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(Original Signature of Member)

117TH CONGRESS
1ST SESSION

H. R.

To amend title XVIII of the Social Security Act to provide for dental and oral health care benefits under the Medicare program.

IN THE HOUSE OF REPRESENTATIVES

Ms. KELLY of Illinois (for herself and Mr. HORSFORD) introduced the following bill; which was referred to the Committee on

A BILL

To amend title XVIII of the Social Security Act to provide for dental and oral health care benefits under the Medicare program.

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 Dental Cov-
5 erage Act of 2021”.

6 **SEC. 2. DENTAL AND ORAL HEALTH CARE.**

7 (a) COVERAGE.—Section 1861(s)(2) of the Social Se-
8 curity Act (42 U.S.C. 1395x(s)(2)) is amended—

1 (1) in subparagraph (GG), by striking “and”
2 after the semicolon at the end;

3 (2) in subparagraph (HH), by striking the pe-
4 riod at the end and adding “; and”; and

5 (3) by adding at the end the following new sub-
6 paragraph:

7 “(II) dental and oral health services (as defined
8 in subsection (III));”.

9 (b) DENTAL AND ORAL HEALTH SERVICES DE-
10 FINED.—Section 1861 of the Social Security Act (42
11 U.S.C. 1395x) is amended by adding at the end the fol-
12 lowing new subsection:

13 “(III) DENTAL AND ORAL HEALTH SERVICES.—

14 “(1) IN GENERAL.—The term ‘dental and oral
15 health services’ means items and services (other
16 than such items and services for which payment may
17 be made under part A as inpatient hospital services)
18 that are furnished during 2025 or a subsequent
19 year, for which coverage was not provided under
20 part B as of the date of the enactment of this sub-
21 section, and that are—

22 “(A) the preventive and screening services
23 described in paragraph (2) furnished by a doc-
24 tor of dental surgery or of dental medicine (as

1 described in subsection (r)(2)) or an oral health
2 professional (as defined in paragraph (4)); or

3 “(B) the basic treatments specified for
4 such year by the Secretary pursuant to para-
5 graph (3)(A) and the major treatments speci-
6 fied for such year by the Secretary pursuant to
7 paragraph (3)(B) furnished by such a doctor or
8 such a professional.

9 “(2) PREVENTIVE AND SCREENING SERV-
10 ICES.—The preventive and screening services de-
11 scribed in this paragraph are the following:

12 “(A) Oral exams.

13 “(B) Dental cleanings.

14 “(C) Dental x-rays performed in the office
15 of a doctor or professional described in para-
16 graph (1)(A).

17 “(D) Fluoride treatments.

18 “(3) BASIC AND MAJOR TREATMENTS.—For
19 2025 and each subsequent year, the Secretary shall
20 specify—

21 “(A) basic treatments (which may include
22 basic tooth restorations, basic periodontic serv-
23 ices, tooth extractions, and oral disease man-
24 agement services); and

1 “(B) major treatments (which may include
2 major tooth restorations, major periodontic
3 services, bridges, crowns, and root canals);
4 that shall be included as dental and oral health serv-
5 ices for such year.

6 “(4) ORAL HEALTH PROFESSIONAL.—The term
7 ‘oral health professional’ means, with respect to den-
8 tal and oral health services, a health professional
9 who is licensed to furnish such services, acting with-
10 in the scope of such license, by the State in which
11 such services are furnished.”.

12 (c) PAYMENT; COINSURANCE; AND LIMITATIONS.—

13 (1) IN GENERAL.—Section 1833(a)(1) of the
14 Social Security Act (42 U.S.C. 1395l(a)(1)) is
15 amended—

16 (A) in subparagraph (N), by inserting
17 “and dental and oral health services (as defined
18 in section 1861(III))” after “section
19 1861(hhh)(1)”;
20

21 (B) by striking “and” before “(DD)”; and

22 (C) by inserting before the semicolon at
23 the end the following: “, and (EE) with respect
24 to dental and oral health services (as defined in
 section 1861(III)), the amount paid shall be the

1 payment amount specified under section
2 1834(z)”.

3 (2) PAYMENT AND LIMITS SPECIFIED.—Section
4 1834 of the Social Security Act (42 U.S.C. 1395m)
5 is amended by adding at the end the following new
6 subsection:

7 “(z) PAYMENT AND LIMITS FOR DENTAL AND ORAL
8 HEALTH SERVICES.—

9 “(1) IN GENERAL.—The payment amount
10 under this part for dental and oral health services
11 (as defined in section 1861(III)) shall be, subject to
12 paragraph (3), the applicable percent (specified in
13 paragraph (2)) of the lesser of the actual charge for
14 the services or the amount determined under the
15 payment basis determined under section 1848. In
16 determining such amounts determined under such
17 payment basis, the Secretary shall consider payment
18 rates paid to dentists for comparable services under
19 State plans under title XIX, under the TRICARE
20 program under chapter 55 of title 10 of the United
21 States Code, and by other health care payers, such
22 as Medicare Advantage plans under part C.

23 “(2) APPLICABLE PERCENT.—For purposes of
24 paragraph (1), the applicable percent specified in
25 this paragraph is, with respect to dental and oral

1 health services (as defined in section 1861(l)) fur-
2 nished in a year—

3 “(A) that are preventive and screening
4 services described in paragraph (2) or basic
5 treatments specified for such year pursuant to
6 paragraph (3)(A) of such section, 80 percent;
7 and

8 “(B) that are major treatments specified
9 for such year pursuant to paragraph (3)(B) of
10 such section—

11 “(i) in the case such services are fur-
12 nished during 2025, 10 percent;

13 “(ii) in the case such services are fur-
14 nished during 2026 or a subsequent year
15 before 2029, the applicable percent speci-
16 fied under this subparagraph for the pre-
17 vious year, increased by 10 percentage
18 points; and

19 “(iii) in the case such services are fur-
20 nished during 2029 or a subsequent year,
21 50 percent.

22 “(3) LIMITATIONS.—With respect to dental and
23 oral health services that are—

24 “(A) preventive and screening oral exams,
25 payment may be made under this part for not

1 more than two such exams during a 12-month
2 period;

3 “(B) dental cleanings, payment may be
4 made under this part for not more than two
5 such cleanings during a 12-month period; and

6 “(C) not described in subparagraph (A) or
7 (B), payment may be made under this part only
8 at such frequencies and under such cir-
9 cumstances determined appropriate by the Sec-
10 retary.”.

11 (d) PAYMENT UNDER PHYSICIAN FEE SCHEDULE.—

12 (1) IN GENERAL.—Section 1848(j)(3) of the
13 Social Security Act (42 U.S.C. 1395w-4(j)(3)) is
14 amended by inserting “(2)(II),” before “(3)”.

15 (2) EXCLUSION FROM MIPS.—Section
16 1848(q)(1)(C)(ii) of the Social Security Act (42
17 U.S.C. 1395w-4(q)(1)(C)(ii)) is amended—

18 (A) in subclause (II), by striking “or” at
19 the end;

20 (B) in subclause (III), by striking the pe-
21 riod at the end and inserting “; or”; and

22 (C) by adding at the end the following new
23 subclause:

24 “(IV) with respect to 2025 and
25 each subsequent year, is a doctor of

1 dental surgery or of dental medicine
2 (as described in section 1861(r)(2)) or
3 is an oral health professional (as de-
4 fined in section 1861(lll)(4)).”.

5 (3) INCLUSION OF ORAL HEALTH PROFES-
6 SIONALS AS CERTAIN PRACTITIONERS.—Section
7 1842(b)(18)(C) of the Social Security Act (42
8 U.S.C. 1395u(b)(18)(C)) is amended by adding at
9 the end the following new clause:

10 “(vii) With respect to 2025 and each subse-
11 quent year, an oral health professional (as defined in
12 section 1861(lll)(4)).”.

13 (e) DENTURES.—

14 (1) IN GENERAL.—Section 1861(s)(8) of the
15 Social Security Act (42 U.S.C. 1395x(s)(8)) is
16 amended—

17 (A) by striking “(other than dental)”; and

18 (B) by inserting “and excluding dental, ex-
19 cept for a full or partial set of dentures fur-
20 nished on or after January 1, 2025” after “co-
21 lostomy care”.

22 (2) SPECIAL PAYMENT RULES.—

23 (A) LIMITATIONS.—Section 1834(h) of the
24 Social Security Act (42 U.S.C. 1395m(h)) is

1 amended by adding at the end the following
2 new paragraph:

3 “(6) SPECIAL PAYMENT RULE FOR DEN-
4 TURES.—Payment may be made under this part
5 with respect to an individual for dentures—

6 “(A) not more than once during any 5-year
7 period (except in the case that a doctor or pro-
8 fessional described in section 1861(III)(1)(A) de-
9 termines such dentures do not fit the indi-
10 vidual); and

11 “(B) only to the extent that such dentures
12 are furnished pursuant to a written order of
13 such a doctor or professional.”.

14 (B) APPLICATION OF COMPETITIVE ACQUI-
15 SITION.—

16 (i) IN GENERAL.—Section
17 1834(h)(1)(H) of the Social Security Act
18 (42 U.S.C. 1395m(h)(1)(H)) is amended—

19 (I) in the subparagraph heading,
20 by inserting “, DENTURES” after
21 “ORTHOTICS”;

22 (II) by inserting “, of dentures
23 described in paragraph (2)(D) of such
24 section,” after “2011,”; and

1 (III) in clause (i), by inserting “,
2 such dentures” after “orthotics”.

3 (ii) CONFORMING AMENDMENT.—Sec-
4 tion 1847(a)(2) of the Social Security Act
5 (42 U.S.C. 1395w-3(a)(2)) is amended by
6 adding at the end the following new sub-
7 paragraph:

8 “(D) DENTURES.—Dentures described in
9 section 1861(s)(8) for which payment would
10 otherwise be made under section 1834(h).”.

11 (iii) EXEMPTION OF CERTAIN ITEMS
12 FROM COMPETITIVE ACQUISITION.—Sec-
13 tion 1847(a)(7) of the Social Security Act
14 (42 U.S.C. 1395w-3(a)(7)) is amended by
15 adding at the end the following new sub-
16 paragraph:

17 “(C) CERTAIN DENTURES.—Those items
18 and services described in paragraph (2)(D) if
19 furnished by a physician or other practitioner
20 (as defined by the Secretary) to the physician’s
21 or practitioner’s own patients as part of the
22 physician’s or practitioner’s professional serv-
23 ice.”.

1 (f) EXCLUSION MODIFICATIONS.—Section 1862(a) of
2 the Social Security Act (42 U.S.C. 1395y(a)) is amend-
3 ed—

4 (1) in paragraph (1)—

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

7 (B) in subparagraph (P), by striking the
8 semicolon at the end and inserting “, and”; and

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

11 “(Q) in the case of dental and oral health serv-
12 ices (as defined in section 1861(l)) that are preven-
13 tive and screening services described in paragraph
14 (2) of such section, which are furnished more fre-
15 quently than provided under section 1834(z)(3) and
16 under circumstances other than circumstances deter-
17 mined appropriate under such section;”; and

18 (2) in paragraph (12), by inserting before the
19 semicolon at the end the following: “and except that
20 payment may be made under part B for dental and
21 oral health services that are covered under section
22 1861(s)(2)(II)”.

23 (g) CERTAIN NON-APPLICATION.—

24 (1) IN GENERAL.—Paragraphs (1) and (4) of
25 section 1839(a) of the Social Security Act (42

1 U.S.C. 1395r(a)) are amended by adding at the end
2 of each such paragraphs the following: “In applying
3 this paragraph there shall not be taken into account
4 benefits and administrative costs attributable to the
5 amendments made by section 2 (other than sub-
6 section (g)) of the Medicare Dental Coverage Act of
7 2021 and the Government contribution under sec-
8 tion 1844(a)(5)”.

9 (2) PAYMENT.—Section 1844(a) of such Act
10 (42 U.S.C. 1395w(a)) is amended—

11 (A) in paragraph (4), by striking the pe-
12 riod at the end and inserting “; plus”; and

13 (B) by adding at the end the following new
14 paragraph:

15 “(5) a Government contribution equal to the
16 amount that is estimated to be payable for benefits
17 and related administrative costs incurred that are
18 attributable to the amendments made by section 2
19 (other than subsection (g)) of the Medicare Dental
20 Coverage Act of 2021.”.

21 (h) IMPLEMENTATION FUNDING.—

22 (1) IN GENERAL.—The Secretary of Health and
23 Human Services (in this subsection referred to as
24 the “Secretary”) shall provide for the transfer from
25 the Federal Supplementary Medical Insurance Trust

1 Fund under section 1841 of the Social Security Act
2 (42 U.S.C. 1395t) to the Centers for Medicare &
3 Medicaid Services Program Management Account
4 of—

5 (A) \$20,000,000 for each of fiscal years
6 2022 through 2027 for purposes of imple-
7 menting the amendments made by this section;
8 and

9 (B) such sums as determined appropriate
10 by the Secretary for each subsequent fiscal year
11 for purposes of administering the provisions of
12 such amendments.

13 (2) AVAILABILITY.—Funds transferred pursu-
14 ant to paragraph (1) shall remain available until ex-
15 pended.