

112TH CONGRESS
2D SESSION

S. 3463

To amend title XVIII of the Social Security Act to reduce the incidence of diabetes among Medicare beneficiaries.

IN THE SENATE OF THE UNITED STATES

JULY 31, 2012

Mr. FRANKEN (for himself, Mr. LUGAR, Mr. ROCKEFELLER, Ms. COLLINS, Mrs. SHAHEEN, Mr. WYDEN, Mr. BLUMENTHAL, and Mr. BROWN of Ohio) 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 reduce the incidence of diabetes among Medicare beneficiaries.

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 “Medicare Diabetes
5 Prevention Act of 2012”.

6 **SEC. 2. DIABETES PREVENTION UNDER THE MEDICARE**
7 **PROGRAM.**

8 (a) COVERAGE OF DIABETES PREVENTION PROGRAM
9 SERVICES.—

1 (1) COVERAGE OF SERVICES.—

2 (A) IN GENERAL.—Section 1861(s)(2) of
3 the Social Security Act (42 U.S.C. 1395x(s)(2))
4 is amended—

5 (i) in subparagraph (EE), by striking
6 “and” after the semicolon at the end;

7 (ii) in subparagraph (FF), by insert-
8 ing “and” after the semicolon at the end;
9 and

10 (iii) by adding at the end the fol-
11 lowing new subparagraph:

12 “(GG) items and services furnished under a di-
13 abetes prevention program (as defined in subsection
14 (iii)(1)) to an eligible diabetes prevention program
15 individual (as defined in subsection (iii)(2));”.

16 (B) DEFINITIONS.—Section 1861 of the
17 Social Security Act (42 U.S.C. 1395x) is
18 amended by adding at the end the following
19 new subsection:

20 “Diabetes Prevention Program; Eligible Diabetes Preven-
21 tion Program Individual; Qualified Diabetes Preven-
22 tion Program Provider

23 “(iii)(1)(A) The term ‘diabetes prevention program’
24 means a program that—

1 “(i) meets the criteria described in subpara-
2 graph (B); and

3 “(ii) is furnished by a qualified diabetes preven-
4 tion program provider (as defined in paragraph
5 (3)(A)).

6 “(B) The Secretary shall establish the criteria for a
7 diabetes prevention program. Such criteria shall be in ac-
8 cordance with the standards under the National Diabetes
9 Prevention Program, as established by the Centers for
10 Disease Control and Prevention, and shall require that the
11 program complies with the Federal regulations (con-
12 cerning the privacy of individually identifiable health in-
13 formation) promulgated under section 264(c) of the
14 Health Insurance Portability and Accountability Act of
15 1996. In establishing such criteria, the Secretary may also
16 consider other factors or clinical evidence as the Secretary
17 determines appropriate.

18 “(C) Items and services furnished under a diabetes
19 prevention program may be furnished in a community set-
20 ting, as defined by the Secretary.

21 “(D) The Secretary shall establish procedures under
22 which a qualified diabetes prevention program provider
23 may contract with a diabetes prevention program delivery
24 partner to furnish the items and services under a diabetes
25 prevention program. For purposes of this subsection, the

1 term ‘diabetes prevention program delivery partner’ means
2 an entity, including non-profit organizations, public and
3 private hospitals, State and local departments of public
4 health, and Federally qualified health centers, that meets
5 criteria established by the Secretary. Such criteria shall
6 be in accordance with the standards under the National
7 Diabetes Prevention Program, as established by the Cen-
8 ters for Disease Control and Prevention. In establishing
9 such criteria, the Secretary may also consider other fac-
10 tors or clinical evidence as the Secretary determines ap-
11 propriate.

12 “(2)(A) The term ‘eligible diabetes prevention pro-
13 gram individual’ means an individual at risk for diabetes
14 (as defined in subsection (yy)(2)) who would benefit from
15 items and services under a diabetes prevention program,
16 as determined based on criteria established by the Sec-
17 retary.

18 “(B) The criteria established under subparagraph
19 (A) shall be in accordance with the standards under the
20 National Diabetes Prevention Program, as established by
21 the Centers for Disease Control and Prevention. In estab-
22 lishing such criteria, the Secretary may also consider other
23 factors or clinical evidence as the Secretary determines ap-
24 propriate.

1 “(3)(A)(i) The term ‘qualified diabetes prevention
2 program provider’ means any entity, including a Federally
3 qualified health center, that the Secretary determines—

4 “(I) is appropriate to furnish items and services
5 under a diabetes prevention program; and

6 “(II) meets criteria established by the Sec-
7 retary, in consultation with the Centers for Disease
8 Control and Prevention.

9 “(ii) A qualified diabetes prevention program pro-
10 vider may be, as determined appropriate by the Secretary,
11 a supplier (as defined in subsection (d)), a provider of
12 services (as defined in subsection (u)), a health insurance
13 or services company, a community-based organization, or
14 any other appropriate entity.

15 “(B) A qualified diabetes prevention program pro-
16 vider shall—

17 “(i) furnish the items and services under the di-
18 abetes prevention program through a delivery part-
19 ner (pursuant to paragraph (1)(D)) unless no such
20 delivery partner is available;

21 “(ii) manage and track the outcomes of a diabe-
22 tes prevention program (including attendance and
23 weight loss of participating individuals) through de-
24 fined systems, including outcomes of programs fur-
25 nished under contract with a diabetes prevention

1 program delivery partner as defined in paragraph
2 (1)(D);

3 “(iii) implement business processes to manage
4 program workflow, such as eligibility, reporting,
5 claims billing, class scheduling, and enrollment;

6 “(iv) manage and verify billing accuracy and
7 beneficiary eligibility (as described in paragraph
8 (2));

9 “(v) comply with applicable laws and regula-
10 tions and ensure such compliance by a diabetes pre-
11 vention program delivery partner;

12 “(vi) perform various forms of engagement
13 with, and outreach to, eligible diabetes prevention
14 program individuals, including those participating in
15 programs furnished under contract with a diabetes
16 prevention program delivery partner;

17 “(vii) comply with all program integrity require-
18 ments as established by the Secretary; and

19 “(viii) perform such other functions as estab-
20 lished by the Secretary.”.

21 (2) AMOUNT OF PAYMENT.—Section 1833(a)(1)
22 of the Social Security Act (42 U.S.C. 1395l(a)(1))
23 is amended—

24 (A) by striking “and (Z)” and inserting
25 “(Z)”; and

1 (B) by inserting before the semicolon at
2 the end the following: “, and (AA) with respect
3 to items and services furnished under a diabetes
4 prevention program (as defined in section
5 1861(iii)(1)), the amount paid shall be 100 per-
6 cent of (i) except as provided in clause (ii), the
7 lesser of the actual charge for the items and
8 services or the amount determined under the
9 fee schedule that applies to such items and
10 services under this part, as determined by the
11 Secretary, and (ii) in the case of such items and
12 services that are covered OPD services (as de-
13 fined in subsection (t)(1)(B)), the amount de-
14 termined under subsection (t)”.

15 (3) WAIVER OF APPLICATION OF DEDUCT-
16 IBLE.—The first sentence of section 1833(b) of the
17 Social Security Act (42 U.S.C. 1395l(b)) is amend-
18 ed—

19 (A) by striking “and” before “(10)”; and

20 (B) by inserting before the period the fol-
21 lowing: “, and (11) such deductible shall not
22 apply with respect to items and services under
23 a diabetes prevention program (as defined in
24 section 1861(iii)(1))”.

1 (4) ASSIGNMENT OF CLAIMS.—Section
2 1842(b)(18)(C) of the Social Security Act (42
3 U.S.C. 1395u(b)(18)(C)) is amended by adding at
4 the end the following new clause:

5 “(vii) A qualified diabetes prevention program
6 provider (as defined in section 1861(iii)(3)(A)).”.

7 (5) EXCLUSION OF ITEMS AND SERVICES
8 UNDER A DIABETES PREVENTION PROGRAM FROM
9 SKILLED NURSING FACILITY PROSPECTIVE PAYMENT
10 SYSTEM.—Section 1888(e)(2)(A)(ii) of the Social Se-
11 curity Act (42 U.S.C. 1395yy(e)(2)(A)(ii)) is amend-
12 ed by inserting “items and services under a diabetes
13 prevention program (as defined in section
14 1861(iii)(1)),” after “qualified psychologist serv-
15 ices,”.

16 (6) INCLUSION IN FEDERALLY QUALIFIED
17 HEALTH CENTER SERVICES.—Section 1861(aa)(3) of
18 the Social Security Act (42 U.S.C. 1395x(aa)(3)) is
19 amended—

20 (A) in subparagraph (A), by striking
21 “and” at the end;

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

24 (C) by adding after subparagraph (B) the
25 following new subparagraph:

1 “(C) items and services under a diabetes pre-
2 vention program (as defined in section
3 1861(iii)(1)),”.

4 (7) SPECIAL CONSIDERATION FOR THE DUAL
5 ELIGIBLE POPULATION.—In implementing the
6 amendments made by this subsection, the Secretary
7 of Health and Human Services shall give special
8 consideration to the needs of individuals who are du-
9 ally eligible for benefits under the Medicare and
10 Medicaid programs.

11 (8) EVALUATION AND REPORT TO CONGRESS.—

12 (A) EVALUATION.—The Secretary of
13 Health and Human Services shall conduct an
14 evaluation on the coverage of items and services
15 under a diabetes prevention program under the
16 Medicare program, as added by the amend-
17 ments made by this subsection. Such evaluation
18 shall include an analysis of—

19 (i) the impact of the provision of such
20 coverage on Medicare beneficiaries, includ-
21 ing the impact on various populations,
22 such as individuals who are dually eligible
23 for benefits under the Medicare and Med-
24 icaid programs, and the impact of the pro-

1 vision of such coverage on health dispari-
2 ties;

3 (ii) the rate at which physicians refer
4 eligible diabetes prevention program indi-
5 viduals to diabetes prevention programs
6 under the Medicare program;

7 (iii) Medicare beneficiary participation
8 levels in diabetes prevention programs
9 under the Medicare program and the
10 awareness of Medicare beneficiaries of the
11 benefit;

12 (iv) the health outcomes resulting
13 from completion of a diabetes prevention
14 program under the Medicare program;

15 (v) program integrity protections im-
16 portant to diabetes prevention programs
17 under the Medicare program; and

18 (vi) other areas determined appro-
19 priate by the Secretary.

20 (B) REPORT.—Not later than January 1,
21 2018, the Secretary of Health and Human
22 Services shall submit to Congress a report on
23 the evaluation conducted under subparagraph
24 (A), together with recommendations for such

1 legislation and administrative actions as the
2 Secretary determines appropriate.

3 (9) EFFECTIVE DATE.—The amendments made
4 by paragraphs (1) through (6) shall apply with re-
5 spect to services furnished on or after January 1,
6 2014.

7 (b) INCLUSION OF REFERRAL RATES TO DIABETES
8 PREVENTION PROGRAMS IN THE MEDICARE PHYSICIAN
9 QUALITY REPORTING SYSTEM.—Section 1848(k)(2)(C)(i)
10 of the Social Security Act (42 U.S.C. 1395w-
11 4(k)(2)(C)(i)) is amended by adding at the end the fol-
12 lowing new sentence: “For purposes of reporting data on
13 quality measures for covered professional services fur-
14 nished during 2017 and each subsequent year, the quality
15 measures specified under this paragraph shall include a
16 measure with respect to referrals of eligible diabetes pre-
17 vention program individuals (as defined in paragraph (2)
18 of section 1861(iii)) to diabetes prevention programs (as
19 defined in paragraph (1) of such section).”.

20 (c) INCLUSION OF DIABETES RISK ASSESSMENT IN
21 MEDICARE PERSONALIZED PREVENTION PLAN.—

22 (1) IN GENERAL.—Section 1861(hhh)(2)(C) of
23 the Social Security Act (42 U.S.C.
24 1395x(hhh)(2)(C)) is amended by inserting before
25 the period at the end the following: “, and an assess-

1 ment of whether the individual is an individual at
2 risk for diabetes (as defined in subsection (yy)(2))”.

3 (2) EFFECTIVE DATE.—The amendments made
4 by this subsection shall apply to personalized preven-
5 tion plans created or updated on or after January
6 1, 2014.

7 **SEC. 3. FINDINGS; SENSE OF THE SENATE REGARDING DIA-**
8 **BETES PREVENTION UNDER THE MEDICAID**
9 **PROGRAM.**

10 (a) FINDINGS.—Congress makes the following find-
11 ings:

12 (1) The prevalence and cost of diabetes is a sig-
13 nificant concern for State Medicaid programs. By
14 2020, the Medicaid program is expected to cover
15 13,000,000 people with diabetes and about
16 9,000,000 people who may have pre-diabetes. By
17 2020, States will spend an estimated
18 \$83,000,000,000 on individuals with diabetes or pre-
19 diabetes.

20 (2) The National Diabetes Prevention Program,
21 as established by the Centers for Disease Control
22 and Prevention, has been proven to reduce the onset
23 of diabetes in at-risk adults by 58 percent, using a
24 cost-effective, community-based intervention.

1 (b) SENSE OF THE SENATE.—It is the sense of the
2 Senate that the National Diabetes Prevention Program
3 presents an opportunity for States to reduce the incidence
4 of diabetes among individuals enrolled in their Medicaid
5 programs.

○