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1ST SESSION

H. R. 750

To amend title XVIII of the Social Security Act to expand and revise the classification of and payment for complex rehabilitation technology items under the Medicare program, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 30, 2017

Mr. SENSENBRENNER (for himself and Mr. CROWLEY) 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 expand and revise the classification of and payment for complex rehabilitation technology items under the Medicare program, 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 “Ensuring Access to
5 Quality Complex Rehabilitation Technology Act of 2017”.

1 **SEC. 2. FINDINGS.**

2 Congress finds the following:

3 (1) Individuals with disabilities and significant
4 medical conditions such as Cerebral Palsy, Muscular
5 Dystrophy, Multiple Sclerosis, Spinal Cord Injury,
6 Amyotrophic Lateral Sclerosis, and Spina Bifida ex-
7 perience physical, functional, and cognitive chal-
8 lenges every day.

9 (2) Complex rehabilitation technology items (in
10 this Act referred to as “CRT items”), including
11 products such as complex rehabilitation power wheel-
12 chairs, highly configurable manual wheelchairs,
13 adaptive seating and positioning systems, and other
14 specialized equipment, such as standing frames and
15 gait trainers, enable individuals to maximize their
16 function and minimize the extent and costs of their
17 medical care.

18 (3) Access to CRT items and related services
19 can be threatened by inadequate coding, coverage,
20 and payment policies for such items and services.
21 These policies have restricted access to existing com-
22 plex rehabilitation technology and stifled innovation.
23 Access challenges have increased over the past sev-
24 eral years and, without meaningful change to these
25 policies, will only become greater in the future.

1 (4) Current Medicare policies often fail to ade-
2 quately address the needs of individuals with disabil-
3 ities, to consider the range of services furnished by
4 complex rehabilitation technology suppliers, and to
5 recognize and account for the complexity and unique
6 nature of the equipment itself.

7 (5) A significant factor responsible for such ac-
8 cess challenges is that individually-configurable CRT
9 items do not have a distinct payment category under
10 the Medicare program, but instead are classified
11 within the broad category of durable medical equip-
12 ment (DME). CRT items serve patients with serious
13 medical conditions that require a broader range of
14 services and specialized personnel than what is re-
15 quired for standard DME. Individually configured
16 CRT items also require more resources in the areas
17 of configuring, training, and education to ensure ap-
18 propriate use and to optimize results.

19 (6) Unlike most DME, a medical model incor-
20 porating an interdisciplinary team approach is nec-
21 essary to ensure proper individual configuration and
22 use of a CRT item. This team typically includes a
23 physician, a licensed physical or licensed occupa-
24 tional therapist (with no financial relationship with
25 the CRT supplier), a qualified CRT professional, the

1 individual using such item, and sometimes a care-
2 giver for such individual.

3 (7) The Medicare program should recognize the
4 specialized nature of the CRT service delivery model,
5 the required supporting processes and technology-re-
6 lated CRT services, the credentials and competencies
7 needed by the providing suppliers and critical staff,
8 and the related costs involved. A separate benefit
9 category for CRT items would allow for unique cod-
10 ing, coverage, and payment rules and policies that
11 address the unique needs of persons with disabilities
12 and acknowledge the extensive service component.

13 (8) Congress and the Centers for Medicare &
14 Medicaid Services have previously recognized the
15 benefits of a separate classification for unique, indi-
16 vidually configured products. In 2008, Congress ex-
17 empted certain CRT items from inclusion in the
18 Medicare DME competitive bidding program, and
19 Congress has created a separate and distinct benefit
20 category for orthotics and prosthetics (custom braces
21 and artificial limbs), which have their own medical
22 policies, accreditation standards, and payment cal-
23 culations.

1 **SEC. 3. ESTABLISHING SEPARATE BENEFIT CATEGORY FOR**
 2 **COMPLEX REHABILITATION TECHNOLOGIES**
 3 **WITHIN MEDICARE.**

4 Section 1861 of the Social Security Act (42 U.S.C.
 5 1395x) is amended—

6 (1) in subsection (s)(2)—

7 (A) in subparagraph (FF), by striking
 8 “and” at the end;

9 (B) in subparagraph (GG), by inserting
 10 “and” at the end; and

11 (C) by inserting after subparagraph (GG)
 12 the following new paragraph:

13 “(HH) complex rehabilitation technology
 14 items (as defined in subsection (jjj));”; and

15 (2) by adding at the end the following new sub-
 16 section:

17 “Complex Rehabilitation Technology Item

18 “(jjj)(1) The terms ‘complex rehabilitation technology
 19 item’ and ‘CRT item’ mean an item that—

20 “(A) is designed or individually configured for
 21 a specific qualified individual to meet the individ-
 22 ual’s unique—

23 “(i) medical, physical, or functional needs
 24 related to a medical condition; and

25 “(ii) capacities for basic activities of daily
 26 living or instrumental activities of daily living;

1 “(B) is primarily used to serve a medical or
2 functional purpose and is generally not useful to a
3 person in the absence of illness or injury; and

4 “(C) requires certain services to ensure appro-
5 priate design, configuration, and use of such item,
6 including—

7 “(i) an evaluation of needs and capacities
8 and matching of the features and functions of
9 CRT items to the qualified individual who will
10 use such an item; and

11 “(ii) configuring, fitting, programming, ad-
12 justing, or adapting the particular complex re-
13 habilitation technology item for use by such in-
14 dividual.

15 “(2)(A) The Secretary, in consultation with the Di-
16 rector of the Office on Disability, the Chairman of the Na-
17 tional Council on Disability, the Executive Director on the
18 Interagency Committee on Disability, the Director of the
19 National Institute on Disability, Independent Living, and
20 Rehabilitation Research (NIDILRR) of the Department
21 of Health and Human Services, and the Co-Chairmen of
22 the Senior Oversight Committee’s Care Management Re-
23 form Team of the Department of Defense and the Depart-
24 ment of Veterans Affairs, shall, by regulation—

1 “(i) designate items as complex rehabilitation
2 technology items; and

3 “(ii) establish eligibility criteria to determine if
4 an individual is a qualified individual based on the
5 level of physical and functional needs and capacities
6 related to a medical condition or conditions de-
7 scribed in subparagraph (E).

8 For purposes of the previous sentence, the Secretary
9 shall issue final regulations not later than one year
10 after the date of the enactment of this subsection.

11 “(B) The items designated as complex rehabilitation
12 technology items under subparagraph (A)(i) shall include
13 items which, as of January 1, 2015 , were classified within
14 the following HCPCS codes: E0637, E0638, E0641,
15 E0642, E0986, E1002, E1003, E1004, E1005, E1006,
16 E1007, E1008, E1009, E1010, E1011, E1012, E1014,
17 E1037, E1161, E1220, E1228, E1229, E1231, E1232,
18 E1233, E1234, E1235, E1236, E1237, E1238, E1239
19 E2209, E2291, E2292, E2293, E2294, E2295, E2300,
20 E2301, E2310, E2311, E2312, E2313, E2321, E2322,
21 E2323, E2324, E2325, E2326, E2327, E2328, E2329,
22 E2330, E2331, E2351, E2373, E2374, E2376, E2377,
23 E2609, E2610, E2617, E8000, E8001, E8002, K0005,
24 K0835, K0836, K0837, K0838, K0839, K0840, K0841,
25 K0842, K0843, K0848, K0849, K0850, K0851, K0852,

1 K0853, K0854, K0855, K0856, K0857, K0858, K0859,
 2 K0860, K0861, K0862, K0863, K0864, K0868, K0869,
 3 K0870, K0871, K0877, K0878, K0879, K0880, K0884,
 4 K0885, K0886, K0890, K0891, and K0898.

5 “(C)(i) The items designated as complex rehabilita-
 6 tion technology items under subparagraph (A)(i) shall in-
 7 clude each item that—

8 “(I) as of January 1, 2015, was classified with-
 9 in the HCPCS codes under clause (ii); and

10 “(II) the Secretary, acting in consultation with
 11 suppliers and manufacturers of CRT items, deter-
 12 mines which items should be removed from such
 13 code and assigned a new HCPCS code because such
 14 item is a complex rehabilitation technology item.

15 “(ii) The HCPCS codes under this clause are the fol-
 16 lowing: E0143, E0950, E0951, E0952, E0955, E0956,
 17 E0957, E0960, E0967, E0978, E0990, E0995, E1015,
 18 E1016, E1028, E1029, E1030, E2205, E2208, E2231,
 19 E2368, E2369, E2370, E2605, E2606, E2607, E2608,
 20 E2613, E2614, E2615, E2616, E2620, E2621, E2624,
 21 E2625, K0004, K0009, K0040, K0108, and K0669.

22 “(D) The Secretary may not designate as a complex
 23 rehabilitation technology item—

24 “(i) adaptive equipment to operate motor vehi-
 25 cles;

1 “(ii) prosthetic devices described in subsection
2 (s)(8); or

3 “(iii) orthotics and prosthetics described in sub-
4 section (s)(9).

5 “(E) The Secretary shall publish guidelines and im-
6 plement a process to facilitate the submission of com-
7 prehensive coding proposals addressing CRT items to be
8 submitted to the CMS HCPCS Work Group and included
9 in the HCPCS Work Group public meetings.

10 “(F) In establishing the eligibility criteria under sub-
11 paragraph (A)(ii), the Secretary shall include appropriate
12 physical and functional needs and capacities arising from
13 any of the following medical conditions:

14 “(i) Congenital disorders, progressive or degen-
15 erative neuromuscular diseases, or injuries or trau-
16 ma that result in significant physical or functional
17 needs and capacities.

18 “(ii) Spinal cord injury, traumatic brain injury,
19 cerebral palsy, muscular dystrophy, spina bifida,
20 osteogenesis imperfecta, arthrogryposis, amyotrophic
21 lateral sclerosis, multiple sclerosis, demyelinating
22 disease, myelopathy, myopathy, progressive muscular
23 atrophy, anterior horn cell disease, post-polio syn-
24 drome, cerebellar degeneration, dystonia, Hunting-
25 ton’s disease, or spinocerebellar disease.

1 “(iii) Certain types of amputation, paralysis, or
2 paresis that result in significant physical or func-
3 tional needs and capacities.

4 “(G)(i) For 2018, the Secretary shall publish—

5 “(I) a list of items designated under subpara-
6 graph (A)(i) and the HCPCS codes for such items;
7 and

8 “(II) the eligibility criteria established under
9 subparagraph (A)(ii).

10 “(ii) For 2019 and each subsequent year, the Sec-
11 retary shall publish any necessary updates to such list (in-
12 cluding additions of new CRT items and any changes in
13 applicable HCPCS codes) and to such eligibility criteria.

14 “(H) The Secretary shall make available, on a public
15 Web site, the process by which the Secretary will consider
16 requests from members of the public that the Secretary—

17 “(i) designate an item as a CRT item under
18 subparagraph (A)(i); or

19 “(ii) amend the eligibility criteria established
20 under subparagraph (A)(ii).

21 “(I) Nothing in this subsection, subsection
22 (s)(2)(GG), or section 1834(s) shall be construed as re-
23 quiring the Secretary to provide for coverage under this
24 title of any item that would not otherwise be covered under
25 this title without application of the amendments made by

1 the Ensuring Access to Quality Complex Rehabilitation
2 Technology Act of 2017.

3 “(3) For purposes of this subsection:

4 “(A) The term ‘capacity for basic activities of
5 daily living’ means an individual’s capacity to safely
6 participate in mobility and self-care activities includ-
7 ing—

8 “(i) maintaining and changing body posi-
9 tion;

10 “(ii) transferring to or from one surface to
11 another;

12 “(iii) walking;

13 “(iv) moving from place to place using mo-
14 bility equipment, in a safe and timely manner;

15 “(v) washing one’s self;

16 “(vi) caring for the body;

17 “(vii) toileting;

18 “(viii) dressing;

19 “(ix) eating;

20 “(x) drinking;

21 “(xi) looking after one’s health; and

22 “(xii) carrying, moving, and handling ob-
23 jects to perform and participate in other activi-
24 ties under this subparagraph and subparagraph
25 (B).

1 “(B) The term ‘capacity for instrumental activi-
2 ties of daily living’ means an individual’s capacity to
3 safely participate in life situations in the home and
4 community, including—

5 “(i) communicating;

6 “(ii) moving around using transportation;

7 “(iii) acquiring necessities, goods, and
8 services;

9 “(iv) performing household tasks;

10 “(v) caring for household members and
11 family members;

12 “(vi) caring for household objects;

13 “(vii) engaging in education, work, employ-
14 ment and economic life; and

15 “(viii) participating in community, social,
16 and civic activities.

17 “(C) The term ‘HCPCS’ refers to the Health
18 Care Procedure Coding System.

19 “(D) The term ‘individually-configured’ means,
20 with respect to an item, that—

21 “(i) the item has features, adjustments, or
22 modifications specific to the individual who uses
23 such item or the item is used in combination
24 with other CRT items specific to the individ-
25 ual’s needs; and

1 “(ii) the supplier of such item must meas-
 2 ure the individual and configure, fit, program,
 3 adjust, or adapt the item, as appropriate, so
 4 that the item is consistent with—

5 “(I) an assessment or evaluation of
 6 the individual by an appropriate licensed
 7 clinician;

8 “(II) the written order required under
 9 section 1834(s)(2)(B)(i); and

10 “(III) medical condition, physical and
 11 functional needs and capacities, and body
 12 size of the individual who will use the item,
 13 the period for which such individual will
 14 need such item, and the intended use of
 15 such item by such individual.

16 “(E) The term ‘qualified individual’ means an
 17 individual who—

18 “(i) is enrolled under part B; and

19 “(ii) has physical and functional needs and
 20 capacities that arise from a medical condition
 21 that meet the eligibility criteria established by
 22 the Secretary under paragraph (2)(A)(ii).”.

23 **SEC. 4. PAYMENT RULES.**

24 Section 1834 of the Social Security Act (42 U.S.C.
 25 1395m) is amended by adding at the end the following:

1 “(v) PAYMENT FOR CRT ITEMS.—

2 “(1) GENERAL RULE FOR PAYMENT.—

3 “(A) IN GENERAL.—Not later than the
4 date that is one year after the date of the en-
5 actment of this subsection, subject to subpara-
6 graph (B), the Secretary shall determine a pay-
7 ment system that shall apply to CRT items—

8 “(i) with HCPCS codes that were as-
9 signed to the item under section
10 1861(jjj)(2)(C)(i)(II);

11 “(ii) for which no HCPCS code was
12 assigned prior to such date; or

13 “(iii) which, prior to such date, was
14 classified under a miscellaneous HCPCS
15 code.

16 “(B) CONSIDERATIONS.—In determining
17 the payment system under subparagraph (A),
18 the Secretary—

19 “(i) shall ensure that the payment
20 amounts for CRT items under such system
21 are adequate to provide qualified individ-
22 uals with access to such items and to en-
23 courage innovation, taking into account—

24 “(I) the unique needs of qualified
25 individuals for access to CRT items;

1 “(II) the unique complexity of
2 CRT items; and

3 “(III) the resources and staff
4 needed to provide appropriate indi-
5 vidual configuration of CRT items for
6 a qualified individual;

7 “(ii) shall set the payment amounts
8 for pure CRT codes, identified in section
9 1861(jjj)(2)(B), at payment amounts that
10 were applied for 2015 to such items, as ap-
11 plicable, under this section;

12 “(iii) shall set the payment amounts
13 for new CRT codes, created pursuant to
14 section 1861(jjj)(2)(C)(ii) and paragraph
15 (5)(D), except those designated for mis-
16 cellaneous or custom CRT items, at a pur-
17 chase price derived from a “modified gap
18 filling methodology” that will allow the in-
19 clusion of any increases in the Consumer
20 Price Index-Urban All Item during 2006
21 and through each subsequent year in the
22 calculations;

23 “(iv) shall permit the payment
24 amounts for CRT codes for miscellaneous
25 or custom items to be determined based

1 upon contractor individual consideration,
2 as is permitted by the Centers for Medi-
3 care & Medicaid Services as of the date of
4 the enactment of this subsection;

5 “(v) shall provide that CRT codes will
6 be paid on a purchase basis with a bene-
7 ficiary rental basis option;

8 “(vi) shall provide that codes for du-
9 rable medical equipment classified as
10 capped rental will have a beneficiary pur-
11 chase basis option when provided on a
12 CRT base; and

13 “(vii) shall provide that payment
14 amounts for CRT codes be adjusted annu-
15 ally by the increase in the Consumer Price
16 Index-Urban All Item for the 12-month pe-
17 riod ending the preceding June 30th.

18 “(C) EXCLUSIVE PAYMENT RULE.—This
19 subsection shall constitute the exclusive provi-
20 sion of this title for payment for CRT items
21 under this part or under part A to a home
22 health agency.

23 “(D) LIMITATION ON PAYMENT.—No pay-
24 ment shall be made under this subsection for a
25 CRT item unless such CRT item—

1 “(i) is provided to a qualified indi-
2 vidual;

3 “(ii) meets the clinical conditions for
4 coverage established under paragraph (2);
5 and

6 “(iii) is furnished by a supplier ac-
7 credited pursuant to paragraph (3).

8 “(2) CLINICAL CONDITIONS FOR COVERAGE.—

9 “(A) IN GENERAL.—The Secretary shall
10 establish standards for clinical conditions for
11 payment for CRT items under this subsection.

12 “(B) REQUIREMENTS.—The standards es-
13 tablished under subparagraph (A) shall require
14 the following:

15 “(i) WRITTEN ORDER.—

16 “(I) IN GENERAL.—A qualified
17 ordering practitioner shall provide a
18 written order for a CRT item for a
19 qualified individual before the Sec-
20 retary may provide payment for such
21 item for such individual under this
22 subsection.

23 “(II) CRT EVALUATION.—In the
24 case of a CRT item that is cat-
25 egorized by the Secretary, for pur-

poses of the program under this title, as a manual wheelchair or a power wheelchair, and is to be provided to a qualified individual who has a diagnosis specified under subparagraph (C), the qualified ordering practitioner may not provide a written order under subclause (I) unless the qualified individual has undergone a CRT evaluation conducted by a licensed physical therapist or occupational therapist who has no financial relationship with the CRT supplier. The performance of such a CRT evaluation by a licensed physical or occupational therapist shall not be subject (or counted towards) the limitation on certain therapy services under section 1833(g).

“(ii) DOCUMENTATION OF MEDICAL NECESSITY.—A qualified ordering practitioner who provides a written order under clause (i) shall maintain documentation of the medical necessity of such order for a period of seven years and shall make such documentation available to the Secretary

1 upon request. The documentation of med-
2 ical necessity under this clause shall in-
3 clude—

4 “(I) evidence that the individual
5 for whom the order was written has
6 physical and functional needs and ca-
7 pacities related to a medical condition
8 that meet the eligibility criteria estab-
9 lished under section
10 1861(jjj)(2)(A)(ii); and

11 “(II) evidence of any CRT eval-
12 uation required under clause (i)(II).

13 “(C) SPECIFICATION OF DIAGNOSIS FOR
14 CRT EVALUATION.—The Secretary, in consulta-
15 tion with relevant parties (including the agen-
16 cies listed in section 1861(jjj)(2)(A), physicians,
17 licensed physical therapists, licensed occupa-
18 tional therapists, and suppliers of complex reha-
19 bilitation technologies) shall specify the diag-
20 noses and other medical presentations for which
21 the requirement for a CRT evaluation under
22 subparagraph (B)(i)(II) shall apply.

23 “(D) COVERAGE DETERMINATIONS.—In
24 developing the standards under subparagraph

1 (A), the coverage of CRT items with respect to
2 an individual shall be based on—

3 “(i) the specific medical, physical, and
4 functional needs of the individual;

5 “(ii) the individual’s capacities for
6 safe participation in basic activities of
7 daily living and instrumental activities of
8 daily living in all routinely encountered en-
9 vironments (as such terms are defined in
10 section 1861(jjj)(3)); and

11 “(iii) the individual’s expected pro-
12 gression of such needs and capacities.

13 “(E) CONTRACTOR INDIVIDUALIZED CON-
14 sideration.—The Secretary shall instruct
15 Medicare contractors to provide individual con-
16 sideration in cases that may lack one of the di-
17 agnoses identified, but that exhibit comparable
18 functional presentations or deficits or (or both)
19 and where the need for CRT items has been
20 documented by the qualified clinical profes-
21 sional.

22 “(F) PAYMENT FOR RESIDENTS OF
23 SKILLED NURSING FACILITIES.—In the case of
24 a qualified individual who is a resident of a
25 skilled nursing facility, payment may only be

1 made under this subsection for a CRT item for
2 such individual if such CRT item is required as
3 part of a plan of care to allow the transition of
4 such individual from the skilled nursing facility
5 to a home or community setting.

6 “(3) ESTABLISHMENT OF QUALITY STAND-
7 ARDS.—

8 “(A) ESTABLISHMENT.—The Secretary
9 shall establish, through regulation, quality
10 standards for suppliers of CRT items. Such
11 standards shall be applied prospectively and
12 shall be published on the Internet Web site of
13 the Centers for Medicare and Medicaid Serv-
14 ices.

15 “(B) CONSULTATION.—In establishing the
16 quality standards under subparagraph (A), the
17 Secretary shall consult with relevant parties (in-
18 cluding clinicians, consumer groups, suppliers,
19 and manufacturers).

20 “(C) REQUIREMENTS OF STANDARDS.—In
21 establishing the quality standards under sub-
22 paragraph (A), the Secretary shall require that
23 the suppliers of CRT items meet the following
24 requirements:

1 “(i) DME STANDARDS.—The supplier
2 complies with all of the standards that are
3 applicable to suppliers of durable medical
4 equipment under subsection (a)(20) and
5 suppliers of medical equipment and sup-
6 plies under subsection (j).

7 “(ii) QUALIFIED CRT PROFES-
8 SIONAL.—The supplier of a CRT item
9 makes available, in each service area
10 served by such supplier, at least one quali-
11 fied CRT professional to—

12 “(I) analyze the needs and capac-
13 ities of individuals for a CRT item in
14 collaboration with the clinical team;

15 “(II) assist in selecting an appro-
16 priate CRT item for such individual,
17 given such needs and capacities; and

18 “(III) provide technology-related
19 training to such individual in the
20 proper use and maintenance of the
21 CRT items.

22 “(iii) TRIAL EQUIPMENT.—The sup-
23 plier of the CRT item provides the quali-
24 fied individual with appropriate equipment
25 for trial and simulation, if a physician, li-

1 censed physical therapist, or licensed occu-
2 pational therapist determines that the pro-
3 vision of such equipment is necessary.

4 “(iv) INFORMATION ON SERVICE AND
5 REPAIR.—The supplier of the CRT item
6 provides the qualified individual with writ-
7 ten information on accessing service and
8 repair for the CRT item before the CRT
9 item is ordered for the individual.

10 “(v) REPAIR.—The supplier of a CRT
11 item—

12 “(I) makes available, in each
13 service area served by such supplier,
14 at least one qualified CRT service
15 technician to service and repair CRT
16 items that—

17 “(aa) are furnished by such
18 supplier; and

19 “(bb) at the time of the
20 need for repair, are located in a
21 service area of the supplier; or

22 “(II) if the qualified individual
23 lives outside the service area served by
24 such supplier at the time of order of
25 the CRT item, the supplier shall dis-

1 close in writing to the qualified indi-
2 vidual that the supplier does not pro-
3 vide repair service for such item and
4 provide contact information for enti-
5 ties that do provide such repair serv-
6 ice.

7 “(vi) RENTAL EQUIPMENT.—If pay-
8 ment is allowed under paragraph (6), the
9 supplier of the CRT item provides tem-
10 porary rental equipment to the qualified
11 individual when the supplier is repairing a
12 qualified individual’s CRT item that was
13 paid for under this subsection.

14 “(4) APPLICATION OF STANDARDS AND AC-
15 CREDITATION PROGRAM FOR SUPPLIERS OF CRT
16 ITEMS.—

17 “(A) IN GENERAL.—

18 “(i) REQUIREMENT FOR PROVIDER OR
19 SUPPLIER NUMBER.—The Secretary shall
20 not provide a supplier of CRT items with
21 a provider or supplier number to submit
22 claims for payment under this title unless
23 the supplier is in compliance with the
24 standards under paragraph (3).

1 “(ii) REQUIREMENT FOR PAYMENT.—

2 Payment shall not be made under this part
3 for CRT items furnished by a supplier un-
4 less the supplier is in compliance with the
5 standards under paragraph (3).

6 “(B) APPLICATION OF ACCREDITATION RE-
7 QUIREMENT.—In implementing quality stand-
8 ards under paragraph (3), the Secretary shall
9 require suppliers furnishing CRT items, on or
10 after one year after the standards are published
11 under such paragraph, directly or as a subcon-
12 tractor for another entity—

13 “(i) to comply with such standards;
14 and

15 “(ii) to have submitted to the Sec-
16 retary evidence of accreditation by an ac-
17 creditation organization designated under
18 subparagraph (C) demonstrating that the
19 supplier is complying with such standards.

20 “(C) DESIGNATION OF INDEPENDENT AC-
21 CREDITATION ORGANIZATIONS.—Not later than
22 the date that is one year after the date on
23 which the Secretary implements the quality
24 standards under paragraph (3), the Secretary

1 shall designate and approve one or more inde-
2 pendent accreditation organizations that—

3 “(i) are approved under subsection
4 (a)(20)(B); and

5 “(ii) the Secretary has determined
6 have the capability to assess whether sup-
7 pliers of CRT items meet the quality
8 standards established under paragraph (3).

9 “(5) CODING SYSTEM FOR COMPLEX REHABILI-
10 TATION TECHNOLOGIES.—

11 “(A) IN GENERAL.—The Secretary shall,
12 in consultation with suppliers and manufactur-
13 ers of CRT items, establish a formal process to
14 allow submission of CRT code set modification
15 requests by stakeholder groups for comprehen-
16 sive coding changes related to entire policy
17 groups. This process shall include a specific ap-
18 plication, public meeting participation and an
19 appeals process. The Secretary shall then, in
20 consultation with suppliers and manufacturers
21 of CRT items, establish a HCPCS coding sub-
22 set that shall utilize and include HCPCS codes
23 described in section 1861(jjj)(2) for CRT items
24 for which payment may be made under this
25 subsection.

1 “(B) TREATMENT OF EXISTING PROD-
2 UCTS.—

3 “(i) IN GENERAL.—With respect to
4 CRT items for which payment was avail-
5 able under this title before the effective
6 date of the amendments made by Ensuring
7 Access to Quality Complex Rehabilitation
8 Technology Act of 2017, the Secretary
9 shall assign such items to a code in the
10 coding subset established under subpara-
11 graph (A).

12 “(ii) UPDATES.—After the initial as-
13 signment under clause (i), the Secretary
14 may decide to reassign additional product
15 categories, or items within those cat-
16 egories, that exist before the date of the
17 enactment of this subsection to the CRT
18 coding subset.

19 “(iii) CONSULTATION.—Before mak-
20 ing reassignments of CRT items under
21 clause (ii), the Secretary shall consult with
22 suppliers and manufacturers of such items.
23 The Secretary shall not require manufac-
24 turers of CRT items for which payment
25 was available under this title before the ef-

1 fective date of the amendments made by
2 the Ensuring Access to Quality Complex
3 Rehabilitation Technology Act of 2017 to
4 submit requests for reassignment of the
5 code for such product to the coding subset
6 under subparagraph (A) as long as—

7 “(I) no changes have been made
8 to the code definitions, required code
9 characteristics or test requirements;
10 and

11 “(II) the item was previously
12 verified to meet the code require-
13 ments.

14 “(C) REMOVING COMPLEX REHABILITA-
15 TION TECHNOLOGY FROM DME CODES.—The
16 Secretary shall, in consultation with suppliers
17 and manufacturers of CRT items—

18 “(i) remove from the coding subset for
19 durable medical equipment any CRT items
20 that are included in the coding subset
21 under subparagraph (A); and

22 “(ii) assign new codes to such CRT
23 items based on technological differences to
24 support adequate access to meet clinical
25 outcomes and for purposes of including

1 such items in the subset under subpara-
2 graph (A).

3 “(D) NEW TECHNOLOGY.—

4 “(i) IN GENERAL.—The Secretary
5 shall update as needed the HCPCS level II
6 process used to modify the code set to in-
7 clude CRT items for the purposes of estab-
8 lishing new codes and determining prod-
9 ucts to be classified as CRT items. In de-
10 termining if a product is a CRT item, the
11 Secretary shall consider—

12 “(I) if the product is novel;

13 “(II) the clinical application of
14 the product; and

15 “(III) the ability of the product
16 to address the unique needs and ca-
17 pacities of a qualified individual.

18 “(ii) INCLUSION OF CODES IN LIST.—

19 The Secretary shall include the codes es-
20 tablished in clause (i) in the list under sec-
21 tion 1861(jjj)(2)(F).

22 “(E) MISCELLANEOUS CODE FOR INNOVA-
23 TION AND LOCAL COVERAGE DETERMINA-
24 TIONS.—The coding subset established under
25 subparagraph (A) shall include at least one mis-

1 cellaneous code for items not otherwise classi-
2 fied.

3 “(F) ESTABLISHMENT OF ADEQUATE
4 HCPCS CODES TO REFLECT SPECIALIZED NA-
5 TURE OF CRT.—The Secretary shall ensure that
6 HCPCS codes exist (or are developed) to rep-
7 resent the specialized nature of CRT, including
8 codes to represent custom CRT manual and
9 power wheelchairs and modifications to CRT
10 manual and power wheelchair frames, and mis-
11 cellaneous codes for CRT manual and power
12 wheelchairs that are otherwise classified.

13 “(6) REPLACEMENT OF CRT ITEMS.—

14 “(A) IN GENERAL.—Payment shall be
15 made for the replacement of a CRT item (or for
16 the replacement of any part of such item) with-
17 out regard to continuous use or useful lifetime
18 restrictions established under subsection
19 (a)(7)(C) for items of durable medical equip-
20 ment if a qualified ordering practitioner deter-
21 mines that the provision of a replacement item
22 (or a replacement part of such an item) is nec-
23 essary because—

1 “(i) there was a change in the physio-
2 logical condition of the qualified individual
3 to whom such item was provided;

4 “(ii) there was an irreparable change
5 in the condition of the CRT item (or, in
6 the case of the replacement of a part, in
7 the part of the CRT item); or

8 “(iii) the CRT item requires repairs
9 and the cost of such repairs would be more
10 than 50 percent of the cost of a replace-
11 ment of the CRT item.

12 “(B) DEFERRAL TO PROVIDERS.—

13 “(i) IN GENERAL.—Subject to clause
14 (ii), if a qualified ordering practitioner de-
15 termines that a replacement of the CRT
16 item, or the replacement of a part of a
17 CRT item, is necessary pursuant to sub-
18 paragraph (A), the replacement item or
19 part is deemed to be reasonable and nec-
20 essary for purposes of section
21 1862(a)(1)(A).

22 “(ii) EXCEPTION FOR ITEMS UNDER 3
23 YEARS OLD.—If the CRT item that is
24 being replaced (or the part of the CRT
25 item that is being replaced) under subpara-

graph (A) is less than 3 years old (calculated from the date on which the qualified individual began to use the CRT item or part), the Secretary may require the qualified ordering practitioner to provide confirmation of necessity of the replacement item or replacement part, as the case may be.

“(7) PAYMENT FOR TEMPORARY RENTAL.—

“(A) IN GENERAL.—If a CRT item owned by a qualified individual needs to be repaired, payment may be made under this subsection for the temporary rental of a CRT item while the CRT item owned by such individual is being repaired.

“(B) BASIS; LIMITATION.—Payment permitted under subparagraph (A) shall be made on a monthly basis, and the period of rental may not exceed two months.

“(C) PAYMENT AMOUNT.—The amount of payment allowed under subparagraph (A) for a month for the rental of a CRT item shall be 10 percent of the purchase price for the CRT item.

“(8) DEFINITIONS.—For purposes of this subsection:

1 “(A) HCPCS.—The term ‘HCPCS’ refers
2 to the Health Care Procedure Coding System.

3 “(B) QUALIFIED CRT PROFESSIONAL.—

4 “(i) IN GENERAL.—The term ‘quali-
5 fied CRT professional’ means an individual
6 who—

7 “(I) is certified by the Rehabili-
8 tation Engineering and Assistive
9 Technology Society of North America
10 as an assistive technology professional
11 or is certified by another organization
12 designated by the Secretary (acting in
13 consultation with relevant parties) as
14 providing a certification that is equiv-
15 alent to, or more stringent than, the
16 assistive technology professional cer-
17 tification; and

18 “(II) beginning two years after
19 the establishment of the designation
20 under clause (ii), achieves an addi-
21 tional designation that demonstrates
22 the individual’s competencies and ex-
23 perience in supplying CRT items.

24 “(ii) ESTABLISHMENT.—Not later
25 than one year after the date of the enact-

1 ment of this subsection, the Secretary, act-
2 ing in consultation with relevant parties,
3 shall establish the additional designation
4 under clause (i)(II).

5 “(iii) RELEVANT PARTIES.—For pur-
6 poses of this subparagraph, the term ‘rel-
7 evant parties’ includes clinicians, consumer
8 groups, CRT suppliers, and CRT manufac-
9 turers.

10 “(C) QUALIFIED CRT SERVICE TECHNI-
11 CIAN.—The term ‘qualified CRT service techni-
12 cian’ means an individual who—

13 “(i) is factory-trained by the manufac-
14 turers of the CRT items being offered by
15 the supplier of such items;

16 “(ii) is trained and educated (includ-
17 ing through on-the-job training) to assem-
18 ble, fit, program, service, and repair CRT
19 items; and

20 “(iii) on an annual basis, completes at
21 least 10 hours of continuing education spe-
22 cific to the assembly, fitting, programming,
23 service, and repair of CRT items.

1 “(D) QUALIFIED INDIVIDUAL.—The term
2 ‘qualified individual’ has the meaning given
3 such term in section 1861(iii)(3)(E).

4 “(E) QUALIFIED ORDERING PRACTI-
5 TIONER.—The term ‘qualified ordering practi-
6 tioner’ means a physician (as defined in section
7 1861(r)), a physician assistant, nurse practi-
8 tioner, or a clinical nurse specialist (as those
9 terms are defined in section 1861(aa)(5)).

10 “(F) QUALIFIED LICENSED CLINICIAN.—
11 The term ‘qualified licensed clinician’ means a
12 licensed physical therapist or occupational ther-
13 apist or physician who possesses specialized
14 training and experience in providing seating
15 and mobility services and the skills to perform
16 all aspects of the evaluation described in para-
17 graph (2)(B)(i)(II).”.

18 **SEC. 5. CONFORMING AMENDMENTS.**

19 (a) EXCLUSION FROM THE IN-HOME USE LIMITA-
20 TION FOR DME.—Section 1861(n) of the Social Security
21 Act (42 U.S.C. 1395x(n)) is amended by adding at the
22 end the following: “For 2018 and subsequent years, such
23 term does not include complex rehabilitation technologies
24 (as defined in subsection (jjj)).”.

1 (b) EXEMPTION FROM COMPETITIVE ACQUI-
 2 TION.—Section 1847(a)(7) of the Social Security Act (42
 3 U.S.C. 1395w–3(a)(7)) is amended by adding at the end
 4 the following new subparagraph:

5 “(C) CRT ITEMS.—For 2018 and subse-
 6 quent years, complex rehabilitation technology
 7 items (as defined in section 1861(iii)).”.

8 (c) EXEMPTION FROM SNF CONSOLIDATED BILL-
 9 ING.—Section 1888(e)(2)(A)(iii) of the Social Security Act
 10 (42 U.S.C. 1395yy(e)(2)(A)(iii)) is amended by adding at
 11 the end the following:

12 “(VI) Complex rehabilitation
 13 technology items (as defined in section
 14 1861(jjj)) if delivered to an inpatient
 15 for use during the stay in the skilled
 16 nursing facility as part of the plan of
 17 care to allow the transition of such
 18 qualified individuals from the skilled
 19 nursing facility setting to the home
 20 and community.”.

21 (d) PAYMENT EXCLUSIONS.—Section 1834(a) of the
 22 Social Security Act (42 U.S.C. 1395m(a)) is amended—
 23 (1) in paragraph (4), by adding at the end the
 24 following sentence “For 2018 and subsequent years,
 25 the items covered by this paragraph shall not include

1 complex rehabilitation technology items (as defined
2 in section 1861(jjj)).”;

3 (2) in paragraph (7)(A), by adding at the end
4 the following: “For fiscal year 2018 and subsequent
5 years, the previous sentence shall not apply to
6 power-driven wheelchairs that are designated as
7 CRT items under section 1861(jjj).”; and

8 (3) in paragraph (16), by inserting at the end
9 the following: “The Secretary shall impose (and,
10 may, as allowed by the second sentence of this para-
11 graph, waive) the requirements of the first sentence
12 of this paragraph to suppliers of complex rehabilita-
13 tion technology items, except that, in order to avoid
14 duplicate bonds, the Secretary shall not impose such
15 requirements with respect to suppliers of complex re-
16 habilitation technology items if such suppliers also
17 participate in the Medicare program as suppliers of
18 durable medical equipment.”.

19 (e) REQUIREMENTS FOR SUPPLIERS OF MEDICAL
20 EQUIPMENT AND SUPPLIES.—Section 1834(j)(5) of the
21 Social Security Act (42 U.S.C. 1395m(j)(5)) is amend-
22 ed—

23 (1) by redesignating subparagraphs (E) and
24 (F) as subparagraphs (F) and (G), respectively; and

1 (2) by inserting after subparagraph (D) the fol-
2 lowing new subparagraph:

3 “(E) complex rehabilitation technology
4 items (as defined in section 1861(jjj));”.

5 **SEC. 6. EFFECTIVE DATE.**

6 The amendments made by this Act shall apply to
7 items and services furnished on or after January 1, 2018.

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