

111TH CONGRESS
1ST SESSION

S. 880

To amend title XVIII of the Social Security Act to permit a Medicare beneficiary to elect to take ownership, or to decline ownership, of a certain item of complex durable medical equipment after the 13-month capped rental period ends.

IN THE SENATE OF THE UNITED STATES

APRIL 23, 2009

Mr. LUGAR (for himself and Mr. BAYH) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend title XVIII of the Social Security Act to permit a Medicare beneficiary to elect to take ownership, or to decline ownership, of a certain item of complex durable medical equipment after the 13-month capped rental period ends.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. ELECTION TO TAKE OWNERSHIP, OR TO DE-**
 2 **CLINE OWNERSHIP, OF A CERTAIN ITEM OF**
 3 **COMPLEX DURABLE MEDICAL EQUIPMENT**
 4 **AFTER THE 13-MONTH CAPPED RENTAL PE-**
 5 **RIOD ENDS.**

6 (a) IN GENERAL.—Section 1834(a)(7)(A) of the So-
 7 cial Security Act (42 U.S.C. 1395m(a)(7)(A)) is amend-
 8 ed—

9 (1) in clause (ii)—

10 (A) by striking “RENTAL.—On” and in-
 11 sserting “RENTAL.—

12 “(I) IN GENERAL.—Except as
 13 provided in subclause (II), on”; and

14 (B) by adding at the end the following new
 15 subclause:

16 “(II) OPTION TO ACCEPT OR RE-
 17 JECT TRANSFER OF TITLE TO GROUP
 18 3 SUPPORT SURFACE.—

19 “(aa) IN GENERAL.—During
 20 the 10th continuous month dur-
 21 ing which payment is made for
 22 the rental of a Group 3 Support
 23 Surface under clause (i), the sup-
 24 plier of such item shall offer the
 25 individual the option to accept or
 26 reject transfer of title to a Group

1 3 Support Surface after the 13th
2 continuous month during which
3 payment is made for the rental of
4 the Group 3 Support Surface
5 under clause (i). Such title shall
6 be transferred to the individual
7 only if the individual notifies the
8 supplier not later than 1 month
9 after the supplier makes such
10 offer that the individual agrees to
11 accept transfer of the title to the
12 Group 3 Support Surface. Unless
13 the individual accepts transfer of
14 title to the Group 3 Support Sur-
15 face in the manner set forth in
16 this subclause, the individual
17 shall be deemed to have rejected
18 transfer of title. If the individual
19 agrees to accept the transfer of
20 the title to the Group 3 Support
21 Surface, the supplier shall trans-
22 fer such title to the individual on
23 the first day that begins after the
24 13th continuous month during
25 which payment is made for the

1 rental of the Group 3 Support
2 Surface under clause (i). If the
3 supplier transfers title to the
4 Group 3 Support Surface under
5 this subclause, payments for
6 maintenance and servicing after
7 the transfer of title shall be made
8 in accordance with clause (iv). If
9 the individual rejects transfer of
10 title under this subclause, pay-
11 ments for maintenance and serv-
12 icing after the end of the period
13 of medical need during which
14 payment is made under clause (i)
15 shall be made in accordance with
16 clause (v).

17 “(bb) SPECIAL RULE.—If,
18 on the effective date of this sub-
19 clause, an individual’s rental pe-
20 riod for a Group 3 Support Sur-
21 face has exceeded 10 continuous
22 months, but the first day that be-
23 gins after the 13th continuous
24 month during which payment is
25 made for the rental under clause

1 (i) has not been reached, the sup-
2 plier shall, within 1 month fol-
3 lowing such effective date, offer
4 the individual the option to ac-
5 cept or reject transfer of title to
6 a Group 3 Support Surface. Such
7 title shall be transferred to the
8 individual only if the individual
9 notifies the supplier not later
10 than 1 month after the supplier
11 makes such offer that the indi-
12 vidual agrees to accept transfer
13 of title to the Group 3 Support
14 Surface. Unless the individual ac-
15 cepts transfer of title to the
16 Group 3 Support Surface in the
17 manner set forth in this sub-
18 clause, the individual shall be
19 deemed to have rejected transfer
20 of title. If the individual agrees
21 to accept the transfer of the title
22 to the Group 3 Support Surface,
23 the supplier shall transfer such
24 title to the individual on the first
25 day that begins after the 13th

1 continuous month during which
2 payment is made for the rental of
3 the Group 3 Support Surface
4 under clause (i) unless that day
5 has passed, in which case the
6 supplier shall transfer such title
7 to the individual not later than 1
8 month after notification that the
9 individual accepts transfer of
10 title. If the supplier transfers
11 title to the Group 3 Support Sur-
12 face under this subclause, pay-
13 ments for maintenance and serv-
14 icing after the transfer of title
15 shall be made in accordance with
16 clause (iv). If the individual re-
17 jects transfer of title under this
18 subclause, payments for mainte-
19 nance and servicing after the end
20 of the period of medical need
21 during which payment is made
22 under clause (i) shall be made in
23 accordance with clause (v).”;

1 (2) in clause (iv), in the heading, by inserting
2 “AFTER TRANSFER OF TITLE” after “SERVICING”;
3 and

4 (3) by adding at the end the following new
5 clause:

6 “(v) MAINTENANCE AND SERVICING
7 OF GROUP 3 SUPPORT SURFACE IF INDI-
8 VIDUAL REJECTS TRANSFER OF TITLE.—
9 In the case of a Group 3 Support Surface
10 for which the individual has rejected trans-
11 fer of title under subclause (ii)(II)—

12 “(I) during the first 6-month pe-
13 riod of medical need that follows the
14 period of medical need during which
15 payment is made under clause (i), no
16 payment shall be made for rental or
17 maintenance and servicing of the
18 Group 3 Support Surface; and

19 “(II) during the first month of
20 each succeeding 6-month period of
21 medical need, a maintenance and serv-
22 icing payment may be made (for parts
23 and labor not covered by the sup-
24 plier’s or manufacturer’s warranty, as
25 determined by the Secretary to be ap-

1 appropriate for the Group 3 Support
2 Surface) and the amount recognized
3 for each such 6-month period is the
4 lower of—

5 “(aa) a reasonable and nec-
6 essary maintenance and servicing
7 fee or fees established by the Sec-
8 retary; or

9 “(bb) 10 percent of the total
10 of the purchase price recognized
11 under paragraph (8) with respect
12 to the Group 3 Support Sur-
13 face.”.

14 (b) **EFFECTIVE DATE.**—The amendments made by
15 this section shall take effect on the date of enactment of
16 this Act.

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