

117TH CONGRESS
1ST SESSION

S. 97

To amend title XVIII of the Social Security Act to provide for coverage of dental services under the Medicare program.

IN THE SENATE OF THE UNITED STATES

JANUARY 28, 2021

Mr. CARDIN (for himself, Mr. BROWN, Mr. MERKLEY, Mr. VAN HOLLEN, Mr. BLUMENTHAL, and Mr. CASEY) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend title XVIII of the Social Security Act to provide for coverage of dental services 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 Ben-
5 efit Act of 2021”.

6 **SEC. 2. COVERAGE OF DENTAL SERVICES UNDER THE**
7 **MEDICARE PROGRAM.**

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

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

3 (2) in subparagraph (HH), by striking the pe-
4 riod at the end and inserting “; 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 “Dental and Oral Health Services

14 “(III) The term ‘dental and oral health services’
15 means services (as defined by the Secretary) that are nec-
16 essary to prevent disease and promote oral health, restore
17 oral structures to health and function, and treat emer-
18 gency conditions, including—

19 “(1) routine diagnostic and preventive care
20 such as dental cleanings, exams, and x-rays;

21 “(2) basic dental services such as fillings and
22 extractions;

23 “(3) major dental services such as root canals,
24 crowns, and dentures;

25 “(4) emergency dental care; and

1 “(5) other necessary services related to dental
2 and oral health (as defined by the Secretary).”.

3 (c) COVERAGE OF ROUTINE DIAGNOSTIC AND PRE-
4 VENTIVE CARE AS A PREVENTIVE SERVICE.—Section
5 1861(ddd)(3) of the Social Security Act (42 U.S.C.
6 1395x(ddd)(3)) is amended by adding at the end the fol-
7 lowing new subparagraph:

8 “(D) Dental and oral health services described
9 in paragraph (1) of subsection (lll), relating to rou-
10 tine diagnostic and preventive care.”.

11 (d) PAYMENT; COINSURANCE; AND LIMITATIONS.—

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

15 (A) by striking “and” before “(DD)”; and

16 (B) by inserting before the semicolon at
17 the end the following: “and (EE) with respect
18 to dental and oral health services (as defined in
19 section 1861(lll), other than those services de-
20 scribed in paragraph (1) of such section), the
21 amount paid shall be the payment amount spec-
22 ified under section 1834(z).”.

23 (2) PAYMENT AND LIMITS SPECIFIED.—Section
24 1834 of the Social Security Act (42 U.S.C. 1395m)

1 is amended by adding at the end the following new
 2 subsection:

3 “(z) PAYMENT AND LIMITS FOR DENTAL AND ORAL
 4 HEALTH SERVICES.—

5 “(1) IN GENERAL.—The payment amount
 6 under this part for dental and oral health services
 7 (as defined in section 1861(l)), other than those
 8 services described in paragraph (1) of such section)
 9 shall be, subject to paragraph (3), the applicable
 10 percentage (specified in paragraph (2)) of the lesser
 11 of the actual charge for the services or the amount
 12 determined under the payment basis determined
 13 under section 1848.

14 “(2) APPLICABLE PERCENTAGE.—

15 “(A) IN GENERAL.—For purposes of para-
 16 graph (1), subject to subparagraph (B), the ap-
 17 plicable percentage specified in this paragraph
 18 is—

19 “(i) for the first year beginning at
 20 least 6 months after the date of the enact-
 21 ment of this subsection, 0 percent;

22 “(ii) for the year following the year
 23 specified in subparagraph (A) and each
 24 subsequent year through the seventh year
 25 following the year specified in subpara-

graph (A), the applicable percent specified in this paragraph for the previous year increased by 10 percentage points; and

“(iii) for the eighth year following the year specified in subparagraph (A) and each subsequent year, 80 percent.

“(B) SPECIAL RULE FOR CERTAIN LOW-INCOME INDIVIDUALS.—For purposes of paragraph (1), with respect to dental and oral health services described in such paragraph that are furnished to an individual who is a subsidy eligible individual (as defined in section 1860D–14(a)(3)), or who would be a subsidy eligible individual if the individual were enrolled in a prescription drug plan or an MA–PD plan under part D, for the first year beginning at least 6 months after the date of the enactment of this subsection and each subsequent year, the applicable percent specified in this paragraph is 80 percent.

“(3) LIMITATIONS AND SECRETARIAL AUTHORITY.—

“(A) FREQUENCY.—With respect to dental and oral health services that are—

1 “(i) routine dental cleanings, payment
2 may be made under this part for only two
3 such cleanings during a 12-month period;
4 and

5 “(ii) routine exams, payment may be
6 made under this part for only two such
7 exams during a 12-month period.

8 “(B) SECRETARIAL AUTHORITY.—

9 “(i) AUTHORITY TO APPLY ADDI-
10 TIONAL LIMITATIONS.—The Secretary may
11 apply such other reasonable limitations on
12 the extent to which dental and oral services
13 are covered under this part, including
14 through application of a prior authoriza-
15 tion requirement.

16 “(ii) AUTHORITY TO MODIFY COV-
17 ERAGE.—Notwithstanding any other provi-
18 sion of this title, if the Secretary deter-
19 mines appropriate, the Secretary may mod-
20 ify the coverage under this part of dental
21 and oral health services to the extent that
22 such modification is consistent with the
23 recommendations of the United States Pre-
24 ventive Services Task Force.

1 “(iii) AUTHORITY TO WAIVE FRE-
 2 QUENCY LIMITATIONS.—The Secretary
 3 may waive any frequency limitation or
 4 other limitation as described in this para-
 5 graph for an individual (or category of in-
 6 dividuals) as determined appropriate by
 7 the Secretary.”.

8 (e) PAYMENT UNDER PHYSICIAN FEE SCHEDULE.—
 9 Section 1848(j)(3) of the Social Security Act (42 U.S.C.
 10 1395w-4(j)(3)) is amended by striking “risk assessment)
 11 ,” and inserting “risk assessment), (2)(II),”.

12 (f) DENTAL PROSTHESES.—

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

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

18 (B) by striking “internal body”.

19 (2) SPECIAL PAYMENT RULES.—Section
 20 1834(a) of the Social Security Act (42 U.S.C.
 21 1395m(a)) is amended by adding at the end the fol-
 22 lowing new paragraph:

23 “(23) PAYMENT AND LIMITS FOR DENTAL
 24 PROSTHESES.—

“(A) IN GENERAL.—The payment amount under this part for dental prostheses shall be, subject to subparagraph (C), the applicable percent (specified in subparagraph (B)) of the amount otherwise payable for such dental prostheses under this section.

“(B) APPLICABLE PERCENT.—

“(i) IN GENERAL.—For purposes of subparagraph (A), subject to clause (ii), the applicable percent specified in this subparagraph is—

“(I) for the first year beginning at least 6 months after the date of the enactment of this paragraph, 0 percent;

“(II) for the year following the year specified in clause (i) and each subsequent year through the seventh year following the year specified in clause (i), the applicable percent specified in this subparagraph for the previous year increased by 10 percentage points; and

1 “(III) for the eighth year fol-
 2 lowing the year specified in clause (i)
 3 and each subsequent year, 80 percent.

4 “(ii) SPECIAL RULE FOR CERTAIN
 5 LOW-INCOME INDIVIDUALS.—For purposes
 6 of subparagraph (A), with respect to den-
 7 tal prostheses furnished to an individual
 8 who is a subsidy eligible individual (as de-
 9 fined in section 1860D–14(a)(3)), or who
 10 would be a subsidy eligible individual if the
 11 individual were enrolled in a prescription
 12 drug plan or an MA–PD plan under part
 13 D, for the first year beginning at least 6
 14 months after the date of the enactment of
 15 this paragraph and each subsequent year,
 16 the applicable percent specified in this sub-
 17 paragraph is 80 percent.

18 “(C) LIMITATIONS AND SECRETARIAL AU-
 19 THORITY.—

20 “(i) IN GENERAL.—Payment may be
 21 made under this part for an individual
 22 for—

23 “(I) not more than one full upper
 24 and one full lower dental prostheses
 25 once every five years; and

1 “(II) not more than one partial
2 upper dental prostheses and one par-
3 tial lower dental prostheses once every
4 five years.

5 “(ii) SECRETARIAL AUTHORITY.—

6 “(I) AUTHORITY TO APPLY ADDI-
7 TIONAL LIMITATIONS.—The Secretary
8 may apply such other reasonable limi-
9 tations on the extent to which dental
10 prostheses are covered under this
11 part, including through application of
12 a prior authorization requirement.

13 “(II) AUTHORITY TO MODIFY
14 COVERAGE.—Notwithstanding any
15 other provision of this title, if the Sec-
16 retary determines appropriate, the
17 Secretary may modify the coverage
18 under this part of dental prostheses to
19 the extent that such modification is
20 consistent with the recommendations
21 of the United States Preventive Serv-
22 ices Task Force.

23 “(III) AUTHORITY TO WAIVE
24 FREQUENCY LIMITATIONS.—The Sec-
25 retary may waive any frequency limi-

1 tation or other limitation as described
 2 in this subparagraph for an individual
 3 (or category of individuals) as deter-
 4 mined appropriate by the Secretary”.

5 (g) REPEAL OF GROUND FOR EXCLUSION.—Section
 6 1862(a) of the Social Security Act (42 U.S.C. 1395y) is
 7 amended by striking paragraph (12).

8 (h) EFFECTIVE DATE.—The amendments made by
 9 this section shall apply to services furnished on or after
 10 January 1, 2022.

11 **SEC. 3. INCREASED FMAP FOR ADDITIONAL EXPENDI-**
 12 **TURES FOR MEDICARE COST-SHARING FOR**
 13 **DENTAL AND ORAL HEALTH SERVICES.**

14 Section 1905 of the Social Security Act (42 U.S.C.
 15 1396d) is amended—

16 (1) in subsection (b), by striking “and (ff)” and
 17 inserting “(ff), and (ii)”; and

18 (2) by adding at the end the following new sub-
 19 section:

20 “(ii) INCREASED FMAP FOR ADDITIONAL EXPENDI-
 21 TURES FOR MEDICARE COST-SHARING FOR DENTAL AND
 22 ORAL HEALTH SERVICES.—Notwithstanding subsection
 23 (b), with respect to the portion of the amounts expended
 24 by a State for medical assistance for medicare cost-sharing
 25 (as defined in subsection (p)(3)) for qualified medicare

1 beneficiaries described in subsection (p)(1) that is attrib-
 2 utable to the coverage under part B of title XVIII of den-
 3 tal and oral health services (as defined in section
 4 1861(l)), as determined by the Secretary, the Federal
 5 medical assistance percentage for a State that is one of
 6 the 50 States or the District of Columbia shall be equal
 7 to 100 percent.”.

8 **SEC. 4. PREVENTIVE SERVICES TASKFORCE.**

9 (a) IN GENERAL.—Section 915(a)(1) of the Public
 10 Health Service Act (42 U.S.C. 299b–4(a)(1)) is amended,
 11 in the first sentence, by inserting “, including at least 1
 12 oral health professional” after “expertise”.

13 (b) EFFECTIVE DATE.—The amendment made by
 14 subsection (a) shall take effect January 1, 2022.

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