

[DISCUSSION DRAFT]

119TH CONGRESS
2^D SESSION

H. R. _____

To amend title XVIII of the Social Security Act to clarify the policy for coverage under the Medicare program for palliative dialysis services, and clarify separate payment for such palliative dialysis services, furnished by renal dialysis facilities and providers of services to certain individuals electing hospice care, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. KELLY of Pennsylvania introduced the following bill; which was referred to the Committee on _____

A BILL

To amend title XVIII of the Social Security Act to clarify the policy for coverage under the Medicare program for palliative dialysis services, and clarify separate payment for such palliative dialysis services, furnished by renal dialysis facilities and providers of services to certain individuals electing hospice care, 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 “_____ Act
5 of 2026”.

1 **SEC. 2. CLARIFICATION AND APPLICATION OF POLICY PRO-**
2 **VIDING FOR COVERAGE OF CONCURRENT**
3 **PALLIATIVE DIALYSIS SERVICES AND HOS-**
4 **PICE CARE TO INDIVIDUALS ELECTING HOS-**
5 **PICE CARE.**

6 (a) IN GENERAL.—Section 1812(d)(2)(A) of the So-
7 cial Security Act (42 U.S.C. 1395d(d)(2)(A)) is amended
8 by inserting “, to palliative dialysis services (as defined
9 in section 1881(b)(15)(E)) furnished by a provider of
10 services or renal dialysis facility to a palliative dialysis eli-
11 gible individual (as defined in such section),” after “(if
12 not an employee of the hospice program)”.

13 (b) SEPARATE PAYMENT FOR PALLIATIVE DIALYSIS
14 SERVICES FURNISHED BY PROVIDERS OF SERVICES AND
15 KIDNEY DIALYSIS FACILITIES.—

16 (1) PAYMENT SEPARATE FROM HOSPICE CARE
17 BUNDLE.—Section 1814(i) of the Social Security
18 Act (42 U.S.C. 1395f(i)) is amended by adding at
19 the end the following new paragraph:

20 “(8) In the case of palliative dialysis services
21 (as defined in section 1881(b)(15)(E)) furnished by
22 a provider of services or renal dialysis facility to a
23 palliative dialysis eligible individual (as defined in
24 such section) during a period of an election under
25 section 1812(d)(1) made by such individual, the pro-
26 vider of services or renal dialysis facility shall bill

1 and be paid for such dialysis in accordance with sec-
2 tion 1881(b)(15).”.

3 (2) PAYMENT METHODOLOGY.—Section
4 1881(b) of the Social Security Act (42 U.S.C.
5 1395r(b)) is amended by adding at the end the fol-
6 lowing new paragraph:

7 “(15) PAYMENT FOR PALLIATIVE DIALYSIS
8 SERVICES FURNISHED TO INDIVIDUALS ELECTING
9 HOSPICE CARE.—

10 “(A) IN GENERAL.—For 2026 and each
11 subsequent year, the Secretary shall, taking
12 into account the assessment and considerations
13 described in subparagraph (B) and pursuant to
14 rulemaking, establish a methodology for deter-
15 mining, with respect to a palliative dialysis eli-
16 gible individual whose election under section
17 1812(d)(1) to receive hospice care is for a pe-
18 riod occurring during such year, the payment
19 amounts under this title for palliative dialysis
20 services furnished by a provider of services or
21 renal dialysis facility during such period to such
22 individual in a facility or to such individual at
23 home.

1 “(B) CONSIDERATIONS.—In implementing
2 the methodology under subparagraph (A), the
3 Secretary shall—

4 “(i) consider calculating payment
5 amounts for such services based on the
6 amounts that would otherwise be cal-
7 culated under the system established under
8 paragraph (14) for comparable renal dialy-
9 sis services described in such paragraph;
10 and

11 “(ii) consider, after assessing the re-
12 sources directly or indirectly related to fur-
13 nishing palliative dialysis services nec-
14 essary for providers of services and renal
15 dialysis facilities to furnish palliative dialy-
16 sis services to palliative dialysis eligible in-
17 dividuals in a facility or to such individuals
18 at home, any adjustments that should be
19 applied in calculating such payments
20 amounts based on such assessment.

21 “(C) LIMITATIONS.—

22 “(i) IN GENERAL.—Subject to clause
23 (ii), payment may not be made under this
24 title for more than ten sessions of pallia-
25 tive dialysis services furnished to a pallia-

1 tive dialysis eligible individual. In the case
2 of home dialysis, including peritoneal dialy-
3 sis, this subparagraph shall be applied by
4 converting the number of days of such di-
5 alysis to hemodialysis equivalent sessions,
6 in accordance with the methodology speci-
7 fied in section 50 of Chapter 11 of the
8 Medicare Benefit Policy Manual, or any
9 successor to such section.

10 “(ii) SECRETARIAL AUTHORITY TO
11 MODIFY LIMITATION.—

12 “(I) ASSESSMENT AND DETER-
13 MINATION.—For 2029 the Secretary
14 shall (and for any subsequent year,
15 the Secretary may) pursuant to rule-
16 making—

17 “(aa) assess the appro-
18 priateness of the limitation speci-
19 fied under clause (i) for such
20 year, based on data on deter-
21 minations regarding coverage of
22 palliative dialysis services fur-
23 nished to palliative dialysis eligi-
24 ble individuals pursuant to this

1 paragraph and stakeholder feed-
2 back on such coverage; and

3 “(bb) based on such assess-
4 ment, determine for such year
5 whether to apply a limit on the
6 number of sessions of palliative
7 dialysis services (other than the
8 number specified under clause
9 (i)) and, if so, specify such other
10 number that is to be applied for
11 such year.

12 “(II) APPLICATION OF MODIFIED
13 NUMBER LIMIT.—For any year for
14 which the Secretary specifies a num-
15 ber pursuant to subclause (I)(bb)
16 other than the number specified in
17 clause (i), clause (i) shall be applied
18 as if the reference to ten sessions were
19 a reference to such different number
20 of treatments specified by the Sec-
21 retary.

22 “(D) COST-SHARING.—Under the method-
23 ology under subparagraph (A), the deductible
24 and coinsurance provisions under this title that
25 would apply with respect to kidney dialysis serv-

1 ices for which payment may be made under this
2 section (other than this paragraph) shall also
3 apply with respect to palliative dialysis services
4 furnished to a palliative dialysis eligible indi-
5 vidual for which payment is made pursuant to
6 this paragraph.

7 “(E) PALLIATIVE DIALYSIS SERVICES AND
8 PALLIATIVE DIALYSIS ELIGIBLE INDIVIDUAL
9 DEFINED.—For purposes of this paragraph:

10 “(i) PALLIATIVE DIALYSIS SERV-
11 ICES.—The term ‘palliative dialysis serv-
12 ices’ means, with respect to a palliative di-
13 alysis eligible individual, dialysis services
14 specified by the Secretary that are fur-
15 nished to the individual (in a facility or at
16 home) as palliative care, and not for pur-
17 poses of treatment or maintenance, in ac-
18 cordance with a plan of care certified by
19 the individual’s physician in consultation
20 with the interdisciplinary group described
21 in section 1861(dd)(2)(B), and which may
22 include other services specified by the Sec-
23 retary, such as non-emergency transpor-
24 tation for which payment would otherwise
25 be available under this section in connec-

1 tion with receipt of maintenance dialysis
2 services.

3 “(ii) PALLIATIVE DIALYSIS ELIGIBLE
4 INDIVIDUAL.—The term ‘palliative dialysis
5 eligible individual’ means an individual
6 with end-stage renal disease who makes an
7 election under section 1812(d)(1) and who
8 as of the date of such election was receiv-
9 ing renal dialysis services (as described in
10 section 1881(b)(14)(B)).

11 “(F) CLARIFICATION.—None of the provi-
12 sions of this paragraph shall affect coverage or
13 payment under this title which would otherwise
14 apply for renal dialysis services for treatment or
15 maintenance for individuals with end-stage
16 renal disease who make an election for hospice
17 care under section 1812(d)(1) on the basis of a
18 primary health condition other than “terminal
19 condition that is not related to end-stage renal
20 disease.”.