

112TH CONGRESS
2D SESSION

S. 3699

To amend title XVIII of the Social Security Act to include information on the coverage of intensive behavioral therapy for obesity in the Medicare and You Handbook, to provide written notification to beneficiaries and providers regarding new Medicare coverage of intensive behavioral therapy for obesity, and to provide for the coordination of programs to prevent and treat obesity, and for other purposes.

IN THE SENATE OF THE UNITED STATES

DECEMBER 20, 2012

Mr. CARPER 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 include information on the coverage of intensive behavioral therapy for obesity in the Medicare and You Handbook, to provide written notification to beneficiaries and providers regarding new Medicare coverage of intensive behavioral therapy for obesity, and to provide for the coordination of programs to prevent and treat obesity, and for other purposes.

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.**

2 This Act may be cited as the “Treat and Reduce Obe-
3 sity Act of 2012”.

4 **SEC. 2. FINDINGS.**

5 Congress makes the following findings:

6 (1) According to the Centers for Disease Con-
7 trol and Prevention, over 78,000,000 adults in the
8 United States are obese.

9 (2) Over 40 percent of women over age 60 and
10 over 35 percent of men over age 60 are obese.

11 (3) Obesity increases the risk for chronic dis-
12 eases and conditions, including high blood pressure,
13 heart disease, and type 2 diabetes.

14 (4) Forty-nine percent of Americans have at
15 least one chronic disease.

16 (5) In 2008, in the United States, health care
17 costs associated with obesity reached
18 \$147,000,000,000.

19 (6) Seventy-five percent of Americans will be
20 overweight or obese by 2020.

21 (7) Forty-two percent of Americans will be
22 obese by 2030, resulting in up to \$550,000,000,000
23 in associated health care costs.

1 **SEC. 3. INCLUSION OF INFORMATION ON COVERAGE OF IN-**
 2 **TENSIVE BEHAVIORAL THERAPY FOR OBE-**
 3 **SITY IN THE MEDICARE AND YOU HANDBOOK**
 4 **AND ADDITIONAL NOTIFICATION OF BENE-**
 5 **FICIARIES AND PROVIDERS.**

6 (a) INCLUSION OF INFORMATION ON COVERAGE IN
 7 THE MEDICARE AND YOU HANDBOOK.—

8 (1) IN GENERAL.—Section 1804(a) of the So-
 9 cial Security Act (42 U.S.C. 1395b–2(a)) is amend-
 10 ed—

11 (A) in paragraph (2), by striking “and” at
 12 the end;

13 (B) in paragraph (3), by striking the pe-
 14 riod at the end and inserting “, and”; and

15 (C) by inserting after paragraph (3) the
 16 following new paragraph:

17 “(4) information on the coverage of intensive
 18 behavioral therapy for obesity under this title, in-
 19 cluding information regarding primary care physi-
 20 cians and other providers of services and suppliers
 21 who are eligible to furnish such therapy.”.

22 (2) EFFECTIVE DATE.—The amendments made
 23 by this subsection shall apply to notices distributed
 24 on or after the date of enactment of this Act.

25 (b) NEW NOTIFICATION OF BENEFIT FOR MEDICARE
 26 BENEFICIARIES.—Not later than 6 months after the date

1 of enactment of this Act, the Secretary of Health and
2 Human Services shall provide to Medicare beneficiaries
3 distinct, written notification regarding the coverage of in-
4 tensive behavioral therapy for obesity under title XVIII
5 of the Social Security Act (42 U.S.C. 1395 et seq.) as
6 an additional preventive service.

7 (c) NOTIFICATION OF BENEFIT FOR MEDICARE PRO-
8 VIDERS.—Section 1861(ddd) of the Social Security Act
9 (42 U.S.C. 1395x(ddd)) is amended by adding at the end
10 the following new paragraph:

11 “(4) The Secretary shall provide to primary care phy-
12 sicians and other providers of services and suppliers deter-
13 mined appropriate by the Secretary distinct, written notifi-
14 cation regarding the coverage of intensive behavioral ther-
15 apy for obesity under this title as an additional preventive
16 service. Such notification shall be provided annually for
17 the first 3 years following the date of enactment of the
18 Treat and Reduce Obesity Act of 2012 and, after such
19 3-year period, as the Secretary determines appropriate.”.

1 **SEC. 4. PLAN FOR COORDINATION OF HHS EFFORTS; PRO-**
2 **VIDING THE SECRETARY OF HEALTH AND**
3 **HUMAN SERVICES WITH AUTHORITY TO CO-**
4 **ORDINATE PROGRAMS TO PREVENT AND**
5 **TREAT OBESITY AND EXPAND COVERAGE OP-**
6 **TIONS FOR OBESITY UNDER MEDICARE.**

7 Section 1861(ddd) of the Social Security Act (42
8 U.S.C. 1395x(ddd)), as amended by section 3, is amended
9 by adding at the end the following new paragraph:

10 “(5)(A) Not later than 1 year after the date of enact-
11 ment of the Treat and Reduce Obesity Act of 2012, the
12 Secretary shall develop and implement a plan to coordi-
13 nate the efforts of all offices and agencies of the Depart-
14 ment of Health and Human Services (such as the Centers
15 for Medicare & Medicaid Services, the Centers for Disease
16 Control and Prevention, the National Institutes of Health,
17 the Health Resources and Services Administration, and
18 other offices and agencies) to treat, reduce, and prevent
19 obesity and overweight in the adult population. Beginning
20 2 years after such date of enactment, the Secretary shall
21 annually update such plan.

22 “(B) In developing and implementing the plan under
23 subparagraph (A), the Secretary shall work with at least
24 5 representatives, selected by the Secretary, of expert or-
25 ganizations (such as public health associations, key
26 healthcare provider groups, planning and development or-

1 ganizations, education associations, advocacy groups, pa-
2 tient groups, relevant industries, State and local leader-
3 ship, and other entities as determined appropriate by the
4 Secretary).

5 “(C) The plan under subparagraph (A) shall include
6 the following:

7 “(i) Strategies to comprehensively treat and re-
8 duce overweight and obesity.

9 “(ii) A description of—

10 “(I) the coordination of interagency co-
11 operation under the plan; and

12 “(II) actions under the plan related to the
13 treatment and reduction of overweight and obe-
14 sity in the United States.

15 “(iii) Identification of best practices in States,
16 communities, organizations, businesses, and other
17 entities as appropriate, regarding treatment of over-
18 weight and obesity.

19 “(iv) A description of collaboration with States,
20 communities, organizations, businesses, and other
21 appropriate entities to evaluate the effectiveness of
22 obesity and overweight interventions under the plan.

23 “(v) Research initiatives, including ongoing sur-
24 veillance and monitoring using tools such as the Na-
25 tional Health and Nutrition Examination Survey

1 and the Behavioral Risk Factor Surveillance System
2 and assurances for adequate and consistent funding
3 to support data collection and analysis to inform pol-
4 icy under the plan.

5 “(vi) Recommendations for the coordination of
6 budgets, grant and pilot programs, policies, and pro-
7 grams across Federal agencies to cohesively treat
8 overweight and obesity.

9 “(D) Not later than 24 months after the date of en-
10 actment of the Treat and Reduce Obesity Act of 2012,
11 and on an annual basis thereafter, the Secretary shall sub-
12 mit to the President and to the relevant committees of
13 Congress, a report that—

14 “(i) summarizes the plan under subparagraph
15 (A) to coordinate interagency efforts surrounding
16 the treatment, reduction, and prevention of obesity
17 and overweight, including a detailed strategic plan
18 with recommendations for each office and agency in-
19 volved;

20 “(ii) in the case of the second report submitted
21 under this subparagraph (and each subsequent re-
22 port), evaluates the effectiveness of those coordi-
23 nated interventions and conducts interim assess-
24 ments and reporting of health outcomes, achieve-

1 ment of milestones, and implementation of strategic
2 plan goals; and

3 “(iii) makes recommendations for updating the
4 plan for the following year based on data and find-
5 ings from the previous year.

6 “(E) There is authorized to be appropriated to carry
7 out this paragraph, \$5,000,000 for the period of fiscal
8 years 2014 through 2023, to remain available until ex-
9 pended.”.

10 **SEC. 5. AUTHORITY TO EXPAND HEALTH CARE PROVIDERS**

11 **QUALIFIED TO FURNISH INTENSIVE BEHAV-**
12 **IORAL THERAPY.**

13 Section 1861(ddd) of the Social Security Act (42
14 U.S.C. 1395x(ddd)), as amended by sections 3 and 4, is
15 amended by adding at the end the following new para-
16 graph:

17 “(6) The Secretary may, in addition to qualified pri-
18 mary care physicians and other primary care practitioners,
19 allow other appropriate health care providers (such as
20 physicians with other primary specialty designations, li-
21 censed professional counselors, and registered dieticians),
22 instructors trained in lifestyle counseling programs such
23 as the Diabetes Prevention Program, and programs recog-
24 nized by the Centers for Disease Control and Prevention
25 to provide intensive behavioral therapy for obesity.”.

1 **SEC. 6. PROVIDING THE SECRETARY OF HEALTH AND**
2 **HUMAN SERVICES WITH THE AUTHORITY TO**
3 **INCLUDE CHRONIC WEIGHT MANAGEMENT**
4 **DRUGS AS MEDICARE COVERED PART D**
5 **DRUGS.**

6 (a) **IN GENERAL.**—Section 1860D–2(e)(1) of the So-
7 cial Security Act (42 U.S.C. 1395w–102(e)(1)) is amend-
8 ed by adding at the end of the flush matter following sub-
9 paragraph (B) the following new sentence “Notwith-
10 standing any other provision of this section, such term
11 also includes a drug described in the second sentence of
12 section 1927(d)(2)(A) (relating to drugs used for weight
13 management) if the Secretary determines that coverage of
14 such a drug under this part is appropriate.”.

15 (b) **EFFECTIVE DATE.**—The amendment made by
16 subsection (a) shall apply to plan years beginning on or
17 after the date that is 2 years after the date of enactment
18 of this Act.

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