

112TH CONGRESS
2D SESSION

S. 3344

To increase immunization rates.

IN THE SENATE OF THE UNITED STATES

JUNE 27, 2012

Mr. REED (for himself, Mr. DURBIN, Mr. JOHNSON of South Dakota, Mr. WHITEHOUSE, and Mr. BLUMENTHAL) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To increase immunization rates.

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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Immunization Improvements Act of 2012”.

6 (b) TABLE OF CONTENTS.—The table of contents for
7 this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Demonstration project to improve vaccination rates among Medicare beneficiaries.

Sec. 3. Inclusion of recommended immunizations under part B of the Medicare program with no beneficiary cost-sharing.

Sec. 4. Vaccine administration fees.

Sec. 5. Improving vaccination rates among health care workers.

1 **SEC. 2. DEMONSTRATION PROJECT TO IMPROVE VACCINA-**
2 **TION RATES AMONG MEDICARE BENE-**
3 **FICIARIES.**

4 (a) **AUTHORITY TO CONDUCT DEMONSTRATION**
5 **PROJECT.**—The Secretary of Health and Human Services
6 (in this section referred to as the “Secretary”) shall estab-
7 lish a demonstration project under title XVIII of the So-
8 cial Security Act to evaluate the ability of State and local
9 health departments to act as providers in the purchase and
10 reimbursement of influenza and pneumococcal vaccina-
11 tions for Medicare beneficiaries.

12 (b) **CONDUCT.**—

13 (1) **DURATION.**—The demonstration project
14 under this section shall be conducted for a 3-year
15 period.

16 (2) **SCOPE.**—The demonstration project shall be
17 conducted in up to 5 States, as determined by the
18 Secretary, based on consideration of the potential to
19 result in the highest percentage increase in influenza
20 and pneumococcal vaccination rates among Medicare
21 beneficiaries in the State.

22 (3) **CONSIDERATION OF ONGOING PROJECTS.**—
23 In establishing and conducting the demonstration
24 project under this section, the Secretary shall take
25 into consideration any States or local entities that
26 have an ongoing demonstration or memorandum of

1 understanding with the Secretary to be reimbursed
2 as a Medicare provider for the cost of an influenza
3 and pneumococcal vaccination administered to a
4 Medicare beneficiary.

5 (4) REQUIREMENTS FOR PARTICIPATING
6 STATES.—Under the demonstration project, each
7 participating State (or local government entity par-
8 ticipating in the demonstration project) shall meet
9 the following requirements:

10 (A) Contract with multiple sources for the
11 purchase of the influenza and pneumococcal
12 vaccine for purposes of the demonstration
13 project based on population.

14 (B) Purchase influenza and pneumococcal
15 vaccines using the authority provided under sec-
16 tion 317 of the Public Health Service Act (42
17 U.S.C. 247b).

18 (C) Distribute the influenza and pneumo-
19 coccal vaccine to participating physicians for
20 furnishing to Medicare beneficiaries at no cost
21 to the physician or beneficiary.

22 (D) Be a qualified Medicare provider eligi-
23 ble for reimbursement under title XVIII of the
24 Social Security Act (42 U.S.C. 1395 et seq.).

1 (E) Establish a formal agreement with
2 other appropriate Medicare providers of services
3 and suppliers to participate in the demonstra-
4 tion project.

5 (F) Collect such information as the Sec-
6 retary shall require on Medicare beneficiaries
7 vaccinated under the demonstration project in
8 order to determine accurate reimbursement for
9 such vaccinations.

10 (c) ADMINISTRATION FEES.—Nothing in this section
11 shall prevent a provider of services or supplier under the
12 Medicare program under title XVIII of the Social Security
13 Act who is participating in the demonstration project
14 under this section from receiving reimbursement under
15 such program for the administration of an influenza or
16 pneumococcal vaccination.

17 (d) NO REQUIREMENT TO PARTICIPATE.—No pro-
18 vider in a participating State shall be required to partici-
19 pate in the demonstration project under this section.

20 (e) FUNDING FOR EDUCATION AND OUTREACH AND
21 VACCINE DISTRIBUTION.—The Secretary shall provide for
22 the transfer, out of amounts appropriated under section
23 1115A(f) of the Social Security Act (42 U.S.C. 1315A(f)),
24 of—

1 (1) \$5,000,000, to the Centers for Medicare &
2 Medicaid Services Program Management Account
3 for purposes of distributing grants to States (or
4 local government entities) participating in the dem-
5 onstration project under this section to promote the
6 annual vaccination of seniors against influenza and
7 pneumococcal; and

8 (2) such sums as may be necessary to carry out
9 the activity described in subsection (b)(4)(C).

10 (f) PROHIBITION ON USE OF FUNDS FOR VACCINE
11 PURCHASE.—Amounts appropriated under section 317 of
12 the Public Health Service Act (42 U.S.C. 247b) may not
13 be used by a State (or local government entity) partici-
14 pating in the demonstration project under this section to
15 purchase influenza and pneumococcal vaccines under sub-
16 section (b)(4)(B).

17 (g) DEFINITION OF MEDICARE BENEFICIARY.—For
18 purposes of the demonstration project under this section,
19 the term “Medicare beneficiary” means an individual enti-
20 tled to, or enrolled for, benefits under part A of title XVIII
21 of the Social Security Act (42 U.S.C. 1395 et seq.) and
22 enrolled for benefits under part B of such title, except
23 such term does not include an individual enrolled in a
24 Medicare Advantage plan under part C of such title (42
25 U.S.C. 1395w–21 et seq.).

1 (h) WAIVER.—The Secretary may waive such provi-
2 sions of titles XI and XVIII of the Social Security Act
3 as are necessary to carry out the demonstration project
4 under this section.

5 (i) REPORT.—Not later than 12 months after the
6 completion of the demonstration project under this sec-
7 tion, the Secretary shall submit to Congress a report on
8 the demonstration project. Such report shall contain the
9 following information:

10 (1) The percentage of Medicare beneficiaries
11 vaccinated against influenza and pneumococcal by
12 providers participating in the demonstration project
13 in each year in each participating State.

14 (2) The estimated cost of the vaccinations (to
15 the State and to the Medicare beneficiary) if they
16 had not been furnished under the demonstration
17 project.

18 (3) The estimated actual cost of the vaccina-
19 tions (to the State and to the Medicare beneficiary)
20 furnished under the demonstration project.

21 (4) The difference (if any) between the costs
22 described in paragraphs (2) and (3).

23 (5) Recommendations for such legislation and
24 administrative action as the Secretary determines
25 appropriate.

1 **SEC. 3. INCLUSION OF RECOMMENDED IMMUNIZATIONS**
2 **UNDER PART B OF THE MEDICARE PROGRAM**
3 **WITH NO BENEFICIARY COST-SHARING.**

4 (a) IN GENERAL.—Paragraph (10) of section
5 1861(s) of the Social Security Act (42 U.S.C. 1395x(s))
6 is amended to read as follows:

7 “(10) vaccines recommended for routine use by
8 the Advisory Committee on Immunization Practices
9 (an advisory committee established by the Secretary,
10 acting through the Director of the Centers for Dis-
11 ease Control and Prevention) and their administra-
12 tion;”.

13 (b) CONFORMING AMENDMENTS.—

14 (1) Section 1833 of the Social Security Act (42
15 U.S.C. 1395l) is amended, in each of subsections
16 (a)(1)(B), (a)(2)(G), (a)(3)(A), and (k), by striking
17 “1861(s)(10)(A)” or “1861(s)(10)(B)” and insert-
18 ing “1861(s)(10)” each place it appears.

19 (2) Section 1842(o)(1)(A)(iv) of the Social Se-
20 curity Act (42 U.S.C. 1395u(o)(1)(A)(iv)) is amend-
21 ed by striking “subparagraph (A) or (B) of”.

22 (3) Section 1847A(c)(6) of the Social Security
23 Act (42 U.S.C. 1395w–3a(c)(6)) is amended by
24 striking subparagraph (G).

25 (4) Section 1860D–2(e)(1) of the Social Secu-
26 rity Act (42 U.S.C. 1395w–102(e)(1)) is amended

1 by striking “a vaccine” and all that follows through
2 “its administration) and”.

3 (5) Section 1861(w)(2)(A) of the Social Secu-
4 rity Act (42 U.S.C. 1395x(w)(2)(A)) is amended
5 by striking “Pneumococcal, influenza, and hepatitis
6 B” and inserting “Any”.

7 (6) Section 1866(a)(2)(A) of the Social Security
8 Act (42 U.S.C. 1395cc(a)(2)(A)) is amended by
9 striking “1861(s)(10)(A)” and inserting
10 “1861(s)(10)”.

11 (c) EFFECTIVE DATE.—The amendments made by
12 this section shall apply to vaccines administered on or
13 after January 1, 2013.

14 **SEC. 4. VACCINE ADMINISTRATION FEES.**

15 (a) REVIEW OF FEDERALLY ESTABLISHED MAX-
16 IMUM ALLOWABLE ADMINISTRATIVE FEES.—Not later
17 than 160 days after the date of enactment of this Act,
18 the Administrator of the Centers for Medicare & Medicaid
19 Services and the Director of the Centers for Disease Con-
20 trol and Prevention, jointly shall—

21 (1) review the regional maximum charge for
22 vaccine administration for each State established
23 under the Vaccines for Children program under sec-
24 tion 1928 of the Social Security Act (42 U.S.C.

1 1396s) to determine the appropriateness and ade-
2 quacy of such rates;

3 (2) update such rates, as appropriate, based on
4 the results of such review and taking into account
5 all appropriate costs related to the administration of
6 vaccines under that program; and

7 (3) establish the regional minimum charge for
8 vaccine administration for each State pursuant to
9 section 1928(c)(2)(C)(iv) of such Act.

10 (b) ESTABLISHMENT OF REGIONAL MINIMUM
11 CHARGE FOR VACCINE ADMINISTRATION.—

12 (1) IN GENERAL.—Section 1928(c)(2)(C) of the
13 Social Security Act (42 U.S.C. 1396s(c)(2)(C)) is
14 amended—

15 (A) in clause (ii), by striking “The pro-
16 vider may” and inserting “Subject to clause
17 (iv), the provider may”; and

18 (B) by adding at the end the following new
19 clause:

20 “(iv) For purposes of a provider who imposes a
21 fee for the administration of a qualified pediatric
22 vaccine, the State shall pay such provider an amount
23 equal to the administrative fee established under the
24 State plan, which shall not be less than the regional
25 minimum charge for vaccine administration for such

1 State, as established by the Secretary (in conjunc-
 2 tion with the Director of the Centers for Disease
 3 Control and Prevention) and updated, as appro-
 4 priate, based on appropriate costs related to admin-
 5 istration of pediatric vaccines under this program.”.

6 (c) FEDERAL REIMBURSEMENT FOR VACCINE AD-
 7 MINISTRATION FOR NON-MEDICAID VACCINE-ELIGIBLE
 8 CHILDREN.—

9 (1) IN GENERAL.—Section 1928 of the Social
 10 Security Act (42 U.S.C. 1396s), as amended by sub-
 11 section (b), is further amended—

12 (A) in subsection (a)(1)(B), by inserting
 13 “and is entitled to receive reimbursement for
 14 any fee imposed by the provider for the admin-
 15 istration of such vaccine consistent with sub-
 16 section (c)(2)(C) to a federally vaccine-eligible
 17 child who is described in clause (ii), (iii), or (iv)
 18 of subsection (b)(2),” after “delivery to the pro-
 19 vider,”;

20 (B) in subsection (a)(2), by adding at the
 21 end the following new subparagraph:

22 “(D) REIMBURSEMENT FOR VACCINE AD-
 23 MINISTRATION FOR NON-MEDICAID ELIGIBLE
 24 CHILDREN.—The Secretary shall pay each
 25 State such amounts as are necessary for the

1 State to reimburse each program-registered
 2 provider in the State for an administration fee
 3 imposed consistent with subsection (c)(2)(C) for
 4 the administration of a qualified pediatric vac-
 5 cine to a federally vaccine-eligible child who is
 6 described in clause (ii), (iii), or (iv) of sub-
 7 section (b)(2).”;

8 (C) in subsection (c)(2)(C) by adding at
 9 the end the following new clause:

10 “(v) In the case of a federally vaccine-eligible
 11 child who is described in clause (ii), (iii), or (iv) of
 12 subsection (b)(2), the State shall pay the provider
 13 an amount equal to the administration fee estab-
 14 lished under the State plan approved under this title
 15 for the administration of a qualified pediatric vac-
 16 cine to a Medicaid-eligible child.”.

17 (D) by striking subsection (g); and

18 (E) in subsection (h)(6), by striking “a
 19 vaccine” and inserting “each vaccine compo-
 20 nent”.

21 (2) CONFORMING AMENDMENTS.—Section 1928
 22 of such Act (42 U.S.C. 1396s), as amended by para-
 23 graph (1), is amended—

24 (A) by redesignating subsection (h) as sub-
 25 section (g);

1 (B) in subsection (a)(1)(A), by striking
2 “(h)(8)” and inserting “(g)(8)”; and
3 (C) in subsection (b)(2)(A)(iv), by striking
4 “(h)(3)” and inserting “(g)(3)”.

5 **SEC. 5. IMPROVING VACCINATION RATES AMONG HEALTH**
6 **CARE WORKERS.**

7 (a) HOSPITAL REQUIREMENTS UNDER MEDICARE.—
8 Section 1861(e) of the Social Security Act (42 U.S.C.
9 1395x(e)) is amended—

10 (1) in paragraph (8), by striking “; and” and
11 inserting a semicolon;

12 (2) by redesignating paragraph (9) as para-
13 graph (10);

14 (3) by inserting after paragraph (8) the fol-
15 lowing new paragraph:

16 “(9) develops an active surveillance program to
17 track and record disaggregated influenza vaccination
18 levels among health care workers, including vaccina-
19 tions obtained outside of the facility, and reports
20 those levels annually to the Secretary.”; and

21 (4) in the eighth sentence, in each of subpara-
22 graphs (B) and (C), by striking “paragraph (9)”
23 each place it appears and inserting “paragraph
24 (10)”.

1 (b) SKILLED NURSING FACILITY AND NURSING FA-
2 CILITY REQUIREMENTS.—

3 (1) SKILLED NURSING FACILITIES.—Section
4 1819(d)(3) of the Social Security Act (42 U.S.C.
5 1395i–3(d)(3)) is amended—

6 (A) in subparagraph (A), by striking “,
7 and” and inserting a comma;

8 (B) in subparagraph (B), by striking the
9 period at the end and inserting “, and”; and

10 (C) by adding at the end the following new
11 subparagraph:

12 “(C) develop an active surveillance pro-
13 gram to track and record disaggregated influ-
14 enza vaccination levels among health care work-
15 ers, including vaccinations obtained outside of
16 the facility, and report those levels annually to
17 the Secretary.”.

18 (2) NURSING FACILITIES.—Section 1919(d)(3)
19 of the Social Security Act (42 U.S.C. 1396r(d)(3))
20 is amended—

21 (A) in subparagraph (A), by striking “,
22 and” and inserting a comma;

23 (B) in subparagraph (B), by striking the
24 period at the end and inserting “, and”; and

1 (C) by adding at the end the following new
2 subparagraph:

3 “(C) develop an active surveillance pro-
4 gram to track and record disaggregated influ-
5 enza vaccination levels among health care work-
6 ers, including vaccinations obtained outside of
7 the facility, and report those levels annually to
8 the Secretary.”.

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