

111TH CONGRESS
2^D SESSION

S. 3318

To amend title XVIII of the Social Security Act to eliminate contributing factors to disparities in breast cancer treatment through the development of a uniform set of consensus-based breast cancer treatment performance measures for a 6-year quality reporting system and value-based purchasing system under the Medicare Program.

IN THE SENATE OF THE UNITED STATES

MAY 5, 2010

Mrs. GILLIBRAND 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 eliminate contributing factors to disparities in breast cancer treatment through the development of a uniform set of consensus-based breast cancer treatment performance measures for a 6-year quality reporting system and value-based purchasing system 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 “Eliminating Dispari-
5 ties in Breast Cancer Treatment Act of 2010”.

1 **SEC. 2. FINDINGS.**

2 Congress finds the following:

3 (1) Delays in receiving care after breast cancer
4 diagnosis are reported to be greater for African-
5 American women than White women.

6 (2) Recent studies indicate that African-Amer-
7 ican women with breast cancer are less likely to re-
8 ceive standard therapy than White women.

9 (3) African-American and Hispanic patients are
10 significantly more likely than White patients to be
11 diagnosed at a more advanced stage of breast can-
12 cer.

13 (4) Investigators found that regardless of insur-
14 ance status, African-American women are 1.9 times
15 more likely to be diagnosed with an advanced stage
16 of breast cancer than White women and Hispanic
17 women are 1.4 times more likely to be diagnosed
18 with an advanced stage of breast cancer than White
19 women.

20 (5) African-American women are ten percent
21 more likely not to receive tests to determine if breast
22 cancer has spread to axillary (underarm) lymph
23 nodes. Studies show that health insurance status,
24 race, income, and educational background are di-
25 rectly linked to irregularity in administering this
26 vital screening.

1 (6) According to American Cancer Society re-
2 searchers, substantial disparities remain or persist
3 regarding cancer diagnosis and treatment.

4 **SEC. 3. PURPOSE.**

5 The purpose of this Act is to promote the implemen-
6 tation of standardized health care practices for breast can-
7 cer treatment under the Medicare program to eliminate
8 disparities in the provision of care to such patients based
9 on race, level of education, income, and health insurance
10 status of such patients.

11 **SEC. 4. CONSENSUS-BASED BREAST CANCER TREATMENT**
12 **PERFORMANCE MEASURES SYSTEM UNDER**
13 **MEDICARE.**

14 Title XVIII of the Social Security Act is amended by
15 adding at the end the following new section:

16 **“SEC. 1899. BREAST CANCER TREATMENT PERFORMANCE**
17 **MEASURES SYSTEM.**

18 “(a) IN GENERAL.—Not later than October 1, 2010,
19 the Secretary shall establish, in accordance with the provi-
20 sions of this section, a 6-year breast cancer treatment
21 quality performance system (in this section referred to as
22 the ‘system’) to—

23 “(1) assess and publicly disclose, through the
24 use of quality measures, the quality of care provided

1 for the treatment of breast cancer by specified
2 health care providers; and

3 “(2) beginning October 1, 2013, base payment
4 under this title to such providers for such treatment
5 on the performance of such providers based on such
6 measures.

7 “(b) SPECIFIED HEALTH CARE PROVIDERS.—

8 “(1) IN GENERAL.—The Secretary shall specify
9 classes of providers of services and suppliers, includ-
10 ing hospitals, cancer centers, physicians, primary
11 care providers, and specialty providers, to which the
12 provisions of this section shall apply.

13 “(2) DEFINITION.—For purposes of this sec-
14 tion, the term ‘specified health care provider’ means
15 a provider of services or supplier specified under
16 paragraph (1).

17 “(c) IDENTIFICATION AND ENDORSEMENT OF
18 BREAST CANCER TREATMENT PERFORMANCE MEAS-
19 URES.—

20 “(1) IN GENERAL.—Under the system, the Sec-
21 retary, shall enter into agreements with the National
22 Quality Forum, an organization that operates as a
23 voluntary consensus standards body as defined for
24 purposes of section 12(d) of the National Tech-
25 nology Transfer and Advancement Act of 1995

1 (Public Law 104–113) and Office of Management
2 and Budget Revised Circular A–119 (published in
3 the Federal Register on February 10, 1998), under
4 which the National Quality Forum shall identify a
5 uniform set of consensus-based performance meas-
6 ures to evaluate the quality of care provided by spec-
7 ified health care providers for the treatment of
8 breast cancer, endorse such set of measures through
9 its multistakeholder consensus development process,
10 and annually update such set of measures.

11 “(2) MEASURES DESCRIBED.—The set of meas-
12 ures described in paragraph (1) shall include, with
13 respect to the treatment of breast cancer, measures
14 of patient outcomes, the process for delivering med-
15 ical care related to such treatment, patient coun-
16 seling and engagement in decisionmaking, patient
17 experience of care, resource use, and practice capa-
18 bilities, such as care coordination.

19 “(d) REPORTING PROCESS.—

20 “(1) IN GENERAL.—Under the system, for peri-
21 ods (as specified by the Secretary) beginning on or
22 after October 1, 2010, the Secretary shall establish
23 a reporting process, with respect to treatment fur-
24 nished for breast cancer, that provides for a method
25 for specified health care providers to submit to the

1 Secretary data on the performance of such providers
2 during each period through use of the performance
3 measures developed pursuant to subsection (c)(1).
4 Such data shall be submitted in a form and manner
5 and at a time specified by the Secretary.

6 “(2) VOLUNTARY SUBMISSION DURING INITIAL
7 3 YEARS.—The reporting process under paragraph
8 (1) shall provide for the voluntary submission of
9 data (and incentives for such submission) under the
10 process for periods ending before October 1, 2013.

11 “(3) CHARACTERISTICS OF DATA SUBMITTED
12 UNDER REPORTING PROCESS.—Data submitted by a
13 specified health care provider under the reporting
14 process under paragraph (1) shall—

15 “(A) take into account the quality of
16 breast cancer treatment furnished to all pa-
17 tients of the provider, regardless of the type of
18 health insurance coverage of the patient or
19 whether or not the patient has such coverage;
20 and

21 “(B) be structured in a manner that allows
22 for comparison according to race, educational
23 level, income, insurance status, and any other
24 category specified by the Secretary.

1 “(e) PUBLIC DISCLOSURE.—Under the system, the
2 Secretary shall establish procedures to require that infor-
3 mation with respect to the quality demonstrated by a spec-
4 ified health care provider of treatment furnished for breast
5 cancer during a period (based on the performance meas-
6 ures data submitted pursuant to subsection (c)(1) by the
7 provider for such period) is made available on the official
8 public Internet site of the Department of Health and
9 Human Services in a clear and understandable form. Such
10 procedures shall ensure that a specified health care pro-
11 vider has the opportunity to review the information that
12 is to be made public with respect to the provider at least
13 30 days prior to such data being made public and shall
14 provide for an appeals process in the case a provider
15 claims such information to be incorrect or incomplete.

16 “(f) VALUE-BASED PURCHASING FOR PERIODS BE-
17 GINNING OCTOBER 1, 2013.—

18 “(1) IN GENERAL.—Under the system, for peri-
19 ods beginning on or after October 1, 2013, and end-
20 ing before October 1, 2016, the Secretary shall es-
21 tablish and implement, a value-based purchasing
22 program, with respect to specified health care pro-
23 viders that furnish treatment for breast cancer dur-
24 ing such a period, under which—

1 “(A) in the case of such a provider that
2 does not submit data in accordance with the re-
3 porting process under subsection (d)(1) for
4 such treatment furnished during such period,
5 the Secretary shall reduce payment under this
6 title for such treatment by an amount specified
7 by the Secretary; and

8 “(B) in the case of such a provider that
9 submits data in accordance with the reporting
10 process under subsection (d)(1) for such treat-
11 ment furnished during such period—

12 “(i) subject to clause (ii), if the Sec-
13 retary determines such provider furnished
14 low quality care (in accordance with a
15 method specified by the Secretary) for
16 such treatment, the Secretary shall reduce
17 the amount that would otherwise be paid
18 to such provider under this title for such
19 treatment by an amount specified by the
20 Secretary;

21 “(ii) if the Secretary determines such
22 provider furnished low quality care (in ac-
23 cordance with the method specified under
24 clause (i)) for such treatment, but the
25 quality of care has improved as compared

1 to the quality of care the provider fur-
2 nished during the previous period, the Sec-
3 retary shall reduce the amount that would
4 otherwise be paid to such provider under
5 this title for such treatment in accordance
6 with an incremental method established by
7 the Secretary that ensures that the amount
8 of such reduction—

9 “(I) is less than the amount
10 specified by the Secretary under
11 clause (i); and

12 “(II) is based on the extent of
13 improvement in the quality of care;
14 and

15 “(iii) if the Secretary determines such
16 provider did not furnish low quality care
17 (in accordance with the method specified
18 under clause (i)) for such treatment, the
19 Secretary shall provide to such provider
20 the amount to be paid to such provider
21 under this title for such treatment.

22 “(2) RESULTS-BASED PAYMENTS.—The amount
23 of a reduction under subparagraph (A) or (B)(i) of
24 paragraph (1) shall be determined in accordance
25 with a method established by the Secretary.

1 “(g) REPORTS.—Not later than October 1, 2011, and
2 for each 6-month period thereafter (before fiscal year
3 2017), the Secretary shall submit to Congress a report
4 that evaluates the development and implementation of the
5 system, including—

6 “(1) an evaluation of the number of specified
7 health care providers that submit data pursuant to
8 subsection (c)(1);

9 “(2) an analysis of the effect of such system on
10 reducing disparities in the provision of breast cancer
11 treatment to patients based on race, level of edu-
12 cation, income, and health insurance status of such
13 patients; and

14 “(3) recommendations on whether (and to what
15 extent) to extend the system under this section.

16 “(h) APPLICATION TO PART C.—The Secretary shall
17 provide for a method to apply the provisions of this section
18 to treatment furnished under a plan under part C.”.

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