

112TH CONGRESS
2^D SESSION

H. R. 4378

To amend title XVIII of the Social Security Act to provide for coverage and payment for complex rehabilitation technology items under the Medicare program.

IN THE HOUSE OF REPRESENTATIVES

APRIL 18, 2012

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 provide for coverage and payment for complex rehabilitation technology items under the Medicare program.

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 2012”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

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

7 (2) Complex rehabilitation technology items
8 (CRT items), including products such as complex re-
9 habilitation power wheelchairs, highly configurable
10 manual wheelchairs, adaptive seating and positioning
11 systems, and other specialized equipment, such as
12 standing frames and gait trainers, enable individuals
13 to maximize their function and minimize the extent
14 and costs of their medical care.

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

23 (4) Current Medicare policies often fail to ade-
24 quately address the needs of individuals with disabili-
25 ties, to consider the range of services furnished by

1 complex rehabilitation technology suppliers, and to
2 recognize and account for the complexity and unique
3 nature of the equipment itself.

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

16 (6) Unlike most DME, a medical model incor-
17 porating an interdisciplinary team approach is nec-
18 essary to ensure proper customization and use of a
19 CRT item. This team typically includes a physician,
20 a licensed physical or licensed occupational therapist
21 (with no financial relationship with the CRT sup-
22 plier), a qualified CRT professional, the individual
23 using such item, and sometimes a caregiver for such
24 individual.

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

11 (8) Congress and the Centers for Medicare &
12 Medicaid Services (CMS) have previously recognized
13 the benefits of a separate classification for unique,
14 customized products. In 2008, Congress exempted
15 certain CRT items from inclusion in the Medicare
16 DME competitive bidding program, and Congress
17 has created a separate and distinct benefit category
18 for orthotics and prosthetics (custom braces and ar-
19 tificial limbs), which have their own medical policies,
20 accreditation standards, and payment calculations.

21 **SEC. 3. ESTABLISHING SEPARATE BENEFIT CATEGORY FOR**
22 **COMPLEX REHABILITATION TECHNOLOGIES**
23 **WITHIN MEDICARE.**

24 (a) NEW CATEGORY.—Section 1861 of the Social Se-
25 curity Act (42 U.S.C. 1395x) is amended—

1 (1) in subsection (s)(2)—

2 (A) in subparagraph (EE), by striking
3 “and” at the end;

4 (B) in subparagraph (FF), by inserting
5 “and” at the end; and

6 (C) by inserting after subparagraph (FF)
7 the following new paragraph:

8 “(GG) complex rehabilitation technology
9 items (as defined in subsection (iii));”; and

10 (2) by adding at the end the following new sub-
11 section:

12 “(iii) COMPLEX REHABILITATION TECHNOLOGY
13 ITEM.—(1) The term ‘complex rehabilitation technology
14 item’ or ‘CRT item’ means an item that—

15 “(A) is designed and configured for a specific
16 qualified individual to meet the individual’s unique—

17 “(i) medical, physical, and functional needs
18 related to a medical condition; and

19 “(ii) capacities for basic activities of daily
20 living and instrumental activities of daily living;

21 “(B) is primarily used to serve a medical pur-
22 pose and is generally not useful to a person in the
23 absence of illness or injury; and

1 “(C) requires certain services to ensure appro-
2 priate design, configuration, and use of such item,
3 including—

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

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

12 “(2)(A) The Secretary, in consultation with the Di-
13 rector of Office on Disability, the Chairman of the Na-
14 tional Council on Disability, the Executive Director on the
15 Interagency Committee on Disability, the Director of the
16 National Institute on Disability and Rehabilitation Re-
17 search of the Department of Education, and the Co-Chair-
18 men of the Senior Oversight Committee’s Care Manage-
19 ment Reform Team of the Department of Defense and the
20 Veterans Administration, shall, by regulation—

21 “(i) designate items as complex rehabilitation
22 technology items; and

23 “(ii) establish eligibility criteria to determine if
24 an individual is a qualified individual based on the
25 level of physical and functional needs and capacities

1 related to a medical condition or conditions de-
2 scribed in subparagraph (E).

3 “(B) The items designated as complex rehabilitation
4 technology items under subparagraph (A)(i) shall include
5 items which, as of January 1, 2012, were classified within
6 the following HCPCS codes: E0637, E0638, E0641,
7 E0642, E0986, E1002, E1003, E1004, E1005, E1006,
8 E1007, E1008, E1009, E1010, E1011, E1014, E1037,
9 E1161, E1220, E1228, E1229, E1231, E1232, E1233,
10 E1234, E1235, E1236, E1237, E1238, E1239 E2209,
11 E2291, E2292, E2293, E2294, E2295, E2300, E2301,
12 E2310, E2311, E2312, E2313, E2321, E2322, E2323,
13 E2324, E2325, E2326, E2327, E2328, E2329, E2330,
14 E2331, E2351, E2373, E2374, E2376, E2377, E2609,
15 E2610, E2617, E8000, E8001, E8002, K0005, K0835,
16 K0836, K0837, K0838, K0839, K0840, K0841, K0842,
17 K0843, K0848, K0849, K0850, K0851, K0852, K0853,
18 K0854, K0855, K0856, K0857, K0858, K0859, K0860,
19 K0861, K0862, K0863, K0864, K0868, K0869, K0870,
20 K0871, K0877, K0878, K0879, K0880, K0884, K0885,
21 K0886, K0890, K0891, and K0898.

22 “(C)(i) The items designated as complex rehabilita-
23 tion technology items under subparagraph (A)(i) shall in-
24 clude items that—

1 “(I) as of January 1, 2012, were classified
2 within the HCPCS codes under clause (ii); and

3 “(II) the Secretary, acting in consultation with
4 suppliers and manufacturers of, determines should
5 be removed from such code and assigned a new
6 HCPCS code because such item is a complex reha-
7 bilitation technology item.

8 “(ii) The HCPCS codes under this clause are the fol-
9 lowing: E0143, E0950, E0951, E0952, E0955, E0956,
10 E0957, E0958, E0960, E0967, E0978, E0990, E1015,
11 E1016, E1028, E1029, E1030, E2205, E2208, E2231,
12 E2368, E2369, E2370, E2605, E2606, E2607, E2608,
13 E2613, E2614, E2615, E2616, E2620, E2621, E2624,
14 E2625, K0004, K0009, K0040, K0108, and K0669.

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

17 “(i) adaptive equipment to operate motor vehi-
18 cles;

19 “(ii) prosthetic devices described in subsection
20 (s)(8); or

21 “(iii) orthotics and prosthetics described in sub-
22 section (s)(9).

23 “(E) In establishing the eligibility criteria under sub-
24 paragraph (A)(ii), the Secretary shall include appropriate

1 physical and functional needs and capacities arising from
2 any of the following medical conditions:

3 “(i) Congenital disorders, progressive or degene-
4 rative neuromuscular diseases, or injuries or trau-
5 ma that result in significant physical or functional
6 needs and capacities.

7 “(ii) Spinal cord injury, traumatic brain injury,
8 cerebral palsy, muscular dystrophy, spina bifida,
9 osteogenesis imperfecta, arthrogyrosis, amyotrophic
10 lateral sclerosis, multiple sclerosis, demyelinating
11 disease, myelopathy, myopathy, progressive muscular
12 atrophy, anterior horn cell disease, post-polio syn-
13 drome, cerebellar degeneration, dystonia, Hunting-
14 ton’s disease, or spinocerebellar disease.

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

18 “(F)(i) For calendar year 2013, the Secretary shall
19 publish—

20 “(I) a list of items designated under subpara-
21 graph (A)(i) and the HCPCS codes for such items;
22 and

23 “(II) the eligibility criteria established under
24 subparagraph (A)(ii).

1 “(ii) For calendar year 2014 and subsequent years,
2 the Secretary shall publish any necessary updates to such
3 list (including additions of new CRT items and any
4 changes in applicable HCPCS codes) and to such eligi-
5 bility criteria.

6 “(G) The Secretary shall make available, on a public
7 Web site, the process by which the Secretary will consider
8 requests from members of the public that the Secretary—

9 “(i) designate an item as a CRT item under
10 subparagraph (A)(i); or

11 “(ii) amend the eligibility criteria established
12 under subparagraph (A)(ii).

13 “(3) For purposes of this subsection:

14 “(A) The term ‘capacity for basic activities of
15 daily living’ means an individual’s capacity to safely
16 participate in mobility and self-care activities includ-
17 ing—

18 “(i) maintaining and changing body posi-
19 tion;

20 “(ii) transferring to or from one surface to
21 another;

22 “(iii) walking;

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

25 “(v) washing one’s self;

1 “(vi) caring for the body;
2 “(vii) toileting;
3 “(viii) dressing;
4 “(ix) eating;
5 “(x) drinking;
6 “(xi) looking after one’s health; and
7 “(xii) carrying, moving, and handling ob-
8 jects to perform and participate in other activi-
9 ties under this subparagraph and subparagraph
10 (B).

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

15 “(i) communicating;
16 “(ii) moving around using transportation;
17 “(iii) acquiring necessities, goods, and
18 services;
19 “(iv) performing household tasks;
20 “(v) caring for household members and
21 family members;
22 “(vi) caring for household objects;
23 “(vii) engaging in education, work, employ-
24 ment and economic life; and

1 “(viii) participating in community, social,
2 and civic activities.

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

5 “(D) With respect to an item, the term ‘individ-
6 ually-configured’ means that—

7 “(i) the item has a combination of fea-
8 tures, adjustments, or modifications that are
9 specific to the individual who uses such item;
10 and

11 “(ii) the supplier of such item must meas-
12 ure the individual and configure, fit, program,
13 adjust, or adapt the item, as appropriate, so
14 that the item is consistent with—

15 “(I) an assessment or evaluation of
16 the individual by an appropriate licensed
17 clinician;

18 “(II) the written order required under
19 section 1834(p)(2)(B)(i); and

20 “(III) medical condition, physical and
21 functional needs and capacities, and body
22 size of the individual who will use the item,
23 the period for which such individual will
24 need such item, and the intended use of
25 such item by such individual.

1 “(E) The term ‘qualified individual’ means an
2 individual who—

3 “(i) is enrolled under Part B; and

4 “(ii) has physical and functional needs and
5 capacities that arise from a medical condition
6 that meet the eligibility criteria established by
7 the Secretary under paragraph (2)(A)(ii).”.

8 **SEC. 4. PAYMENT RULES.**

9 Section 1834 of the Social Security Act (42 U.S.C.
10 1395m) is amended by adding at the end the following:

11 “(p) COVERAGE AND PAYMENT FOR CRT ITEMS.—

12 “(1) GENERAL RULE FOR PAYMENT.—

13 “(A) IN GENERAL.—Not later than one
14 year after the date of enactment of the Ensuring
15 Access to Quality Complex Rehabilitation
16 Technology Act of 2012, subject to subpara-
17 graph (B), the Secretary shall determine a pay-
18 ment system that shall apply to CRT items—

19 “(i) with HCPCS codes that were as-
20 signed to the item under section
21 1861(iii)(2)(C)(i)(II);

22 “(ii) for which no HCPCS code was
23 assigned prior to such data; or

1 “(iii) which, prior to such date, was
2 classified under a miscellaneous HCPCS
3 code.

4 “(B) CONSIDERATIONS.—In determining
5 the payment system under subparagraph (A),
6 the Secretary—

7 “(i) may disregard the freezes on CPI
8 increases to the payment amounts for du-
9 rable medical equipment that occurred be-
10 fore the date of enactment of the Ensuring
11 Access to Quality Complex Rehabilitation
12 Technology Act of 2012 when determining
13 the payment amount for CRT items; and

14 “(ii) shall ensure that the payment
15 amounts for CRT items under such system
16 are adequate to provide qualified individ-
17 uals with access to such items and to en-
18 courage innovation, taking into account—

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

21 “(II) the unique complexity of
22 CRT items; and

23 “(III) the resources and staff
24 needed to provide appropriate

1 customization of CRT items for a
2 qualified individual.

3 “(C) EXCLUSIVE PAYMENT RULE.—This
4 subsection shall constitute the exclusive provi-
5 sion of this title for payment for CRT items
6 under this part or under part A to a home
7 health agency.

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

11 “(i) is provided to a qualified indi-
12 vidual;

13 “(ii) meets the clinical conditions for
14 coverage established under paragraph (2);
15 and

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

18 “(2) CLINICAL CONDITIONS FOR COVERAGE.—

19 “(A) IN GENERAL.—The Secretary shall
20 establish standards for clinical conditions for
21 payment for CRT items under this subsection.

22 “(B) REQUIREMENTS.—The standards es-
23 tablished under subparagraph (A) shall require
24 the following:

25 “(i) WRITTEN ORDER.—

1 “(I) IN GENERAL.—A qualified
2 ordering practitioner shall provide a
3 written order for a CRT item for a
4 qualified individual before the Sec-
5 retary may provide payment for such
6 item for such individual under this
7 subsection.

8 “(II) CRT EVALUATION.—In the
9 case of a CRT item that is cat-
10 egorized by the Secretary, for pur-
11 poses of the program under this title,
12 as a manual wheelchair or a power
13 wheelchair, and is to be provided to a
14 qualified individual who has a diag-
15 nosis specified under subparagraph
16 (C), the qualified ordering practitioner
17 may not provide a written order under
18 subclause (I) unless the qualified indi-
19 vidual has undergone a CRT evalua-
20 tion conducted by a licensed physical
21 therapist or occupational therapist
22 who has no financial relationship with
23 the CRT supplier.

24 “(ii) DOCUMENTATION OF MEDICAL
25 NECESSITY.—A qualified ordering practi-

1 tioner who provides a written order under
2 clause (i) shall maintain documentation of
3 the medical necessity of such order for a
4 period of seven years and shall make such
5 documentation available to the Secretary
6 upon request. The documentation of med-
7 ical necessity under this clause shall in-
8 clude—

9 “(I) evidence that the individual
10 for whom the order was written has
11 physical and functional needs and ca-
12 pacities related to a medical condition
13 that meet the eligibility criteria estab-
14 lished under section
15 1861(iii)(2)(A)(ii); and

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

18 “(C) SPECIFICATION OF DIAGNOSIS FOR
19 CRT EVALUATION.—The Secretary, in consulta-
20 tion with relevant parties (including the agen-
21 cies listed in section 1861(iii)(2)(A), physicians,
22 licensed physical therapists, licensed occupa-
23 tional therapists, and suppliers of complex reha-
24 bilitation technologies) shall specify the diag-
25 noses and other medical presentations for which

1 the requirement for a CRT evaluation under
2 subparagraph (B)(i)(II) shall apply.

3 “(D) COVERAGE DETERMINATIONS.—In
4 developing the standards under subparagraph
5 (A), the coverage of CRT items with respect to
6 an individual shall be based on—

7 “(i) the specific medical, physical and
8 functional needs of the individual;

9 “(ii) the individual’s capacities for
10 safe participation in basic activities of
11 daily living and instrumental activities of
12 daily living in all routinely encountered en-
13 vironments (as such terms are defined in
14 section 1861(iii)(3)); and

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

17 “(E) PAYMENT FOR RESIDENTS OF
18 SKILLED NURSING FACILITIES.—In the case of
19 a qualified individual who is a resident of a
20 skilled nursing facility, payment may only be
21 made under this subsection for a CRT item for
22 such individual if such CRT item is required as
23 part of a plan of care to allow the transition of
24 such individual from the skilled nursing facility
25 to a home or community setting.

1 “(3) ESTABLISHMENT OF QUALITY STAND-
2 ARDS.—

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

10 “(B) CONSULTATION.—In establishing the
11 quality standards under subparagraph (A), the
12 Secretary shall consult with relevant parties (in-
13 cluding clinicians, consumer groups, suppliers,
14 and manufacturers).

15 “(C) REQUIREMENTS OF STANDARDS.—In
16 establishing the quality standards under sub-
17 paragraph (A), the Secretary shall require that
18 the suppliers of CRT items meet the following
19 requirements:

20 “(i) DME STANDARDS AS MINIMUM.—
21 The supplier complies with all of the
22 standards that are applicable to suppliers
23 of durable medical equipment under sub-
24 section (a)(20) and suppliers of medical

1 equipment and supplies under subsection
2 (j).

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

8 “(I) analyze the needs and capaci-
9 ties of individuals for a CRT item in
10 collaboration with the clinical team;

11 “(II) assist in selecting an appro-
12 priate CRT item for such individual,
13 given such needs and capacities; and

14 “(III) provide technology-related
15 training to such individual in the
16 proper use and maintenance of the
17 CRT items.

18 “(iii) TRIAL EQUIPMENT.—The sup-
19 plier of the CRT item provides the quali-
20 fied individual with appropriate equipment
21 for trial and simulation, if a physician, li-
22 censed physical therapist, or licensed occu-
23 pational therapist determines that the pro-
24 vision of such equipment is necessary.

1 “(iv) INFORMATION ON REPAIR.—The
2 supplier of the CRT item provides the
3 qualified individual with written informa-
4 tion on the service and repair of the CRT
5 item provided to such individual.

6 “(v) REPAIR.—The supplier of a CRT
7 item—

8 “(I) makes available, in each
9 service area served by such supplier,
10 at least one qualified CRT service
11 technician to service and repair CRT
12 items that—

13 “(aa) are furnished by such
14 supplier; and

15 “(bb) at the time of the
16 need for repair, are located in a
17 service area of the supplier; or

18 “(II) at the time of sale of the
19 CRT item, discloses to the qualified
20 individual that the supplier does not
21 provide repair service for such item
22 and provides contact information for
23 entities that do provide such repair
24 service.

1 “(vi) RENTAL EQUIPMENT.—If pay-
2 ment is allowed under paragraph (6), the
3 supplier of the CRT item provides tem-
4 porary rental equipment to the qualified
5 individual when the supplier is repairing a
6 qualified individual’s CRT item that was
7 paid for under this subsection.

8 “(4) APPLICATION OF STANDARDS AND AC-
9 CREDITATION PROGRAM FOR SUPPLIERS OF CRT
10 ITEMS.—

11 “(A) IMPACT OF STANDARDS.—A supplier
12 of CRT items may not—

13 “(i) furnish any such item for which
14 payment is made under this part; or

15 “(ii) receive or retain a provider or
16 supplier number used to submit claims for
17 reimbursement for any such item for which
18 payment may be made under this title,

19 unless such supplier is in compliance with the
20 standards under paragraph (3).

21 “(B) APPLICATION OF ACCREDITATION RE-
22 QUIREMENT.—In implementing quality stand-
23 ards under paragraph (3), the Secretary shall
24 require suppliers furnishing CRT items on or
25 after one year after the standards are published

1 under such paragraph, directly or as a subcon-
2 tractor for another entity—

3 “(i) to be compliant with these stand-
4 ards; and

5 “(ii) have submitted to the Secretary
6 evidence of accreditation by an accredita-
7 tion organization designated under sub-
8 paragraph (C) demonstrating that the sup-
9 plier is compliant with such standards.

10 “(C) DESIGNATION OF INDEPENDENT AC-
11 CREDITATION ORGANIZATIONS.—Not later than
12 the date that is one year after the date on
13 which the Secretary implements the quality
14 standards under paragraph (3), the Secretary
15 shall designate and approve one or more inde-
16 pendent accreditation organizations that—

17 “(i) are approved under subsection
18 (a)(20)(B); and

19 “(ii) that the Secretary has deter-
20 mined have the capability to assess wheth-
21 er suppliers of CRT items meet the quality
22 standards established under paragraph (3).

23 “(5) CODING SYSTEM FOR COMPLEX REHABILI-
24 TATION TECHNOLOGIES.—

1 “(A) IN GENERAL.—The Secretary shall,
2 in consultation with suppliers and manufactur-
3 ers of CRT items, and utilizing existing coding
4 systems, establish a HCPCS coding subset that
5 shall utilize and include, HCPCS codes de-
6 scribed in section 1861(iii)(2) for CRT items
7 for which payment may made under this sub-
8 section.

9 “(B) TREATMENT OF EXISTING PROD-
10 UCTS.—

11 “(i) IN GENERAL.—With respect to
12 CRT items for which payment was avail-
13 able under this title before the effective
14 date of the Ensuring Access to Quality
15 Complex Rehabilitation Technology Act of
16 2012, the Secretary shall assign such items
17 to a code in the coding subset established
18 under subparagraph (A).

19 “(ii) UPDATES.—After the initial as-
20 signment under clause (i), the Secretary
21 may decide to re-assign additional product
22 categories, or items within those cat-
23 egories, that exist prior to the date of en-
24 actment of the Ensuring Access to Quality

1 Complex Rehabilitation Technology Act of
2 2012 to the CRT coding subset.

3 “(iii) CONSULTATION.—Before mak-
4 ing the assignments under clause (ii), the
5 Secretary shall consult with suppliers and
6 manufacturers of such CRT items. The
7 Secretary shall not require manufacturers
8 of CRT items for which payment was
9 available under this title before the effec-
10 tive date of the Ensuring Access to Quality
11 Complex Rehabilitation Technology Act of
12 2012 to submit requests for reassignment
13 of the code for such product to the coding
14 subset under subparagraph (A) as long
15 as—

16 “(I) no changes have been made
17 to the code definitions, required code
18 characteristics or test requirements;
19 and

20 “(II) the item was previously
21 verified to meet the code require-
22 ments.

23 “(C) REMOVING COMPLEX REHABILITA-
24 TION TECHNOLOGY FROM DME CODES.—The

1 Secretary shall, in consultation with suppliers
2 and manufacturers of CRT items—

3 “(i) remove from the coding subset for
4 durable medical equipment any CRT items
5 that are included in the coding subset
6 under subparagraph (A); and

7 “(ii) assign new codes to such CRT
8 items for purposes of including such items
9 in the subset under subparagraph (A).

10 “(D) NEW TECHNOLOGY.—

11 “(i) IN GENERAL.—The Secretary
12 shall update as needed the HCPCS level II
13 process used to modify the code set to in-
14 clude CRT items for the purposes of estab-
15 lishing new codes and determining prod-
16 ucts to be classified as CRT items. In de-
17 termining if a product is a CRT item, the
18 Secretary shall consider—

19 “(I) if the product is novel;

20 “(II) the clinical application of
21 the product; and

22 “(III) the ability of the product
23 to address the unique needs and ca-
24 pacities of a qualified individual.

1 “(ii) The Secretary shall include the
2 codes established in clause (i) in the list
3 under section 1861(iii)(2)(F).

4 “(E) MISCELLANEOUS CODE FOR INNOVA-
5 TION AND LOCAL COVERAGE DETERMINA-
6 TIONS.—The coding subset established under
7 subparagraph (A) shall include at least one mis-
8 cellaneous code for items not otherwise classi-
9 fied.

10 “(6) REPLACEMENT OF CRT ITEMS.—

11 “(A) IN GENERAL.—Payment shall be
12 made for the replacement of a CRT item (or for
13 the replacement of any part of such item), with-
14 out regard to continuous use or useful lifetime
15 restrictions established under section
16 1834(a)(7)(C) for items of durable medical
17 equipment if a qualified ordering practitioner
18 determines that the provision of a replacement
19 item (or a replacement part of such an item) is
20 necessary because of any of the following—

21 “(i) a change in the physiological con-
22 dition of the qualified individual to whom
23 such item was provided;

24 “(ii) an irreparable change in the con-
25 dition of the CRT item (or, in the case of

1 the replacement of a part, in the part of
2 the CRT item); or

3 “(iii) the CRT item requires repairs
4 and the cost of such repairs would be more
5 than 50 percent of the cost of a replace-
6 ment of the CRT item.

7 “(B) DEFERRAL TO PROVIDERS.—

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

17 “(ii) EXCEPTION FOR ITEMS UNDER 3
18 YEARS OLD.—If the CRT item that is
19 being replaced (or the part of the CRT
20 item that is being replaced) under subpara-
21 graph (A) is less than 3 years old (cal-
22 culated from the date on which the quali-
23 fied individual began to use the CRT item
24 or part), the Secretary may require the
25 qualified ordering practitioner to provide

1 confirmation of necessity of the replace-
2 ment item or replacement part, as the case
3 may be.

4 “(7) PAYMENT FOR TEMPORARY RENTAL.—

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

11 “(B) BASIS; LIMITATION.—Payment per-
12 mitted under subparagraph (A) shall be made
13 on a monthly basis, and the period of rental
14 may not exceed two months.

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

19 “(8) DEFINITIONS.—For purposes of this sub-
20 section:

21 “(A) CRT ITEM.—The term ‘CRT item’
22 has the meaning given such term in section
23 1861(iii).

24 “(B) HCPCS.—The term ‘HCPCS’ refers
25 to the Health Care Procedure Coding System.

1 “(C) QUALIFIED CRT PROFESSIONAL.—

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

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

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

22 “(ii) ESTABLISHMENT.—Not later
23 than one year after the date of enactment
24 of the Ensuring Access to Quality Complex
25 Rehabilitation Technology Act of 2012, the

1 Secretary, acting in consultation with rel-
2 evant parties, shall establish the additional
3 designation under clause (i)(II).

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

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

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

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

19 “(iii) on an annual basis, completes at
20 least ten hours of continuing education
21 specific to the assembly, fitting, program-
22 ming, service and repair of CRT items.

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

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

7 **SEC. 5. CONFORMING AMENDMENTS.**

8 (a) EXCLUSION FROM THE IN-HOME USE LIMITA-
 9 TION FOR DME.—Section 1861(n) is amended by adding
 10 at the end the following: “For 2013 and subsequent years,
 11 such term does not include complex rehabilitation tech-
 12 nologies as defined in subsection (iii)”.

13 (b) EXEMPTION FROM COMPETITIVE ACQUISI-
 14 TION.—Section 1847(a)(7) is amended by adding at the
 15 end the following new subparagraph:

16 “(C) CRT ITEMS.—For 2013 and subse-
 17 quent years, complex rehabilitation technology
 18 items as defined in section 1861(iii).”.

19 (c) EXEMPTION FROM SNF CONSOLIDATED BILL-
 20 ING.—Section 1888(e)(2)(A)(iii) is amended by adding at
 21 the end the following:

22 “(VI) Complex rehabilitation
 23 technology items as defined in section
 24 1861(iii) if delivered to an inpatient
 25 for use during the stay in the skilled

1 nursing facility as part of the plan of
2 care to allow the transition of such
3 qualified individuals from the skilled
4 nursing facility setting to the home
5 and community.”.

6 (d) PAYMENT EXCLUSIONS.—Section 1834(a) of the
7 Social Security Act is amended—

8 (1) in paragraph (4), by adding at the end the
9 following sentence “For 2013 and subsequent years,
10 the items covered by this paragraph shall not include
11 complex rehabilitation technology items as defined in
12 section 1861(iii).”;

13 (2) in paragraph (7)(A), by adding at the end
14 the following: “For fiscal year 2013 and subsequent
15 years, the previous sentence shall not apply to
16 power-driven wheelchairs that are designated as
17 CRT items under section 1861(iii).”; and

18 (3) in paragraph (16), by inserting at the end,
19 after the third sentence, the following: “The Sec-
20 retary shall impose (and, may, as allowed by the sec-
21 ond sentence of this paragraph, waive) the require-
22 ments of the first sentence of this paragraph to sup-
23 pliers of complex rehabilitation technology items ex-
24 cept that, in order to avoid duplicate bonds, the Sec-
25 retary shall not impose such requirements with re-

1 spect to suppliers of complex rehabilitation tech-
2 nology items when such suppliers also participate in
3 the Medicare program as suppliers of durable med-
4 ical equipment.”.

5 (e) REQUIREMENTS FOR SUPPLIERS OF MEDICAL
6 EQUIPMENT AND SUPPLIES.—Section 1834(j)(5) is
7 amended—

8 (1) by redesignating subparagraphs (E) and
9 (F) as subparagraphs (F) and (G), respectively;

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

12 “(E) complex rehabilitation technology
13 items (as defined in section 1861(iii));”.

14 **SEC. 6. EFFECTIVE DATE.**

15 The amendments made by this Act shall apply to
16 items and services furnished on or after January 1, 2013.

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