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(Original Signature of Member)

118TH CONGRESS
1ST SESSION

H. R. _____

To amend title XVIII of the Social Security Act to prohibit Medicare local coverage determinations from restricting access to care, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. BUCSHON introduced the following bill; which was referred to the
Committee on _____

A BILL

To amend title XVIII of the Social Security Act to prohibit Medicare local coverage determinations from restricting access to care, 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 “Coverage Determina-
5 tion Clarity Act of 2023”.

1 **SEC. 2. IMPROVING ACCESS TO ITEMS AND SERVICES**
2 **UNDER MEDICARE LOCAL COVERAGE DETER-**
3 **MINATIONS.**

4 (a) IN GENERAL.—Section 1862(l)(5) of the Social
5 Security Act (42 U.S.C. 1395y(l)(5)) is amended—

6 (1) in subparagraph (A), by striking “The Sec-
7 retary” and inserting “Subject to subparagraph (E),
8 the Secretary”; and

9 (2) by adding at the end the following new sub-
10 paragraph:

11 “(E) PROHIBITION ON LIMITING ACCESS
12 ITEMS AND SERVICES.—

13 “(i) REVIEW OF LOCAL COVERAGE
14 DETERMINATIONS.—Beginning in 2024,
15 and annually thereafter, the Secretary
16 shall review each local coverage determina-
17 tion in effect as of the date of such review
18 to determine whether such local coverage
19 determination denies, limits, or conditions
20 the coverage or provision of items or serv-
21 ices beyond that provided by a national
22 coverage determination that has deter-
23 mined that such items or services be cov-
24 ered nationally under this title.

25 “(ii) CONFLICT BETWEEN A NA-
26 TIONAL COVERAGE DETERMINATION AND A

1 LOCAL COVERAGE DETERMINATION.—A
2 local coverage determination denies, limits,
3 or conditions the coverage or provision of
4 items or services for purposes of clause (i)
5 to the extent that such local coverage de-
6 termination limits access to such items or
7 services by imposing restrictions that do
8 not directly interpret provisions of a na-
9 tional coverage determination that has de-
10 termined that such items or services be
11 covered nationally under this title.

12 “(iii) REVISION OF LOCAL COVERAGE
13 DETERMINATIONS.—

14 “(I) IN GENERAL.—If the review
15 conducted by the Secretary under
16 clause (i) determines that a local cov-
17 erage determination denies, limits, or
18 conditions the coverage or provision of
19 items or services that are approved,
20 cleared, authorized, or licensed under
21 section 505, 510(k), 513, or 515 of
22 the Federal Food, Drug, and Cos-
23 metic Act or section 351 of the Public
24 Health Service Act, the Secretary
25 shall direct the appropriate Medicare

1 administrative contractor to expedi-
2 tiously revise such local coverage de-
3 termination to eliminate the limita-
4 tion.

5 “(II) TIMING.—A Medicare ad-
6 ministrative contractor shall publish a
7 revised local determination no later
8 than the date that is 180 days after
9 the date on which the Secretary di-
10 rects such contractor to revise a local
11 coverage determination under sub-
12 clause (I).

13 “(iv) NEW LOCAL COVERAGE DETER-
14 MINATIONS.—The Secretary shall require
15 each Medicare administrative contractor
16 that develops a local coverage determina-
17 tion to ensure that any such local coverage
18 determination does not deny, limit, or con-
19 dition the coverage or provision of items or
20 services pursuant to clause (ii) beyond that
21 provided by a national coverage determina-
22 tion that has determined that such items
23 or services be covered nationally under this
24 title.

1 “(v) ERROR VERIFICATION AND COR-
2 RECTIVE ACTIONS.—In verifying any po-
3 tential errors and taking corrective actions,
4 Medicare administrative contractors, com-
5 prehensive error rate testing recovery audi-
6 tors, and unified program integrity con-
7 tractors and independent review agencies—

8 “(I) shall not deviate from local
9 coverage determination provisions ap-
10 plicable in the region in which such
11 verification or corrective action occurs;
12 and

13 “(II) shall provide transparent
14 review by publishing the names of the
15 reviewers and their qualifications in a
16 place and format available to pro-
17 viders.

18 “(vi) REPORTS TO CONGRESS.—Be-
19 ginning in 2025 and each year thereafter,
20 the Secretary shall submit a report to the
21 appropriate committees of Congress on the
22 findings of the review conducted under
23 clause (i) and any local coverage deter-
24 minations revised pursuant to clause (iii)
25 during the preceding year.”.

1 (b) **EFFECTIVE DATE.**—The amendments made by
2 subsection (a) shall apply with respect to proposed and
3 final local coverage determinations posted on Medicare ad-
4 ministrative contractor websites on and after January 1,
5 2023.