

**AMENDMENT TO THE AMENDMENT IN THE  
NATURE OF A SUBSTITUTE TO H.R. 3842  
OFFERED BY MR. JOHNSON OF OHIO**

Add at the end the following new sections:

1 **SEC. 3. RECOGNIZING DOCTORS OF PODIATRIC MEDICINE**  
2 **AS PHYSICIANS UNDER THE MEDICAID PRO-**  
3 **GRAM.**

4 (a) IN GENERAL.—Section 1905(a)(5)(A) of the So-  
5 cial Security Act (42 U.S.C. 1396d(a)(5)(A)) is amended  
6 by striking “section 1861(r)(1)” and inserting “para-  
7 graphs (1) and (3) of section 1861(r)”.

8 (b) EFFECTIVE DATE.—

9 (1) IN GENERAL.—Except as provided in para-  
10 graph (2), the amendment made by subsection (a)  
11 shall apply to services furnished on or after January  
12 1, 2024.

13 (2) EXTENSION OF EFFECTIVE DATE FOR  
14 STATE LAW AMENDMENT.—In the case of a State  
15 plan under title XIX of the Social Security Act (42  
16 U.S.C. 1396 et seq.) which the Secretary of Health  
17 and Human Services determines requires State legis-  
18 lation in order for the plan to meet the additional  
19 requirement imposed by the amendment made by

1 subsection (a), the State plan shall not be regarded  
2 as failing to comply with the requirements of such  
3 title solely on the basis of its failure to meet these  
4 additional requirements before the first day of the  
5 first calendar quarter beginning after the close of  
6 the first regular session of the State legislature that  
7 begins after the date of enactment of this Act. For  
8 purposes of the previous sentence, in the case of a  
9 State that has a 2-year legislative session, each year  
10 of the session is considered to be a separate regular  
11 session of the State legislature.

12 **SEC. 4. CLARIFYING MEDICARE DOCUMENTATION RE-**  
13 **QUIREMENTS FOR THERAPEUTIC SHOES FOR**  
14 **PERSONS WITH DIABETES.**

15 (a) IN GENERAL.—Section 1861(s)(12) of the Social  
16 Security Act (42 U.S.C. 1395x(s)(12)) is amended to read  
17 as follows:

18 “(12) subject to section 4072(e) of the Omni-  
19 bus Budget Reconciliation Act of 1987, extra-depth  
20 shoes with inserts or custom molded shoes with in-  
21 serts (in this paragraph referred to as ‘therapeutic  
22 shoes’) for an individual with diabetes, if—

23 “(A) the physician who is managing the in-  
24 dividual’s diabetic condition—

1 “(i) documents that the individual has  
2 diabetes;

3 “(ii) certifies that the individual is  
4 under a comprehensive plan of care related  
5 to the individual’s diabetic condition; and

6 “(iii) documents agreement with the  
7 prescribing podiatrist or other qualified  
8 physician (as established by the Secretary)  
9 that it is medically necessary for the indi-  
10 vidual to have therapeutic shoes;

11 “(B) the therapeutic shoes are prescribed  
12 by a podiatrist or other qualified physician (as  
13 established by the Secretary) who—

14 “(i) examines the individual and de-  
15 termines the medical necessity for the indi-  
16 vidual to receive the therapeutic shoes; and

17 “(ii) communicates in writing the  
18 medical necessity to a certifying doctor of  
19 medicine or osteopathy for the individual  
20 to have therapeutic shoes along with find-  
21 ings that the individual has peripheral neu-  
22 ropathy with evidence of callus formation,  
23 a history of pre-ulcerative calluses, a his-  
24 tory of previous ulceration, foot deformity,

1 previous amputation, or poor circulation;  
2 and

3 “(C) the therapeutic shoes are fitted and  
4 furnished by a podiatrist or other qualified sup-  
5 plier individual (as established by the Sec-  
6 retary), such as a pedorthist or orthotist, who  
7 is not the physician described in subparagraph  
8 (A) (unless the Secretary finds that the physi-  
9 cian is the only such qualified individual in the  
10 area);”.

11 (b) EFFECTIVE DATE.—The amendment made by  
12 subsection (a) shall apply with respect to items and serv-  
13 ices furnished on or after January 1, 2024.

14 (c) RULE OF CONSTRUCTION.—Nothing in this sec-  
15 tion shall be construed as expanding Medicare coverage  
16 for therapeutic shoes for individuals with diabetes.

17 **SEC. 5. BUDGET SAVINGS: STRENGTHENING MEDICAID**  
18 **PROGRAM INTEGRITY THROUGH CONTIN-**  
19 **UOUS LEVY ON PAYMENTS TO MEDICAID**  
20 **PROVIDERS AND SUPPLIERS.**

21 (a) IN GENERAL.—Section 6331(h)(2) of the Inter-  
22 nal Revenue Code of 1986 (defining specified payment)  
23 is amended by striking “and” at the end of subparagraph  
24 (B), by striking the period at the end of subparagraph

1 (C) and inserting “, and”, and by adding at the end the  
2 following new subparagraph:

3 “(D) any payment to any Medicaid pro-  
4 vider or supplier under a State plan under title  
5 XIX of the Social Security Act.”.

6 (b) EFFECTIVE DATE.—The amendments made by  
7 this section shall apply to levies issued after the date of  
8 the enactment of this Act.

