

Excerpted statement – Congressman George Miller

I am pleased that the essential benefits in the Patient Protection and Affordable Care Act include rehabilitative and habilitative services and devices, as these benefits are of particular importance to people with disabilities and chronic conditions.

The term “rehabilitative and habilitative services” includes items and services used to restore functional capacity, minimize limitations on physical and cognitive functions, and maintain or prevent deterioration of functioning. Such services also include training of individuals with mental and physical disabilities to enhance functional development.

The term “rehabilitative and habilitative devices” includes durable medical equipment, prosthetics, orthotics, and related supplies. It is my understanding that the Patient Protection and Affordable Care Act requires the Secretary of Health and Human Services to develop, through regulation, standard definitions of many terms for purposes of comparing benefit categories from one private health plan to another. It is my expectation “prosthetics, orthotics, and related supplies” will be defined separately from “durable medical equipment.”

I also expect that durable medical equipment will not be limited to “in-home” use only.

Pursuant to employer requests, this bill codifies the use of wellness programs. Wellness programs are proving to be an emerging area of health care reform that holds both great promise and potential for abuse. The Departments of HHS and Labor will need to issue regulations to assure that employer wellness programs meet established standards of medical treatment and patient protection. It is my understanding from discussions with my colleagues in both the House and Senate that the design and implementation of voluntary

wellness programs, including the issuance of policies and procedures and the adoption of practices and methods of administration, shall not have the purpose or effect of mandating participation in such programs or punishing, denying, limiting or curtailing any rights, privileges, and protections under the Americans with Disabilities Act, the Genetic Information Nondiscrimination Act, the Health Insurance Portability and Accountability Act, the Family and Medical Leave Act, and Title VII of the Civil Rights Act of 1964.

In order to ensure existing civil rights and privacy protections, regulations related to wellness programs promulgated by the Secretary of Health and Human Services should include standards and criteria developed and certified by the Attorney General, the Secretary of Labor, and the Equal Employment Opportunity Commission. I expect that nothing in the Patient Protection and Affordable Care Act shall limit the independent authority of the Attorney General, the Secretary of Labor, and the Equal Employment Opportunity Commission to issue regulations, interpretations, and guidance regarding the applicability of the Americans with Disabilities Act, the Genetic Information Nondiscrimination Act, the Health Insurance Portability and Accountability Act, the Family and Medical Leave Act, and Title VII of the Civil Rights Act of 1964 to the design and implementation of wellness programs. I urge the Department of Labor and other agencies to monitor and ensure that health plans properly comply with the standards established by this Act. I also urge the Congress to continue to review and revisit this developing area of health care.