

111TH CONGRESS
1ST SESSION

S. 1773

To amend title XVIII of the Social Security Act to provide for coverage of comprehensive cancer care planning under the Medicare Program and to improve the care furnished to individuals diagnosed with cancer by establishing a Medicare hospice care demonstration program and grant programs for cancer palliative care and symptom management programs, provider education, and related research.

IN THE SENATE OF THE UNITED STATES

OCTOBER 13, 2009

Ms. LANDRIEU 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 provide for coverage of comprehensive cancer care planning under the Medicare Program and to improve the care furnished to individuals diagnosed with cancer by establishing a Medicare hospice care demonstration program and grant programs for cancer palliative care and symptom management programs, provider education, and related research.

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. SHORT TITLE; TABLE OF CONTENTS.**

2 (a) **SHORT TITLE.**—This Act may be cited as the
 3 “Comprehensive Cancer Care Improvement Act of 2009”.

4 (b) **TABLE OF CONTENTS.**—The table of contents of
 5 this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Findings.

TITLE I—COMPREHENSIVE CANCER CARE UNDER THE
 MEDICARE PROGRAM

Sec. 101. Coverage of cancer care planning services.

Sec. 102. Demonstration project to provide comprehensive cancer care symptom
 management services under Medicare.

TITLE II—COMPREHENSIVE PALLIATIVE CARE AND SYMPTOM
 MANAGEMENT PROGRAMS

Sec. 201. Grants for comprehensive palliative care and symptom management
 programs.

TITLE III—PROVIDER EDUCATION REGARDING PALLIATIVE CARE
 AND SYMPTOM MANAGEMENT

Sec. 301. Grants to improve health professional education.

Sec. 302. Grants to improve Continuing Professional Education.

TITLE IV—RESEARCH ON END-OF-LIFE TOPICS FOR CANCER
 PATIENTS

Sec. 401. Research program.

6 **SEC. 2. FINDINGS.**

7 The Congress makes the following findings:

8 (1) Individuals with cancer often do not have
 9 access to a cancer care system that provides com-
 10 prehensive and coordinated care of high quality.

11 (2) The cancer care system has not traditionally
 12 offered individuals with cancer a prospective and
 13 comprehensive plan for treatment and symptom
 14 management, strategies for updating and evaluating

1 such plan with the assistance of a health care pro-
2 fessional, and a follow-up plan for monitoring and
3 treating possible late effects of cancer and its treat-
4 ment.

5 (3) Cancer survivors often experience the
6 under-diagnosis and under-treatment of the symp-
7 toms of cancer, a problem that begins at the time
8 of diagnosis and often becomes more severe at the
9 end of life. The failure to treat the symptoms, side
10 effects, and late effects of cancer and its treatment
11 may have a serious adverse impact on the health,
12 well-being, and quality of life of cancer survivors.

13 (4) Cancer survivors who are members of racial
14 and ethnic minority groups may face special obsta-
15 cles in receiving cancer care that is coordinated and
16 includes appropriate management of cancer symp-
17 toms and treatment side effects.

18 (5) Individuals with cancer are sometimes put
19 in the untenable position of choosing between poten-
20 tially curative therapies and palliative care instead of
21 being assured access to comprehensive care that in-
22 cludes appropriate treatment and symptom manage-
23 ment.

24 (6) Comprehensive cancer care should incor-
25 porate access to psychosocial services and manage-

1 ment of the symptoms of cancer (and the symptoms
2 of its treatment), including pain, nausea and vom-
3 iting, fatigue, and depression.

4 (7) Comprehensive cancer care should include a
5 means for providing cancer survivors with a com-
6 prehensive care summary and a plan for follow-up
7 care after primary treatment to ensure that cancer
8 survivors have access to follow-up monitoring and
9 treatment of possible late effects of cancer and can-
10 cer treatment.

11 (8) The Institute of Medicine report, “Ensuring
12 Quality Cancer Care”, described the elements of
13 quality care for an individual with cancer to in-
14 clude—

15 (A) the development of initial treatment
16 recommendations by an experienced health care
17 provider;

18 (B) the development of a plan for the
19 course of treatment of the individual and com-
20 munication of the plan to the individual;

21 (C) access to the resources necessary to
22 implement the course of treatment;

23 (D) access to high-quality clinical trials;

24 (E) a mechanism to coordinate services for
25 the treatment of the individual; and

1 (F) psychosocial support services and com-
2 passionate care for the individual.

3 (9) In its report, “From Cancer Patient to
4 Cancer Survivor: Lost in Transition”, the Institute
5 of Medicine recommended that individuals with can-
6 cer completing primary treatment be provided a
7 comprehensive summary of their care along with a
8 follow-up survivorship plan of treatment.

9 (10) Since more than half of all cancer diag-
10 noses occur among elderly Medicare beneficiaries,
11 the problems of providing cancer care are problems
12 of the Medicare program.

13 (11) Shortcomings in providing cancer care, re-
14 sulting in inadequate management of cancer symp-
15 toms and insufficient monitoring and treatment of
16 late effects of cancer and its treatment, are related
17 to problems of Medicare payments for such care, in-
18 adequate professional training, and insufficient in-
19 vestment in research on symptom management.

20 (12) Changes in Medicare payment for com-
21 prehensive cancer care, enhanced public and profes-
22 sional education regarding symptom management,
23 and more research related to symptom management
24 and palliative care will enhance patient decision-
25 making about treatment options and will contribute

1 to improved care for individuals with cancer from
 2 the time of diagnosis of the individual through the
 3 end of the life of the individual.

4 **TITLE I—COMPREHENSIVE CAN-**
 5 **CER CARE UNDER THE MEDI-**
 6 **CARE PROGRAM**

7 **SEC. 101. COVERAGE OF CANCER CARE PLANNING SERV-**
 8 **ICES.**

9 (a) IN GENERAL.—Section 1861 of the Social Secu-
 10 rity Act (42 U.S.C. 1395x) is amended—

11 (1) in subsection (s)(2)—

12 (A) by striking “and” at the end of sub-
 13 paragraph (DD);

14 (B) by adding “and” at the end of sub-
 15 paragraph (EE); and

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

18 “(FF) comprehensive cancer care planning
 19 services (as defined in subsection (hhh));”; and

20 (2) by adding at the end the following new sub-
 21 section:

22 “Comprehensive Cancer Care Planning Services

23 “(hhh)(1) The term ‘comprehensive cancer care plan-
 24 ning services’ means—

1 “(A) with respect to an individual who is
2 diagnosed with cancer, the development of a
3 plan of care that—

4 “(i) details, to the greatest extent
5 practicable, all aspects of the care to be
6 provided to the individual, with respect to
7 the treatment of such cancer, including
8 any curative treatment and comprehensive
9 symptom management (such as palliative
10 care) involved;

11 “(ii) is furnished in written form to
12 the individual in person within a period
13 specified by the Secretary that is as soon
14 as practicable after the date on which the
15 individual is so diagnosed;

16 “(iii) is furnished, to the greatest ex-
17 tent practicable, in a form that appro-
18 priately takes into account cultural and
19 linguistic needs of the individual in order
20 to make the plan accessible to the indi-
21 vidual; and

22 “(iv) is in accordance with standards
23 determined by the Secretary to be appro-
24 priate;

1 “(B) with respect to an individual for
2 whom a plan of care has been developed under
3 subparagraph (A), the revision of such plan of
4 care as necessary to account for any substantial
5 change in the condition of the individual, if
6 such revision—

7 “(i) is in accordance with clauses (i)
8 and (iii) of such subparagraph; and

9 “(ii) is furnished in written form to
10 the individual within a period specified by
11 the Secretary that is as soon as practicable
12 after the date of such revision;

13 “(C) with respect to an individual who has
14 completed the primary treatment for cancer, as
15 defined by the Secretary (such as completion of
16 chemotherapy or radiation treatment), the de-
17 velopment of a follow-up cancer care plan
18 that—

19 “(i) describes the elements of the pri-
20 mary treatment, including symptom man-
21 agement, furnished to such individual;

22 “(ii) provides recommendations for
23 the subsequent care of the individual with
24 respect to the cancer involved;

1 “(iii) is furnished in written form to
2 the individual in person within a period
3 specified by the Secretary that is as soon
4 as practicable after the completion of such
5 primary treatment;

6 “(iv) is furnished, to the greatest ex-
7 tent practicable, in a form that appro-
8 priately takes into account cultural and
9 linguistic needs of the individual in order
10 to make the plan accessible to the indi-
11 vidual; and

12 “(v) is in accordance with standards
13 determined by the Secretary to be appro-
14 priate; and

15 “(D) with respect to an individual for
16 whom a follow-up cancer care plan has been de-
17 veloped under subparagraph (C), the revision of
18 such plan as necessary to account for any sub-
19 stantial change in the condition of the indi-
20 vidual, if such revision—

21 “(i) is in accordance with clauses (i),
22 (ii), and (iv) of such subparagraph; and

23 “(ii) is furnished in written form to
24 the individual within a period specified by

1 the Secretary that is as soon as practicable
2 after the date of such revision.

3 “(2) The Secretary shall establish standards to carry
4 out paragraph (1) in consultation with appropriate organi-
5 zations representing providers of services related to cancer
6 treatment and organizations representing survivors of can-
7 cer. Such standards shall include standards for deter-
8 mining the need and frequency for revisions of the plans
9 of care and follow-up plans based on changes in the condi-
10 tion of the individual and standards for the communica-
11 tion of the plan to the patient.”.

12 (b) PAYMENT.—Section 1833(a)(1) of the Social Se-
13 curity Act (42 U.S.C. 1395l(a)(1)) is amended by striking
14 “and” before “(W)” and inserting before the semicolon
15 at the end the following: “, and (X) with respect to com-
16 prehensive cancer care planning services described in any
17 of subparagraphs (A) through (D) of section
18 1861(hhh)(1), the amount paid shall be an amount equal
19 to the sum of (i) the national average amount under the
20 physician fee schedule established under section 1848 for
21 a new patient office consultation of the highest level of
22 service in the non-facility setting, and (ii) the national av-
23 erage amount under such fee schedule for a physician cer-
24 tification described in section 1814(a)(2) for home health

1 services furnished to an individual by a home health agen-
2 cy under a home health plan of care”.

3 (c) EFFECTIVE DATE.—The amendments made by
4 this section shall apply to services furnished on or after
5 the first day of the first calendar year that begins after
6 the date of the enactment of this Act.

7 **SEC. 102. DEMONSTRATION PROJECT TO PROVIDE COM-**
8 **PREHENSIVE CANCER CARE SYMPTOM MAN-**
9 **AGEMENT SERVICES UNDER MEDICARE.**

10 (a) IN GENERAL.—Beginning not later than 180
11 days after the date of the enactment of this Act, the Sec-
12 retary of Health and Human Services (in this section re-
13 ferred to as the “Secretary”) shall conduct a two-year
14 demonstration project (in this section referred to as the
15 “demonstration project”) under title XVIII of the Social
16 Security Act under which payment shall be made under
17 such title for comprehensive cancer care symptom man-
18 agement services, including items and services described
19 in subparagraphs (A) through (I) of section 1861(dd)(1)
20 of the Social Security Act, furnished by an eligible entity,
21 in accordance with a plan developed under subparagraph
22 (A) or (C) of section 1861(hhh)(1) of such Act, as added
23 by section 101(a). Sections 1812(d) and 1814(a)(7) of
24 such Act (42 U.S.C. 1395d(d), 1395f(a)(7)) are not appli-
25 cable to items and services furnished under the dem-

1 onstration project. Participation of Medicare beneficiaries
2 in the demonstration project shall be voluntary.

3 (b) QUALIFICATIONS AND SELECTION OF ELIGIBLE
4 ENTITIES.—

5 (1) QUALIFICATIONS.—For purposes of sub-
6 section (a), the term “eligible entity” means an enti-
7 ty (such as a cancer center, hospital, academic
8 health center, hospice program, physician practice,
9 school of nursing, visiting nurse association, or other
10 home health agency) that the Secretary determines
11 is capable, directly or through an arrangement with
12 a hospice program (as defined in section
13 1861(dd)(2) of the Social Security Act (42 U.S.C.
14 1395x(dd)(2))), of providing the items and services
15 described in such subsection.

16 (2) SELECTION.—The Secretary shall select not
17 more than 10 eligible entities to participate in the
18 demonstration project. Such entities shall be selected
19 in a manner so that the demonstration project is
20 conducted in different regions across the United
21 States and in urban and rural locations.

22 (c) EVALUATION AND REPORT.—

23 (1) EVALUATION.—The Secretary shall conduct
24 a comprehensive evaluation of the demonstration
25 project to determine—

1 (A) the effectiveness of the project in im-
2 proving patient outcomes;

3 (B) the cost of providing comprehensive
4 symptom management, including palliative care,
5 from the time of diagnosis;

6 (C) the effect of comprehensive cancer care
7 planning and the provision of comprehensive
8 symptom management on patient outcomes,
9 cancer care expenditures, and the utilization of
10 hospitalization and emergent care services; and

11 (D) potential savings to the Medicare pro-
12 gram demonstrated by the project.

13 (2) REPORT.—Not later than the date that is
14 one year after the date on which the demonstration
15 project concludes, the Secretary shall submit to Con-
16 gress a report on the evaluation conducted under
17 paragraph (1).

18 **TITLE II—COMPREHENSIVE PAL-**
19 **LIATIVE CARE AND SYMPTOM**
20 **MANAGEMENT PROGRAMS**

21 **SEC. 201. GRANTS FOR COMPREHENSIVE PALLIATIVE CARE**
22 **AND SYMPTOM MANAGEMENT PROGRAMS.**

23 (a) IN GENERAL.—The Secretary of Health and
24 Human Services shall make grants to eligible entities for
25 the purpose of—

1 (1) establishing a new palliative care and symp-
2 tom management program for cancer patients; or

3 (2) expanding an existing palliative care and
4 symptom management program for cancer patients.

5 (b) AUTHORIZED ACTIVITIES.—Activities funded
6 through a grant under this section may include—

7 (1) securing consultative services and advice
8 from institutions with extensive experience in devel-
9 oping and managing comprehensive palliative care
10 and symptom management programs;

11 (2) expanding an existing program to serve
12 more patients or enhance the range or quality of
13 services, including cancer treatment patient edu-
14 cation services, that are provided;

15 (3) developing a program that would ensure the
16 inclusion of cancer treatment patient education in
17 the coordinated cancer care model; and

18 (4) establishing an outreach program to partner
19 with an existing comprehensive care program and
20 obtain expert consultative services and advice.

21 (c) DISTRIBUTION OF FUNDS.—In making grants
22 and distributing the funds under this section, the Sec-
23 retary shall ensure that—

24 (1) two-thirds of the funds appropriated to
25 carry out this section for each fiscal year are used

1 for establishing new palliative care and symptom
2 management programs, of which not less than half
3 of such two-thirds shall be for programs in medically
4 underserved communities to address issues of racial
5 and ethnic disparities in access to cancer care; and

6 (2) one-third of the funds appropriated to carry
7 out this section for each fiscal year are used for ex-
8 panding existing palliative care and symptom man-
9 agement programs.

10 (d) DEFINITIONS.—In this section:

11 (1) The term “eligible entity” includes—

12 (A) an academic medical center, a cancer
13 center, a hospital, a school of nursing, or a
14 health system capable of administering a pallia-
15 tive care and symptom management program
16 for cancer patients;

17 (B) a physician practice with care teams,
18 including nurses and other professionals trained
19 in palliative care and symptom management;

20 (C) a visiting nurse association or other
21 home care agency with experience administering
22 a palliative care and symptom management pro-
23 gram;

24 (D) a hospice; and

1 (E) any other health care agency or entity,
2 as the Secretary determines appropriate.

3 (2) The term “medically underserved commu-
4 nity” has the meaning given to that term in section
5 799B(6) of the Public Health Service Act (42
6 U.S.C. 295p(6)).

7 (3) The term “Secretary” means the Secretary
8 of Health and Human Services.

9 (e) AUTHORIZATION OF APPROPRIATIONS.—To carry
10 out this section, there are authorized to be appropriated
11 such sums as may be necessary for each of the fiscal years
12 2010 through 2014.

13 **TITLE III—PROVIDER EDU-**
14 **CATION REGARDING PALLIA-**
15 **TIVE CARE AND SYMPTOM**
16 **MANAGEMENT**

17 **SEC. 301. GRANTS TO IMPROVE HEALTH PROFESSIONAL**
18 **EDUCATION.**

19 (a) IN GENERAL.—The Secretary of Health and
20 Human Services shall make grants to eligible entities to
21 enable the entities to improve the quality of graduate and
22 postgraduate training of physicians, nurses, and other
23 health care providers in palliative care and symptom man-
24 agement for cancer patients.

1 (b) APPLICATION.—To seek a grant under this sec-
2 tion, an eligible entity shall submit an application at such
3 time, in such manner, and containing such information as
4 the Secretary may require. At a minimum, the Secretary
5 shall require that each such application demonstrate—

6 (1) the ability to incorporate palliative care and
7 symptom management into training programs; and

8 (2) the ability to collect and analyze data re-
9 lated to the effectiveness of educational efforts.

10 (c) EVALUATION.—The Secretary shall develop and
11 implement a plan for evaluating the effects of professional
12 training programs funded through this section.

13 (d) DEFINITIONS.—In this section:

14 (1) The term “eligible entity” means a cancer
15 center (including an NCI-designated cancer center),
16 an academic health center, a physician practice, a
17 school of nursing, or a visiting nurse association or
18 other home care agency.

19 (2) The term “NCI-designated cancer center”
20 means a cancer center receiving funds through a
21 P30 Cancer Center Support Grant of the National
22 Cancer Institute.

23 (3) The term “Secretary” means the Secretary
24 of Health and Human Services.

1 (e) AUTHORIZATION OF APPROPRIATIONS.—To carry
2 out this section, there are authorized to be appropriated
3 such sums as may be necessary for each of the fiscal years
4 2010 through 2014.

5 **SEC. 302. GRANTS TO IMPROVE CONTINUING PROFES-**
6 **SIONAL EDUCATION.**

7 (a) IN GENERAL.—The Secretary of Health and
8 Human Services shall make grants to eligible entities to
9 improve the quality of continuing professional education
10 provided to qualified individuals regarding palliative care
11 and symptom management.

12 (b) APPLICATION.—To seek a grant under this sec-
13 tion, an eligible entity shall submit an application at such
14 time, in such manner, and containing such information as
15 the Secretary may require. At a minimum, the Secretary
16 shall require that each such application demonstrate—

17 (1) experience in sponsoring continuing profes-
18 sional education programs;

19 (2) the ability to reach health care providers
20 and other professionals who are engaged in cancer
21 care;

22 (3) the capacity to develop innovative training
23 programs; and

24 (4) the ability to evaluate the effectiveness of
25 educational efforts.

1 (c) EVALUATION.—The Secretary shall develop and
2 implement a plan for evaluating the effects of continuing
3 professional education programs funded through this sec-
4 tion.

5 (d) DEFINITIONS.—In this section:

6 (1) The term “eligible entity” means a cancer
7 center (including an NCI-designated cancer center),
8 an academic health center, a school of nursing, or a
9 professional society that supports continuing profes-
10 sional education programs.

11 (2) The term “NCI-designated cancer center”
12 means a cancer center receiving funds through a
13 P30 Cancer Center Support Grant of the National
14 Cancer Institute.

15 (3) The term “qualified individual” means a
16 physician, nurse, social worker, chaplain, psycholo-
17 gist, or other individual who is involved in providing
18 palliative care and symptom management services to
19 cancer patients.

20 (4) The term “Secretary” means the Secretary
21 of Health and Human Services.

22 (e) AUTHORIZATION OF APPROPRIATIONS.—To carry
23 out this section, there are authorized to be appropriated
24 such sums as may be necessary for each of the fiscal years
25 2010 through 2014.

1 **TITLE IV—RESEARCH ON END-**
2 **OF-LIFE TOPICS FOR CANCER**
3 **PATIENTS**

4 **SEC. 401. RESEARCH PROGRAM.**

5 (a) IN GENERAL.—The Director of the National In-
6 stitutes of Health shall establish a program of grants for
7 research on palliative care, symptom management, com-
8 munication skills, and other end-of-life topics for cancer
9 patients.

10 (b) INCLUSION OF NATIONAL RESEARCH INSTI-
11 TUTES.—In carrying out the program established under
12 this section, the Director should provide for the partici-
13 pation of the National Cancer Institute, the National Insti-
14 tute of Nursing Research, and any other national research
15 institute that has been engaged in research described in
16 subsection (a).

17 (c) DEFINITIONS.—In this section:

18 (1) The term “Director” means the Director of
19 the National Institutes of Health.

20 (2) The term “national research institute” has
21 the meaning given to that term in section 401(g) of
22 the Public Health Service Act (42 U.S.C. 281(g)).

23 (d) AUTHORIZATION OF APPROPRIATIONS.—To carry
24 out this section, there are authorized to be appropriated

- 1 such sums as may be necessary for each of the fiscal years
- 2 2010 through 2014.

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