

Lymphedema Diagnosis and Treatment Cost Saving Act of 2010 (Introduced in House)

HR 4662 IH

111th CONGRESS

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H. R. 4662

To amend title XVIII of the Social Security Act to improve the diagnosis and treatment of lymphedema under the Medicare Program and to reduce costs under such program related to the treatment of complications of lymphedema, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

February 23, 2010

Mr. KISSELL 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 improve the diagnosis and treatment of lymphedema under the Medicare Program and to reduce costs under such program related to the treatment of complications of lymphedema, and for other purposes.

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 'Lymphedema Diagnosis and Treatment Cost Saving Act of 2010'.

SEC. 2. COVERAGE OF LYMPHEDEMA DIAGNOSIS AND TREATMENT SERVICES UNDER MEDICARE.

(a) Coverage of Services- Section 1861 of the Social Security Act (42 U.S.C. 1395x) is amended--

(1) in subsection (s)(2)--

(A) in subparagraph (DD), by striking 'and' at the end;

(B) in subparagraph (EE), by adding 'and' at the end; and

(C) by adding at the end the following new subparagraph:

'(FF) lymphedema compression treatment items (as described in subsection (iii)) and lymphedema diagnosis and treatment services (as described in subsection (hhh)) if such services are prescribed by and reviewed by a treating physician and performed by such physician or--

'(i) a physical therapist or an occupational therapist who meets the quality requirements of subsection (hhh)(2)(C);

'(ii) a qualified professional, such as a physician, nurse practitioner, clinical nurse specialist, chiropractor, or physician's assistant who is licensed or certified by the State in which the services are performed to perform therapy services and who meets the quality requirements of (hhh)(2)(C); or

(iii) a qualified person, such as a physical therapist assistant, occupational therapy assistant, licensed massage therapist, licensed practical nurse, or licensed home health practitioner who meets the quality requirements of (hhh)(2)(C) providing such services are rendered under the direct supervision of a physical therapist or occupational therapist qualified in lymphedema treatment and management who meets the quality requirements of (hhh)(2)(C).'; and

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

(hhh) Lymphedema Diagnosis and Treatment Services- (1) The term 'lymphedema diagnosis and treatment services' means, with respect to an individual and consistent with paragraph (3), differential diagnosis and treatment of lymphedema (regardless of cause) according to the current standard of lymphedema diagnosis and treatment described in paragraph (2)(A) by, or under the direction of, a health care professional that is a certified provider as described in paragraph (2)(B) in an outpatient setting and that meets the quality standards described in paragraph (2)(C), but only if the physician who is managing the individual's lymphedema certifies that such services are needed under a comprehensive plan of care related to the individual's diagnosed lymphedema.

(2) For purposes of paragraph (1):

(A) The current standard of lymphedema diagnosis and treatment described in this subparagraph is such standard as defined by the American Cancer Society and the International Society of Lymphology and called 'complex decongestive therapy', a multi-modal therapy comprising manual lymph drainage, compression therapy, exercise, and skin care. Such standard consists of the initial phase of treatment which is performed by qualified health care professionals on an outpatient basis (Phase 1 treatment) and the continuing maintenance phase (Phase 2 treatment) which is performed in a home setting by the patient, patient's family, or patient's aide after receiving instruction described in paragraph (5).

(B) A qualified provider is a physician or lymphedema therapist knowledgeable of the diagnosis and current medical standard of treatment of lymphedema, or any other individual or entity designated by the Secretary, that, in addition to providing lymphedema outpatient self-management training services (as defined in paragraph (3)(C)(iii)), provides other items or services for which payment may be made under this title.

(C)(i) Subject to clause (ii), the quality standards described in this subparagraph are quality standards established by the Secretary equivalent to the practice standards established by the Lymphology Association of North America.

(ii) In applying this subsection during the 3-year period beginning on the date of the enactment of this subsection, a therapist who has completed at least 135 hours of lymphedema treatment training and is certified by the training school is deemed to have met the requirement of clause (i), and may practice under a certified provider within a plan of care developed by the certified provider; regardless of whether the therapist meets the experience standards established by the Lymphology Association of North America.

(D) The term 'lymphedema diagnosis' means the differential diagnosis of the source of the patient's edema and the identification of the specific etiology in order to develop the lymphedema treatment plan. Such term shall include diagnostic tools such as the lymphoscintigraphic functional test or other test the Secretary determines to be efficacious to directly observe lymphatic system function may be indicated if medical history or tests to rule out other causes are not adequate to provide a clear positive diagnosis of lymphedema.

(3) Coverage- With respect to lymphedema diagnosis and treatment services coverage under this part, the following shall apply:

(A) MANUAL LYMPH DRAINAGE-

(i) Lymphedema diagnosis and treatment services coverage under this part shall include an initial course of manual lymph drainage as part of complete decongestive therapy (Phase 1) when medically required by the qualified provider described in paragraph (2)(B).

`(ii) The schedule and number of manual lymph drainage treatment sessions shall be determined by the treating physician or lymphedema therapist as required by medical necessity, and not the limits governing rehabilitation therapy described in section 1833(g).

`(B) COMPRESSION BINDING SYSTEMS, GARMENTS AND DEVICES-

`(i) For purposes of this part, the materials and aids used in lymphedema compression therapy--

`(I) while physically resembling items in other benefit categories such as surgical dressings, durable medical equipment, splints and braces, orthotics and prosthetics described in subsections (s)(5), (s)(6), and (s)(9), do not serve the same medical function as such items in such other categories and have significantly different therapeutic characteristics and uses; and

`(II) are specified in subsection (iii) as a separate benefit category.

`(ii) Such coverage shall include any compression garments, binding systems and devices described in subsection (iii) deemed by the patient's qualified caregiver to be medically necessary as part of the treatment of lymphedema.

`(iii) Such coverage shall include replacements when required to maintain their medically required compressive function or to accommodate changes in the patient's dimensions or medical condition.

`(C) LYMPHEDEMA SELF-MANAGEMENT TRAINING-

`(i) IN GENERAL-

`(I) The initial course of treatment (phase 1) described in paragraph (2)(A), with respect to such services, shall include training of the patient and an aide or family member as required to perform self-treatment in a home setting, including any of the following home treatment modalities which are determined by the qualified provider to be medically required and are a part of the continuing maintenance phase (phase 2) home treatment plan described in paragraph (2)(A):

`(aa) Self-manual lymph drainage (simple lymph drainage).

`(bb) Compression bandaging.

`(cc) Donning and care of compression garments.

`(dd) Performance of an appropriate decongestive exercise program.

`(ee) Use of specialized manually adjustable compression devices, donning aids, and other required ancillary equipment; and if medically indicated.

`(ff) Use of sequential gradient compression pneumatic pump.

`(II) As part of such treatment, patient training shall include instruction on periodic self-measurements, skin care, indications of infection, and the steps to be taken if infection occurs.

`(III) The term `lymphedema outpatient self-management training services' means educational and training services furnished to an individual diagnosed with lymphedema by a certified provider (as described in paragraph (2)(B)) in an outpatient setting but only if the physician who is managing the individual's lymphedema condition certifies that such services are needed under a comprehensive plan of care related to the individual's lymphedema condition.

`(ii) CONSULTATION WITH ORGANIZATIONS IN ESTABLISHING PAYMENT AMOUNTS FOR SERVICES PROVIDED BY PHYSICIANS- In establishing payment amounts under section 1848 for physicians' services consisting of lymphedema outpatient self-management training services, the Secretary shall consult with appropriate organizations, including such organizations representing individuals or Medicare beneficiaries with lymphedema, in determining the relative value for such services under section 1848(c)(2).

`(D) MEASUREMENTS TO DEFINE TREATMENT EFFICACY- Periodic measurements shall be made to enable evaluation of the efficacy of the treatment plan and patient adherence, to modify the treatment plan or to determine the need for follow-up courses of treatment.

`(E) FOLLOW-UP TREATMENT- Such coverage shall provide for follow-up treatments whenever medically required to periodically validate home techniques, to monitor progress against the written treatment plan, and to modify the treatment plan as required.

`(F) DENIAL- No individual other than a licensed physician or certified lymphedema therapist competent to evaluate the specific clinical issues involved in the care requested, may deny or modify requests for authorization of health care services or materials described in subsection (iii) pursuant to this subsection.

`(G) PROHIBITION OF ADDITIONAL TREATMENT FEES- No additional fees or deductibles may be assessed, with respect to such treatment, for compliance with this title other than assessed for similar medical services.

`(iii) Lymphedema Compression Treatment Items-

`(1) DEFINITION- The term `lymphedema compression treatment item' means compression therapy materials and supplies used daily in the medical treatment of lymphedema upon prescription of the treating physician or therapist, including--

`(A) compression binding systems comprising, as medically required, short-stretch and medium-stretch compression bandages; cotton, synthetic, or foam padding; gauze or elastic finger and toe bandages; foam pads; and tubular bandages;

`(B) compression garments and compression pads for compression treatment of lymphedematous arms, legs, torso, face and neck, breast and chest, abdomen, and genitalia;

`(C) manually-adjustable compression sleeves and padded directional flow sleeves for use on upper and lower limbs;

`(D) orthotic shoes; and

`(E) donning aids, bandage rollers, and other specialized items used with the items described in subparagraphs (A) through (D).

`(2) SPECIAL REQUIREMENT ON LYMPHEDEMA PUMPS- Such term shall include a pneumatic pump for the treatment of lymphedema only if the treating physician or therapist's prescription for such pump is accompanied by a certificate of medical necessity which specifies as a minimum--

`(A) the differential diagnosis of lymphedema and any related co-conditions such as venous insufficiency, peripheral arterial disease, lipedema, morbid obesity, myxedema, and any other condition which may be significant in the selection of a type, specification, and usage of the pump; and

`(B) the physician's or therapist's judgement of the type and specifications of the pump based on the patient's medical necessity.'.

(b) Payment-

(1) LYMPHEDEMA OUTPATIENT SELF-MANAGEMENT TRAINING SERVICES INCLUDED AS PHYSICIANS' SERVICES- Section 1861(s)(2)(S) of such Act (42 U.S.C. 1395x(s)(2)(S)) is amended by inserting `and lymphedema outpatient self-management training services under subsection (hhh)(3)(C)' after `subsection (qq))'.

(2) LYMPHEDEMA COMPRESSION TREATMENT ITEMS-

(A) IN GENERAL- Section 1833(a) of such Act (42 U.S.C. 1395l(a)) is amended--

(i) in paragraph (8), by striking at the end `and';

(ii) in paragraph (9), by striking at the end the period and inserting a semi-colon; and

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

`(10) in the case of lymphedema compression treatment items described in section 1861(iii), the amount determined under section 1834(n); and'.

(B) PAYMENT DETERMINED- Section 1834 of such Act (42 U.S.C. 1395m) is amended by adding at the end the following new subsection:

`(n) Payment for Lymphedema Compression Treatment Items-

`(1) GENERAL RULE FOR PAYMENT-

`(A) IN GENERAL- With respect to a lymphedema compression treatment item described in section 1861(iii) for which payment is determined under this subsection, subject to subparagraph (D), payment shall be made in an amount equal to 80 percent of the payment basis described in subparagraph (B).

`(B) PAYMENT BASIS- The payment basis described in this subparagraph, with respect to a lymphedema compression treatment item described in section 1861(iii), is the actual charge for the item.

`(C) EXCLUSIVE PAYMENT RULE FOR HOME HEALTH AGENCIES- This subsection shall constitute the exclusive provision of this title for payment for lymphedema compression treatment items described in section 1861(iii) under this part or under part A to a home health agency.

`(D) EXCEPTIONS-

`(i) Subparagraph (B) shall not apply to an item furnished by a public home health agency (or by another home health agency which demonstrates to the satisfaction of the Secretary that a significant portion of its patients are low income) free of charge or at nominal charges to the public.

`(ii) Subparagraph (B) shall not apply to items that are furnished as an incident to a physician's professional service.

`(2) SPECIAL PAYMENT RULES-

`(A) ALLOWABLE ITEMS- To be eligible for payment under this subsection, an item described in section 1861(iii) must--

`(i) be ordered by a qualified physician or lymphedema therapist for treatment of diagnosed lymphedema;

`(ii) primarily and customarily be used to serve a medical purpose;

`(iii) generally not be useful to a person in the absence of an illness or injury; and

`(iv) be appropriate for use in the home.

`(B) ALLOWABLE QUANTITIES- In the case it is determined by the qualified physician or qualified lymphedema therapist involved that compression therapy demands daily compression as part of lymphedema treatment according to section 1861(hhh)(1), then payment may be made in accordance with this subsection for the following quantities--

`(i) in the case of compression binding systems described in section 1861(iii)(1)(A), 2 sets for each affected body part;

`(ii) in the case of compression garments described in section 1861(iii)(1)(B), 2 garments for each affected body part;

`(iii) in the case of compression devices described in section 1861(iii)(1)(C), 1 each for each affected body part; and

`(iv) in the case of compression therapy aids described in section 1861(iii)(1)(D), as determined by the qualified physician or qualified lymphedema therapist.

`(C) ALLOWABLE USE- Payment may be made under this subsection for a lymphedema compression treatment item described in section 1861(iii) only if such item--

`(i) is prescribed by a certified provider as defined in section 1861(hhh)(2)(B);

`(ii) is used as part of a lymphedema treatment plan described in section 1861(hhh)(1);

`(iii) is used by a patient who has been instructed in lymphedema self-management described in section 1861(hhh)(5); and

`(iv) is used to treat a diagnosed condition of chronic lymphedema.

`(D) COMPRESSION RANGE- The lymphedema compression treatment items for which payment may be made under this section must provide a compression no less than 30mmHg and no greater than 60mmHg.

`(E) QUALIFIED FITTERS- The lymphedema compression treatment items for which payment may be made under this section must be measured and fitted by a qualified fitter who is an individual who--

`(i) is a qualified lymphedema therapist, as defined in section 1834(o)(2), who meets the quality standards of section 1861(hhh)(2)(C);

`(ii) in the case of a State that provides for the licensing of orthotists and prosthetists, is licensed in orthotics or prosthetics by the State in which the item is supplied;

`(iii) in the case of a State that does not provide for the licensing of orthotists and prosthetists, is specifically trained and educated to provide or manage the provision of prosthetics and custom-designed or -fabricated orthotics, and is certified by the American Board for Certification in Orthotics and Prosthetics, Inc. or by the Board for Orthotist/Prosthetist Certification, or is credentialed and approved by a program that the Secretary determines, in consultation with appropriate experts in orthotics and prosthetics, has training and education standards that are necessary to provide such prosthetics and orthotics; or

`(iv) is certified by the qualified manufacturer of the item to be qualified to fit the particular garment or device.

`(F) REQUIREMENTS FOR SUPPLIERS OF COMPRESSION THERAPY ITEMS- A supplier of the lymphedema compression treatment items described in this subsection must meet the requirements of section 1834(j) in order to receive payment under this subsection.

`(3) REPLACEMENT OF COMPRESSION THERAPY ITEMS-

`(A) IN GENERAL- Payment shall be made under this subsection, with respect to an individual, for the replacement of compression bindings, compression garments, or compression devices if an ordering physician determines that the provision of a replacement item, or repair of such an item, is necessary because of any of the following:

`(i) A change in the physiological or medical condition of the individual.

`(ii) A loss of required compression of the item that is not restorable by washing and drying.

`(iii) An irreparable change in the condition of the device, or in a part of the device.

`(B) LENGTH OF REASONABLE USEFUL LIFETIME- The reasonable useful lifetime of a lymphedema compression treatment item described in section 1861(iii) shall be as follows, except that, if the Secretary determines that, on the basis of prior experience in making payments for such an item under this title, such lifetimes are no longer appropriate with respect to a particular item, the Secretary shall establish an alternative reasonable lifetime for such item:

`(i) COMPRESSION BINDING KIT- In the case of compression binding systems described in section 1861(iii)(1)(A), the greater of 6 months or per manufacturer's warrantee.

`(ii) COMPRESSION GARMENTS- In the case of compression garments described in section 1861(iii)(1)(B), the greater of 4 months or per manufacturer's warrantee.

`(iii) COMPRESSION DEVICES- In the case of compression devices described in section 1861(iii)(1)(C), the greater of 3 years or per manufacturer's warrantee.

`(iv) AIDS- In the case of compression therapy aids described in section 1861(iii)(1)(D), as required to maintain functional usefulness.'

(C) SUPPLIER REQUIREMENTS- Section 1834(j)(5) of such Act (42 U.S.C. 1395m(j)(5)) is amended--

(i) in subparagraph (E), by striking at the end `and';

(ii) in subparagraph (F), by striking at the end the period an inserting `; and'; and

(iii) by adding at the end the following new subparagraph:

`(G) lymphedema compression treatment items (as described in section 1861(iii)).'

(3) LYMPHEDEMA DIAGNOSIS AND TREATMENT SERVICES-

(A) IN GENERAL- Section 1833(a) of such Act, as amended by paragraph (2)(A), is further amended by adding at the end the following new paragraph:

`(11) with respect to lymphedema diagnosis and treatment services (as defined in subsection (hhh)(1))--

`(A) furnished by a qualified physical therapist or qualified occupational therapist, as defined in section 1834(o)(2)(A), the amounts described in section 1834(k); or

`(B) furnished by a lymphedema therapist, as defined by 1834(o)(2)(B), under direction of a qualified physical therapist or qualified occupational therapist, the amounts described in section 1834(o).'

(B) PAYMENT METHOD- Section 1834 of such Act, as amended by paragraph (2)(B), is further amended by adding at the end the following new subsection:

`(o) Payment for Outpatient Lymphedema Diagnosis and Treatment Services-

`(1) IN GENERAL- For purposes of section 1833(a)(11)(B), in the case of lymphedema diagnosis and treatment services described in section 1861(hhh) for which payment is determined under this subsection and that are performed by a qualified lymphedema therapist (as defined in paragraph (2)) under the direction of a qualified physician therapist or qualified occupational therapist, the payment basis shall be 80 percent of the lesser of--

`(A) the actual charge for the service; or

`(B) the applicable fee schedule amount (as defined in paragraph (3)) for the services.

`(2) QUALIFIED THERAPISTS- For purposes of this subsection:

`(A) IN GENERAL- The term `qualified', with respect to a physical therapist, occupational therapist, or lymphedema therapist, means that the physical therapist, occupational therapist, or lymphedema therapist meets the quality requirements described in section 1861(hhh)(2)(C).

`(B) LYMPHEDEMA THERAPIST- The term `lymphedema therapist' means any of the following individuals so long as such individual is legally authorized to practice by the State in which the lymphedema diagnosis and treatment service involved is performed and meets the quality requirements described in subparagraph (A):

`(i) A registered nurse, nurse practitioner, family nurse practitioner or clinical nurse specialist (as described in section 1861(aa)(5)).

`(ii) A doctor of medicine or doctor of osteopathy (as described in section 1861(r)(1)).

`(iii) A physician assistant (as described in section 1861(aa)(5)).

`(iv) A chiropractor.

`(v) A licensed massage therapist.

`(vi) A licensed home health practitioner.

`(3) APPLICABLE FEE SCHEDULE AMOUNT- In this subsection, the term `applicable fee schedule amount' means, with respect to services furnished in a year, the amount determined under the fee schedule established under section 1848 for such services furnished during the year or, if there is no such fee schedule established for such services, the amount determined under the fee schedule established for such comparable services as the Secretary specifies.

`(4) UNIFORM CODING- For claims for services for which the amount of payment is determined under this subsection, the claim shall include a code (or codes) under a uniform coding system specified by the Secretary that identifies the services furnished.

`(5) RESTRAINT ON BILLING- The provisions of subparagraphs (A) and (B) of section 1842(b)(18) shall apply to lymphedema diagnosis and treatment services for which payment is made under this subsection in the same manner as they apply to services provided by a practitioner described in section 1842(b)(18)(C), except that in applying such subparagraphs the practitioner described shall be any practitioner described in paragraph (2)(B).'

(C) EXCLUSION FROM CERTAIN THERAPY SERVICES- Section 1833(g)(4) of such Act (42 U.S.C. 1395l(g)(4)) is amended by inserting `or to expenses incurred with respect to lymphedema diagnosis and treatment services (as defined in subsection (hhh)(1))' before the period at the end.

(c) Effective Date- The amendments made by this section shall apply to items and services furnished on or after the date that is 90 days from the date of the enactment of this Act.