110TH CONGRESS
2D SESSION

S. 2931

To amend title XVIII of the Social Security Act to exempt complex rehabilitation products and assistive technology products from the Medicare competitive acquisition program.

IN THE SENATE OF THE UNITED STATES

APRIL 29, 2008

Ms. SNOWE (for herself, Ms. STABENOW, and Mr. JOHNSON) introduced the following bill; which was read twice and referred to the Committee on Finance

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A BILL

To amend title XVIII of the Social Security Act to exempt complex rehabilitation products and assistive technology products from the Medicare competitive acquisition program.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Medicare Access to Complex Rehabilitative and Assistive Technology Act of 2008''.

SEC. 2. EXEMPTION OF COMPLEX REHABILITATION AND ASSISTIVE TECHNOLOGY FROM THE MEDICARE COMPETITIVE ACQUISITION PROGRAM.

(a) IN GENERAL.—Section 1847(a) of the Social Security Act (42 U.S.C. 1395w–3(a)) is amended—

(1) in paragraph (2)(A), by striking ''but excluding'' and all that follows and inserting the following: ''but excluding—

''(i) class III devices under the Federal Food, Drug, and Cosmetic Act; and

''(ii) complex rehabilitation products and assistive technology products (described in paragraph (7)(A)) that are prescribed by a physician and provided by a supplier that is accredited by an independent accreditation organization designated under section 1834(a)(20)(B).''; and

(2) by adding at the end the following new paragraph:

''(7) COMPLEX REHABILITATION PRODUCTS AND ASSISTIVE TECHNOLOGY PRODUCTS DESCRIBED.—

''(A) IN GENERAL.—For purposes of paragraph (2)(A)(ii), complex rehabilitation products and assistive technology products described

in this subparagraph are medically necessary adaptive seating, positioning, and mobility devices and speech generating devices that are evaluated, fitted, configured, adjusted, or programmed to meet the specific and unique needs of an individual with a primary diagnosis resulting from injury or trauma or which is neuromuscular in nature. Such a primary diagnosis includes spinal cord injury, traumatic brain injury, cerebral palsy, muscular dystrophy, spinal muscular atrophy, spina bifida, amyotrophic lateral sclerosis, multiple sclerosis, Parkinson's disease, or any other disease or disability identified by the Secretary as requiring the use of such devices.

''(B) ESTABLISHMENT OF MEDICAL NECESSITY.—For purposes of subparagraph (A), in establishing medical necessity of a device described in such subparagraph for the treatment of an individual, the Secretary shall consider whether the device is expected to be necessary for such treatment taking into account the diagnosis, prognosis, and functional need of the individual and the expected progression of the disease or disability involved.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall be effective as if included in the enactment of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108–173).

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