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(Original Signature of Member)

119TH CONGRESS
2D SESSION

H. R. _____

To amend title XVIII of the Social Security Act to exclude urological and ostomy supplies from competitive acquisition programs under the Medicare program for 5 years, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. MURPHY introduced the following bill; which was referred to the
Committee on _____

A BILL

To amend title XVIII of the Social Security Act to exclude urological and ostomy supplies from competitive acquisition programs under the Medicare program for 5 years, and for other purposes.

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 “Access to Medical Sup-
5 plies Act”.

1 **SEC. 2. EXCLUDING UROLOGICAL AND OSTOMY SUPPLIES**
2 **FROM COMPETITIVE ACQUISITION PRO-**
3 **GRAMS UNDER THE MEDICARE PROGRAM**
4 **FOR 5 YEARS.**

5 Section 1847(a)(2)(A) of the Social Security Act (42
6 U.S.C. 1395w–3(a)(2)(A)) is amended by inserting “ex-
7 cluding urological and ostomy supplies (as defined in sec-
8 tion 1861(s)(8) furnished on or after January 1, 2028,
9 and before January 1, 2033),” before “and excluding
10 drugs and biologicals.”.

11 **SEC. 3. REQUIRING THE ESTABLISHMENT OF TECHNICAL**
12 **EXPERT PANEL TO ANALYZE THE IMPACT OF**
13 **INCLUDING UROLOGICAL AND OSTOMY SUP-**
14 **PLIES IN COMPETITIVE ACQUISITION PRO-**
15 **GRAMS UNDER THE MEDICARE PROGRAM**
16 **AND RECOMMEND CHANGES.**

17 Section 1847 of the Social Security Act (42 U.S.C.
18 1395w–3) is amended by adding at the end the following
19 new subsection:

20 “(g) TECHNICAL EXPERT PANEL REVIEW AND ANA-
21 LYZATION OF THE IMPACT OF INCLUDING UROLOGICAL
22 AND OSTOMY SUPPLIES IN COMPETITIVE ACQUISITION
23 PROGRAMS UNDER THE MEDICARE PROGRAM.—

24 “(1) IN GENERAL.—Not later than 90 days
25 after the date of the enactment of this subsection,
26 the Secretary (through use of a contractor or other-

1 wise) shall establish a technical expert panel for pur-
2 poses of reviewing the impact of including urological
3 and ostomy supplies in the competitive acquisition
4 programs under this section and recommending
5 changes to such programs.

6 “(2) REVIEW, ASSESSMENT, AND REC-
7 OMMENDATIONS.—Not later than 1 year after the
8 date the technical expert panel described in para-
9 graph (1) is established (and periodically thereafter
10 as the Secretary determines appropriate), the tech-
11 nical expert panel shall review stakeholder input and
12 clinical literature and make recommendations to the
13 Secretary with respect to including urological and
14 ostomy supplies in the competitive acquisition pro-
15 grams under this section, including recommenda-
16 tions regarding how such programs, at a min-
17 imum—

18 “(A) shall be administered in a manner in
19 which the needs of patients, as determined by
20 their physicians, are met through the wide-
21 spread availability of specialized products to
22 meet patient needs;

23 “(B) ensure that bids are submitted at a
24 level that will allow beneficiaries to access the
25 same range of products selected by ordering

1 physicians prior to the implementation of the
2 competitive acquisition program;

3 “(C) address other issues that the tech-
4 nical expert panel determines appropriate.

5 “(3) MEMBERSHIP.—In establishing the tech-
6 nical expert panel, the Secretary shall solicit rec-
7 ommendations from interested stakeholders. The
8 technical expert panel shall be composed of a min-
9 imum of 15 individuals with relevant expertise and
10 perspectives, including the following:

11 “(A) Home urological and ostomy supply
12 patients and caregivers.

13 “(B) Experts with relevant clinical experi-
14 ence and expertise, including researchers and
15 other clinicians.

16 “(C) Experts with subject matter expertise
17 in reimbursement systems and medical neces-
18 sity requirements under this title.

19 “(D) Experts in the supply of devices and
20 services for urological and ostomy supplies.

21 “(E) Experts in the design, development,
22 and manufacturing of urological and ostomy
23 supplies.

24 “(4) USE OF THE RECOMMENDATIONS BY THE
25 SECRETARY.—The Secretary shall implement the

1 competitive acquisition program consistent with the
2 recommendations described in paragraph (2).

3 “(5) TRANSPARENCY.—The Secretary shall
4 make the minutes of all meetings of the technical ex-
5 pert panel and all documentation relating to the for-
6 mulation of recommendations described in para-
7 graph (2) available to the public through the website
8 of the Centers for Medicare & Medicaid Services.”.

9 **SEC. 4. ESTABLISHMENT OF DEMONSTRATION PROJECT TO**
10 **ASSESS INCLUSION OF UROLOGICAL AND**
11 **OSTOMY SUPPLIES IN THE COMPETITIVE AC-**
12 **QUISITION PROGRAM.**

13 Section 1847 of the Social Security Act (42 U.S.C.
14 1395w–3), as amended by section 3, is amended by adding
15 at the end the following new subsection:

16 “(h) ESTABLISHMENT OF DEMONSTRATION PROJECT
17 TO ASSESS INCLUSION OF UROLOGICAL AND OSTOMY
18 SUPPLIES IN THE COMPETITIVE ACQUISITION PRO-
19 GRAMS.—

20 “(1) IN GENERAL.—Not later than three years
21 after the date of the enactment of this subsection,
22 the Secretary shall conduct a demonstration project
23 to test the inclusion of urological and ostomy sup-
24 plies in the competitive acquisition program that as-
25 sess the impact on beneficiary access and health out-

1 comes. The Secretary shall use the results of the
2 demonstration project to include such medical prod-
3 ucts in the competitive acquisition program in a man-
4 ner that—

5 “(A) ensures individuals can access the
6 same or clinically comparable medical supply
7 products as determined by treating physicians;

8 “(B) ensures positive individual health out-
9 comes;

10 “(C) ensures bidders can provide brand
11 name medical supply products individuals used
12 prior to the implementation of any demonstra-
13 tion or competitive acquisition program; and

14 “(D) includes recommendations from the
15 technical expert panel described in subsection
16 (g).

17 “(2) DEMONSTRATION PROJECT SIZE AND
18 LENGTH.—The demonstration project shall be con-
19 ducted in not more than 3 States and be conducted
20 for 12 months.

21 “(3) SURVEY.—

22 “(A) IN GENERAL.—Prior to conducting
23 the demonstration project, the Secretary shall
24 survey a representative sample of individuals re-
25 siding in the demonstration project bid area

1 who used urological and ostomy supplies in the
2 previous calendar year to determine which prod-
3 ucts such individuals have been utilizing.

4 “(B) RESURVEY.—Not later than 3
5 months after the start of the demonstration
6 project, the Secretary shall survey the same in-
7 dividuals described in subparagraph (A) to de-
8 termine whether they are able to continue ac-
9 cessing the same medical supplies. If the indi-
10 viduals are not able to access the same medical
11 supplies, the Secretary shall consult with the
12 technical expert panel described in subsection
13 (g) to provide recommended changes to address
14 the access issue.”.

15 **SEC. 5. PROHIBITION ON INFLUENCING AND**
16 **INCENTIVIZING AND RIGHT TO PURCHASE**
17 **THE SAME OR CLINICALLY COMPARABLE**
18 **UROLOGICAL AND OSTOMY SUPPLIES.**

19 Section 1847 of the Social Security Act (42 U.S.C.
20 1395w-3), as amended by sections 3 and 4, is amended
21 by adding at the end the following new subsection:

22 “(i) PROHIBITION ON INFLUENCING AND
23 INCENTIVIZING AND RIGHT TO PURCHASE THE SAME OR
24 CLINICALLY COMPARABLE UROLOGICAL AND OSTOMY
25 SUPPLIES.—

1 “(1) IN GENERAL.—A contract supplier may
2 not attempt to influence or incentivize an individual
3 to switch the brand of urological or ostomy supplies
4 selected by the referring physician and individual,
5 including by—

6 “(A) persuading, pressuring, or advising
7 the individual to switch; or

8 “(B) furnishing information about alter-
9 native brands to the individual where the indi-
10 vidual has not requested such information.

11 “(2) INDIVIDUAL RIGHT TO PURCHASE SAME
12 OR CLINICALLY COMPARABLE UROLOGICAL AND
13 OSTOMY SUPPLIES.—

14 “(A) IN GENERAL.—The Secretary shall
15 establish a process to ensure that individuals
16 receiving urological or ostomy supplies under a
17 demonstration or other competitive acquisition
18 program can access the same or clinically com-
19 parable urological or ostomy supplies as such
20 individuals did prior to implementation of such
21 demonstration or program.

22 “(B) RIGHT TO PURCHASE.—The process
23 established in subparagraph (A) shall specify
24 that if the individual cannot access the same or
25 clinically comparable urological or ostomy sup-

1 plies as required under subparagraph (A), the
2 individual has the right to receive such
3 urological and ostomy supplies from another
4 supplier, or a non-contract supplier.”.