 treatment for end-stage renal disease is initi-
20 ated; and

21 (B) slow down the progression from ad-
22 vanced kidney disease to end-stage renal dis-
23 ease.

1 **SEC. 3. DELAYING ONSET OF AND DECREASING MORBIDITY**
2 **AND MORTALITY RATES FOR END-STAGE**
3 **RENAL DISEASE.**

4 (a) **MEDICARE COVERAGE OF CHRONIC KIDNEY DIS-**
5 **EASE PATIENTS.—**

6 (1) **IN GENERAL.—**Section 226A of the Social
7 Security Act (42 U.S.C. 426–1) is amended—

8 (A) by redesignating the last subsection as
9 subsection (e); and

10 (B) by inserting after subsection (c) the
11 following new subsection:

12 “(d)(1)(A) Notwithstanding any provision to the con-
13 trary in section 226 of title XVIII, every qualified chronic
14 kidney disease patient (as defined in paragraph (2)) shall,
15 in accordance with the succeeding provisions of this sec-
16 tion, be entitled to benefits under part A and eligible to
17 enroll under part B of title XVIII, subject to the deduct-
18 ible, premium, and coinsurance provisions of that title.

19 “(B) No qualified chronic kidney disease patient may
20 enroll under part C of title XVIII.

21 “(2) For purposes of this subsection, the term ‘quali-
22 fied chronic kidney disease patient’ means an individual—

23 “(A) who would otherwise be described in sub-
24 section (a) but for paragraph (2) of that subsection;

25 “(B) who has been diagnosed with chronic kid-
26 ney disease;

1 “(C) with respect to whom, a physician makes
2 a certification that the individual—

3 “(i) has advanced chronic kidney disease
4 (as defined in paragraph (3)), and, in the case
5 of such an individual who is under 18 years of
6 age, will likely need dialysis treatments or a
7 kidney transplant within the 18-month period
8 beginning on the date of the certification; and

9 “(ii) may benefit from a program of pre-
10 ESRD services (as defined in section
11 1861(wv)(1)); and

12 “(D) who does not have health insurance cov-
13 erage, as certified by the individual, parent, or legal
14 guardian, as the case may be.

15 “(3) For purposes of this subsection, the term ‘ad-
16 vanced chronic kidney disease’ means with respect to kid-
17 ney disease a glomerular filtration rate of 30ml/min per
18 1.73 m² or less.”.

19 (2) CONFORMING AMENDMENT.—Section 1811
20 of such Act (42 U.S.C. 1395c) is amended by insert-
21 ing before the period the following: “or who are
22 qualified chronic kidney disease patients (as defined
23 in section 226A(d)(2))”.

24 (3) EFFECTIVE DATE.—The amendments made
25 by this subsection shall take effect on the date that

1 is 6 months after the date of the enactment of this
2 Act.

3 (b) COVERAGE OF PRE-ESRD SERVICES.—

4 (1) IN GENERAL.—Section 1861(s)(2) of the
5 Social Security Act (42 U.S.C. 1395x(s)(2)) is
6 amended—

7 (A) by striking “and” at the end of sub-
8 paragraph (U);

9 (B) by inserting “and” at the end of sub-
10 paragraph (V); and

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

13 “(W) pre-ESRD services (as defined in sub-
14 section (ww)(1)) for an individual who has been di-
15 agnosed with chronic kidney disease and, with re-
16 spect to whom, a physician makes a certification de-
17 scribed in section 226A(d)(2)(C);”.

18 (2) SERVICES DESCRIBED.—Section 1861 of
19 such Act (42 U.S.C. 1395x) is amended by adding
20 at the end the following new subsection:

21 “Pre-ESRD Services

22 “(ww) The term ‘pre-ESRD Services’ means any or
23 all of the following services:

24 “(1) Individual and group nutritional coun-
25 seling services for the purpose of chronic kidney dis-

1 ease management that are furnished by a registered
2 dietitian or nutrition professional (as defined in sub-
3 section (vv)(2)) pursuant to a referral by a physician
4 (as defined in subsection (r)(1)).

5 “(2) Counseling furnished by qualified health
6 care providers that—

7 “(A) provides comprehensive information
8 regarding the management of comorbidities,
9 and the prevention of uremic complications;

10 “(B) ensures active participation of the in-
11 dividual in the choice of therapy or therapies;
12 and

13 “(C) provides comprehensive information
14 regarding modalities of treatment for kidney
15 disease and end-stage renal disease, including
16 organ transplantation, hemodialysis, peritoneal
17 dialysis, and home dialysis.

18 “(3) Counseling, items and services, including
19 tissue typing, furnished by qualified health care pro-
20 viders for preparation of possible organ transplan-
21 tation.

22 “(4) Items and services furnished by qualified
23 health care providers for the preparation of vascular
24 access required for dialysis treatment.

1 “(5) Such other services as the Secretary deter-
2 mines appropriate, in consultation with national or-
3 ganizations representing individuals and entities who
4 furnish pre-ESRD services and patients receiving
5 such services.”.

6 (3) QUALIFICATION CRITERIA.—The Secretary
7 of Health and Human Services shall establish such
8 criteria as the Secretary determines appropriate for
9 qualifications required for individuals to furnish pre-
10 ESRD services under section 1861(w) of the Social
11 Security Act, as added by paragraph (2), after con-
12 sulting with representatives of the following:

13 (A) Physicians, including board certified
14 nephrologists.

15 (B) Certified nephrology nurses.

16 (C) Certified nephrology dietitians.

17 (D) Certified nephrology nutritionists.

18 (E) Certified nephrology social workers.

19 (F) Kidney patient organizations.

20 (G) Health educators.

21 (H) Dialysis facilities.

22 (I) Transplant centers.

23 (J) Network administrative organization
24 designated under section 1881(c) of the Social
25 Security Act (42 U.S.C. 1395rr(c)).

1 (K) Such other individuals with appro-
2 priate expertise as the Secretary may specify.

3 (c) PAYMENT AMOUNT.—

4 (1) IN GENERAL.—Section 1833(a)(1) of the
5 Social Security Act (42 U.S.C. 1395l(a)(1)) is
6 amended—

7 (A) by striking “and” before “(U)”; and

8 (B) by inserting before the semicolon at
9 the end the following: “, and (V) with respect
10 to pre-ESRD services, the amount paid shall be
11 80 percent of the amount determined under the
12 fee schedule established under section 1834(e)”.

13 (2) ESTABLISHMENT OF FEE SCHEDULE.—Sec-
14 tion 1834 of such Act (42 U.S.C. 1395m) is amend-
15 ed by inserting after subsection (d) the following
16 new subsection:

17 “(e) FEE SCHEDULE FOR PRE-ESRD SERVICES.—

18 “(1) IN GENERAL.—The Secretary shall estab-
19 lish a fee schedule for payment for pre-ESRD serv-
20 ices in accordance with the requirements of this sub-
21 section.

22 “(2) CONSIDERATIONS.—In establishing such
23 fee schedule, the Secretary shall—

24 “(A) establish mechanisms to promote the
25 efficient delivery of care;

1 “(B) establish definitions for pre-ESRD
2 services which link payments to the type of
3 services provided;

4 “(C) consider appropriate regional and
5 operational differences; and

6 “(D) consider adjustments to payment
7 rates to account for inflation and other relevant
8 factors.

9 “(3) CONSULTATION.—In establishing the fee
10 schedule for pre-ESRD services under this sub-
11 section, the Secretary shall consult with various na-
12 tional organizations representing individuals and en-
13 tities who furnish pre-ESRD services and patients
14 receiving such services.

15 “(4) CODING SYSTEM.—The Secretary may re-
16 quire the claim for any services for which the
17 amount of payment is determined under this sub-
18 section to include a code (or codes) under a uniform
19 coding system specified by the Secretary that identi-
20 fies the services furnished.”.

21 (3) PERMITTING DIALYSIS FACILITIES TO BILL
22 FOR PRE-ESRD SERVICES FURNISHED IN THE FACIL-
23 ITY.—Section 1881(b) is amended by adding at the
24 end the following new paragraph:

1 “(12) A renal dialysis facility may provide for the fur-
2 nishing of some or all pre-ESRD services (as defined in
3 section 1861(ww)(2). The facility may submit to the Sec-
4 retary a claim for payment for such services furnished in
5 the facility, and the Secretary shall not require the facility,
6 or the employee of the facility who is qualified to furnish
7 such services, to apply for a separate provider number for
8 purposes of payment under this title.”.

9 (d) ANNUAL REPORTS TO CONGRESS.—

10 (1) IN GENERAL.—Not later than 18 months
11 after the date of the enactment of this Act, and an-
12 nually thereafter, the Secretary of Health and
13 Human Services shall submit to Congress reports on
14 the matters described in paragraph (2) with respect
15 to pre-ESRD services (described in section
16 1861(ww) of the Social Security Act) furnished dur-
17 ing the preceding year.

18 (2) MATTERS DESCRIBED.—Reports under
19 paragraph (1) shall include—

20 (A) an assessment of the number of medi-
21 care beneficiaries who are entitled to pre-ESRD
22 services;

23 (B) an assessment of the number of medi-
24 care beneficiaries who are furnished such serv-
25 ices under the medicare program;

1 (C) an analysis of the patient outcomes
2 and costs of furnishing care to the medicare
3 beneficiaries who are furnished such pre-ESRD
4 services as compared to such outcomes and
5 costs with respect to other beneficiaries for the
6 same health conditions;

7 (D) an evaluation of patient satisfaction;
8 and

9 (E) such recommendations for legislative
10 and administrative action as the Secretary de-
11 termines appropriate.

12 **SEC. 4. DEMONSTRATION PROJECT FOR HOME DIALYSIS**

13 **PEER EDUCATION.**

14 (a) ESTABLISHMENT.—Subject to the succeeding
15 provisions of this section, the Secretary shall establish
16 demonstration projects to evaluate methods through which
17 peer education may—

18 (1) slow down or prevent the progress of kidney
19 disease to end-stage renal disease in medicare bene-
20 ficiaries;

21 (2) improve the management of co-morbid con-
22 ditions associated with kidney disease;

23 (3) improve choice in selection of renal replace-
24 ment therapies (including home dialysis); and

1 (4) improve other outcomes (such as employ-
2 ment).

3 (b) CONDUCT THROUGH KIDNEY PATIENT ORGANI-
4 ZATIONS.—The Secretary shall carry out the demonstra-
5 tion projects in collaboration with kidney patient organiza-
6 tions with demonstrated expertise in kidney patient peer
7 education programs.

8 (c) PAYMENT.—Payment under the demonstration
9 project shall be made by the Secretary in such amounts
10 and using such methodology as the Secretary determines
11 to be appropriate.

12 (d) VOLUNTARY PARTICIPATION.—Participation of
13 medicare beneficiaries in the demonstration projects shall
14 be voluntary.

15 (e) DEMONSTRATION PROJECTS SITES.—Not later
16 than 1 years after the date of the enactment of this Act,
17 the Secretary shall conduct no fewer than 2 demonstration
18 projects established under this section. Of those dem-
19 onstration projects, the Secretary shall conduct at least
20 one in an urban area and one in a rural area.

21 (f) DURATION.—The Secretary shall carry out the
22 demonstration projects over a period of three years.

23 (g) EVALUATION AND REPORT.—

1 (1) EVALUATIONS.—The Secretary shall con-
2 duct evaluations of the clinical and cost effectiveness
3 of the demonstration projects.

4 (2) REPORTS.—After the conclusion of the
5 demonstration projects under this section, the Sec-
6 retary shall submit to Congress a report on the eval-
7 uation, and shall include in the report the following:

8 (A) An analysis of the patient outcomes
9 and costs of furnishing care to the medicare
10 beneficiaries participating in the projects as
11 compared to such outcomes and costs to other
12 beneficiaries for the same health conditions.

13 (B) Evaluation of patient satisfaction
14 under the demonstration projects.

15 (C) Such recommendations regarding the
16 extension or expansion of the projects as the
17 Secretary determines appropriate.

18 (h) WAIVER AUTHORITY.—The Secretary may waive
19 such requirements of title XVIII of the Social Security Act
20 as may be necessary for the purposes of carrying out the
21 demonstration project.

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