

118TH CONGRESS
1ST SESSION

H. R. 5526

To amend title XVIII of the Social Security Act to clarify the application of the in-office ancillary services exception to the physician self-referral prohibition for drugs furnished under the Medicare program.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 18, 2023

Mrs. HARSHBARGER (for herself, Ms. WASSERMAN SCHULTZ, Mr. FLEISCHMANN, Mr. DAVIS of North Carolina, Mrs. MILLER-MEEKS, and Mr. BALDERSON) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend title XVIII of the Social Security Act to clarify the application of the in-office ancillary services exception to the physician self-referral prohibition for drugs furnished 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 “Seniors’ Access to Crit-
5 ical Medications Act of 2023”.

1 **SEC. 2. CLARIFYING THE APPLICATION OF THE IN-OFFICE**
2 **ANCILLARY SERVICES EXCEPTION TO THE**
3 **PHYSICIAN SELF-REFERRAL PROHIBITION**
4 **FOR DRUGS FURNISHED UNDER THE MEDI-**
5 **CARE PROGRAM.**

6 (a) IN GENERAL.—Section 1877(b)(2) of the Social
7 Security Act (42 U.S.C. 1395nn(b)(2)) is amended by
8 adding at the end the following new sentence: “With re-
9 spect to services consisting of drugs, and any supplies nec-
10 essary to administer such drugs, furnished on or after
11 May 11, 2023, the requirement that such drugs and sup-
12 plies be furnished in accordance with subparagraph (A)(ii)
13 in order to qualify as a case described in this paragraph
14 shall not apply.”.

15 (b) WITHDRAWAL OF FAQs.—The Secretary of
16 Health and Human Services shall remove the frequently
17 asked questions and answers published on the website of
18 the Centers for Medicare & Medicaid Services on Sep-
19 tember 20, 2021, and May 19, 2023, which prohibit or
20 seek to prohibit the arrangement described in the amend-
21 ment made by subsection (a) and those frequently asked
22 questions and answers shall be deemed to have never been
23 published.

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