

119TH CONGRESS
1ST SESSION

S. _____

To amend title XVIII of the Social Security Act to clarify and preserve the breadth of the protections under the Medicare Secondary Payer Act.

IN THE SENATE OF THE UNITED STATES

Mr. CASSIDY introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To amend title XVIII of the Social Security Act to clarify and preserve the breadth of the protections under the Medicare Secondary Payer Act.

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 “Restore Protections
5 for Dialysis Patients Act”.

6 **SEC. 2. PURPOSES.**

7 The purposes of this Act are the following:

- 8 (1) To restore protections under Medicare Sec-
9 ondary Payer provisions for individuals with end-
10 stage renal disease by ensuring that private health

1 plans do not discriminate against such individuals or
2 adversely classify dialysis as compared to other cov-
3 ered medical services.

4 (2) To prohibit health insurance plans from
5 shifting primary responsibility for covering the cost
6 of health care services needed by individuals with
7 end-stage renal disease to the Medicare program.

8 (3) To affirm the intent of Congress by clari-
9 fying that singling out dialysis services for
10 disfavored treatment through coverage limitations as
11 compared to other covered health services constitutes
12 inappropriate differentiations between the benefits
13 provided to individuals with end-stage renal disease
14 and other individuals, but does not change a plan’s
15 ability to limit which renal dialysis providers it in-
16 cludes in the provider network it elects to offer its
17 enrollees.

18 **SEC. 3. CLARIFICATION AND PRESERVATION OF PROHIBI-**
19 **TION UNDER THE MEDICARE PROGRAM.**

20 Section 1862(b)(1)(C) of the Social Security Act (42
21 U.S.C. 1395y(b)(1)(C)) is amended—

22 (1) by striking clause (ii) and inserting the fol-
23 lowing:

24 “(ii) may not on any basis (including
25 the diagnosis of end-stage renal disease or

1 the need for renal dialysis) or in any man-
2 ner—

3 “(I) differentiate (or have the ef-
4 fect of differentiating) in the benefits
5 it provides between individuals having
6 end stage renal disease and other in-
7 dividuals covered by such plan; or

8 “(II) apply a limitation on bene-
9 fits (including on network composi-
10 tion) under the plan that will dispar-
11 ately affect individuals having end-
12 stage renal disease;”; and

13 (2) by adding at the end of the matter following
14 clause (ii) the following: “Nothing in this subsection
15 shall be construed as requiring a group health plan
16 to include a particular renal dialysis provider or a
17 particular number of renal dialysis providers as part
18 of the provider network the group health plan elects
19 to offer its enrollees. The Secretary shall enforce
20 this subparagraph consistent with the nonconform-
21 ance determination requirements described in part
22 411 of title 42, Code of Federal Regulations (or any
23 successor regulation).”.