

112<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 6548

To amend title XVIII of the Social Security Act to provide coverage under the Medicare program for diabetes prevention services.

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## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 21, 2012

Mr. SHULER (for himself and Mrs. DAVIS of California) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To amend title XVIII of the Social Security Act to provide coverage under the Medicare program for diabetes prevention services.

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 “Diabetes Prevention  
5 Act of 2012”.

1 **SEC. 2. MEDICARE COVERAGE FOR DIABETES PREVENTION**  
2 **SERVICES.**

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

5 **“SEC. 1899B. DIABETES PREVENTION PROGRAM.**

6 “(a) PAYMENTS FOR DIABETES PREVENTION SERV-  
7 ICES.—

8 “(1) IN GENERAL.—Beginning not later than  
9 January 1, 2013, the Secretary shall make payments  
10 to qualified third-party intermediaries for diabetes  
11 prevention services furnished to prediabetic Medicare  
12 beneficiaries by eligible entities in local communities  
13 that are networked and managed by such third-party  
14 intermediaries, for the purpose of preventing such  
15 beneficiaries from developing diabetes.

16 “(2) SOURCE.—The payments under paragraph  
17 (1) shall be made from the Federal Supplementary  
18 Medical Insurance Trust Fund.

19 “(3) SPECIAL CONSIDERATION FOR THE DUAL  
20 ELIGIBLE INDIVIDUALS.—In implementing this sec-  
21 tion, the Secretary of Health and Human Services  
22 shall give special consideration to the needs of dual  
23 eligible individuals (as such term is defined in sec-  
24 tion 1915(h)(2)(B)).

1       “(b) DIABETES PREVENTION SERVICES AND  
2 PREDIABETIC MEDICARE BENEFICIARY DEFINED.—For  
3 purposes of this section:

4           “(1) DIABETES PREVENTION SERVICES.—The  
5 term ‘diabetes prevention services’ means services  
6 that—

7           “(A) are furnished to prediabetic Medicare  
8 beneficiaries by an eligible entity; and

9           “(B) are components of a diabetes preven-  
10 tion program that meets the requirements,  
11 goals, and objectives of the National Diabetes  
12 Program of the Centers for Disease Control  
13 and Prevention (including use of the curriculum  
14 of such program).

15           “(2) PREDIABETIC MEDICARE BENEFICIARY.—  
16 The term ‘prediabetic Medicare beneficiary’ means  
17 an individual who is entitled to benefits under part  
18 A, or enrolled for benefits under part B and who  
19 meets criteria that the Secretary may establish, in  
20 consultation with the Director of the Centers for  
21 Disease Control and Prevention. Such criteria shall  
22 be similar to the criteria for participation in the Na-  
23 tional Diabetes Program of the Centers for Disease  
24 Control and Prevention.

1       “(c) ELIGIBLE ENTITIES.—For purposes of this sec-  
2 tion:

3               “(1) IN GENERAL.—The term ‘eligible entity’  
4 means an entity (such as a provider of services, phy-  
5 sician, or other health care practitioner, a trained  
6 lifestyle coach, community-based organization, or a  
7 health insurance or services company) that the Sec-  
8 retary determines—

9               “(A) can appropriately furnish diabetes  
10 prevention services through a diabetes preven-  
11 tion program that satisfies the requirements of  
12 subsection (b)(1)(B);

13               “(B)(i) has entered into a contract with a  
14 qualified third-party intermediary that meets  
15 the requirements of subsection (e); or

16               “(ii) is a third-party intermediary and  
17 meets the requirements of subsection  
18 (d)(1)(A)(ii); and

19               “(C) is recognized by the Centers for Dis-  
20 ease Control and Prevention under the Diabetes  
21 Prevention Recognition Program and such rec-  
22 ognition has not expired.

23               “(2) TRAINED LIFESTYLE COACH.—The term  
24 ‘trained lifestyle coach’ means an individual who has  
25 received adequate training, as determined by the

1 Secretary, in the curriculum of the National Diabe-  
2 tes Program of the Centers for Disease Control and  
3 Prevention to provide diabetes prevention services.

4 “(d) QUALIFIED THIRD-PARTY INTERMEDIARY.—

5 “(1) IN GENERAL.—For purposes of this sec-  
6 tion, the term ‘qualified third-party intermediary’  
7 means a third-party intermediary that has entered  
8 into a contract with the Secretary to conduct the fol-  
9 lowing activities:

10 “(A) MANAGED NETWORK OF ELIGIBLE  
11 ENTITIES.—The third-party intermediary—

12 “(i) has entered into a contract that  
13 meets the requirements of subsection (e)  
14 with one or more eligible entities; or

15 “(ii) is an eligible entity.

16 “(B) TRACKING, PROCESSING, AND EN-  
17 GAGEMENT.—The third-party intermediary  
18 shall—

19 “(i) if such intermediary has not en-  
20 tered into a contract described in subpara-  
21 graph (A)(i), furnish diabetes prevention  
22 services;

23 “(ii) track, using adequate informa-  
24 tion technology systems, the outcomes (in-  
25 cluding class attendance and weight loss)

1 of the diabetes prevention services fur-  
2 nished to prediabetic Medicare bene-  
3 ficiaries by such intermediary or by any el-  
4 igible entity with a contract with the inter-  
5 mediary under subparagraph (A)(i);

6 “(iii) implement business processes to  
7 manage workflow (such as eligibility, re-  
8 porting, claims billing, class scheduling,  
9 and enrollment) related to the provision of  
10 diabetes prevention services to prediabetic  
11 Medicare beneficiaries by the intermediary  
12 or eligible entities with contracts with the  
13 intermediary under subparagraph (A)(i);

14 “(iv) perform various forms of en-  
15 gagement with, and outreach to,  
16 prediabetic Medicare beneficiaries, includ-  
17 ing individuals receiving diabetes preven-  
18 tion services from eligible entities with con-  
19 tracts with the intermediary under sub-  
20 paragraph (A)(i);

21 “(v) comply with all program integrity  
22 requirements established by the Secretary;  
23 and

1           “(vi) perform such other functions as  
2           required by the Secretary through the con-  
3           tract under this paragraph.

4           “(C) CLAIMS BILLING.—The third-party  
5           intermediary will promptly and accurately sub-  
6           mit billing information to the Secretary for dia-  
7           betes prevention services furnished to a  
8           prediabetic Medicare beneficiary by an eligible  
9           entity with which the third-party intermediary  
10          has a contract under subparagraph (A)(i).

11          “(D) OUTREACH TO HEALTH CARE PRO-  
12          VIDERS.—The third-party intermediary provides  
13          outreach and education for health care pro-  
14          viders (as such term is defined in section  
15          1855(d)(5)) about the availability of diabetes  
16          prevention services and the benefits of patient  
17          participation in such services.

18          “(E) REPORTING ON SERVICES PRO-  
19          VIDED.—The third-party intermediary shall re-  
20          port to the Secretary the following information:

21                 “(i) Information on the participation  
22                 of prediabetic Medicare beneficiaries in the  
23                 diabetes prevention services furnished—

1                   “(I) by each eligible entity with  
2                   which such intermediary has a con-  
3                   tract under subparagraph (A)(i); and

4                   “(II) the third-party beneficiary,  
5                   if the third-party intermediary is an  
6                   eligible entity.

7                   “(ii) Information on the impact of  
8                   such participation on such beneficiaries  
9                   (including weight loss).

10                  “(iii) Any information required by the  
11                  Secretary for purposes of ensuring that the  
12                  third-party intermediary is conducting the  
13                  oversight required under subsection (e)(5).

14                  “(F) ORGANIZATIONAL STRUCTURE.—The  
15                  third-party intermediary meets such require-  
16                  ments for organizational structure as the Sec-  
17                  retary may specify, to ensure that such third-  
18                  party intermediary can meet the requirements  
19                  of this Act.

20                  “(2) TYPES OF THIRD-PARTY INTER-  
21                  MEDIARIES.—The term ‘third-party intermediary’  
22                  may include—

23                         “(A) an accountable care organization  
24                         under section 1899;

25                         “(B) a technology company;



1           “(C) a provider of services (as such term  
2 is defined in section 1861(u));

3           “(D) a health insurance or services com-  
4 pany (including population health or disease  
5 management companies);

6           “(E) a community-based organization or a  
7 network of community-based organizations;

8           “(F) a faith-based organization; or

9           “(G) any other organization that the Sec-  
10 retary determines is capable of managing a net-  
11 work of eligible entities and meeting the re-  
12 quirements for a qualified third-party inter-  
13 mediary under paragraph (1).

14           “(3) OVERSIGHT.—The Secretary shall monitor  
15 the third-party intermediaries to prevent fraud and  
16 abuse in the provision of diabetes prevention services  
17 to prediabetic Medicare beneficiaries.

18           “(e) CONTRACTS BETWEEN ELIGIBLE ENTITIES AND  
19 THIRD-PARTY INTERMEDIARIES.—A contract between an  
20 eligible entity and a third-party intermediary meets the  
21 requirements of this subsection if the contract provides for  
22 the following:

23           “(1) PAYMENT FOR SERVICES.—The third-  
24 party intermediary shall provide payment to the eli-  
25 gible entity for diabetes prevention services fur-

1 nished to prediabetic Medicare beneficiaries by such  
2 entity.

3 “(2) ELIGIBILITY AND ENROLLMENT.—The  
4 third-party intermediary shall conduct the following  
5 activities (unless the contract specifically assigns any  
6 of these activities to the eligible entity):

7 “(A) Determine whether individuals are  
8 prediabetic Medicare beneficiaries who are eligi-  
9 ble to receive diabetes prevention services pur-  
10 suant to this section.

11 “(B) Scheduling and enrollment for diabe-  
12 tes prevention services furnished by the eligible  
13 entity.

14 “(C) Develop and manage a process to as-  
15 sist health care providers (as such term is de-  
16 fined in section 1855(d)(5)) in referring  
17 prediabetic Medicare beneficiaries to eligible en-  
18 tities for diabetes prevention services.

19 “(3) OUTREACH AND CUSTOMER SERVICE FOR  
20 BENEFICIARIES.—The third-party intermediary  
21 shall—

22 “(A) use a variety of methods to identify  
23 individuals who are likely to be prediabetic  
24 Medicare beneficiaries and inform such bene-  
25 ficiaries of diabetes prevention services offered

1 by the eligible entity (and other eligible entities  
2 with which such third-party intermediary has a  
3 contract under this subsection); and

4 “(B) provide customer service and support  
5 for prediabetic Medicare beneficiaries who are  
6 seeking or receiving diabetes prevention services  
7 furnished by the eligible entity.

8 “(4) PERFORMANCE.—The third-party inter-  
9 mediary shall monitor the performance of the eligible  
10 entity with respect to diabetes prevention services  
11 furnished to prediabetic Medicare beneficiaries by  
12 such entity and ensure that such performance is  
13 consistent with the requirements of this section.

14 “(5) OVERSIGHT.—The third-party inter-  
15 mediary shall monitor the eligible entity to prevent  
16 fraud and abuse in the provision of diabetes preven-  
17 tion services to prediabetic Medicare beneficiaries.

18 “(6) AUDITS.—

19 “(A) IN GENERAL.—The third-party inter-  
20 mediary may conduct audits of the eligible enti-  
21 ty to ensure—

22 “(i) that such entity—

23 “(I) is providing diabetes preven-  
24 tion services that meet the require-  
25 ments, goals, and objectives of the

1 National Diabetes Program of the  
2 Centers for Disease Control and Pre-  
3 vention; and

4 “(II) is complying with the re-  
5 quirements of subsection (g) (related  
6 to privacy);

7 “(ii) that individuals receiving diabe-  
8 tes prevention services for which payment  
9 is made pursuant to a contract under this  
10 section to the eligible entity are prediabetic  
11 Medicare beneficiaries; and

12 “(iii) that the claims for payment sub-  
13 mitted by the eligible entity to the third-  
14 party intermediary are accurate and com-  
15 ply with the requirements of the contract  
16 under this subsection.

17 “(B) ACCESS.—The eligible entity shall  
18 provide the third-party intermediary with access  
19 to information necessary to complete the audits  
20 under subparagraph (A).

21 “(f) PAYMENTS FOR DIABETES PREVENTION PRO-  
22 GRAM SERVICES.—

23 “(1) IN GENERAL.—Under the contract under  
24 subsection (d)(1) the Secretary shall agree to make  
25 payments to the third-party intermediary for diabe-

1 tes prevention services furnished to prediabetic  
2 Medicare beneficiaries by eligible entities with con-  
3 tracts with such third-party intermediary (or in the  
4 case of a third-party intermediary that is an eligible  
5 entity, diabetes prevention services furnished to such  
6 beneficiaries by such third-party intermediary).

7 “(2) AMOUNT OF PAYMENT FOR 2013.—With  
8 respect to diabetes prevention program services fur-  
9 nished to a prediabetic Medicare beneficiary, the  
10 amount of payment made under paragraph (1) for  
11 2013 is the sum of any of the following amounts  
12 that are applicable to such beneficiary:

13 “(A) \$100 for the enrollment of such indi-  
14 vidual in a diabetes prevention program that  
15 meets the requirements, goals, and objectives of  
16 the National Diabetes Program of the Centers  
17 for Disease Control and Prevention (including  
18 use of the curriculum of such program) and is  
19 provided by an eligible entity with which the  
20 third-party intermediary has a contract under  
21 subsection (e) or by the third-party inter-  
22 mediary directly, if the third-party intermediary  
23 is an eligible entity.

1           “(B) \$150 for any such individual who at-  
2 tends at least 4 class sessions, as specified in  
3 such curriculum.

4           “(C) \$200 for any such individual who at-  
5 tends at least 9 class sessions (including the 4  
6 class sessions described in subparagraph (B)),  
7 as specified in such curriculum.

8           “(D) \$120 for any such individual who—

9                   “(i) attends all of the sessions de-  
10 scribed in subparagraphs (B) and (C); and

11                   “(ii) loses at least 5 percent of the in-  
12 dividual’s total body weight during the  
13 time period that begins on the date of the  
14 first such session attended by such indi-  
15 vidual, and ends 60 days after the comple-  
16 tion of the last such session attended by  
17 such individual.

18           “(E) An additional \$40 for any individual  
19 who meets the requirements of subparagraph  
20 (D)(i) and who loses at least 9 percent of total  
21 body weight during the time period described in  
22 subparagraph (D)(ii).

23           “(3) PAYMENT AMOUNTS FOR 2014 AND SUBSE-  
24 QUENT YEARS.—For 2014 and subsequent years,  
25 with respect to diabetes prevention program services

1 furnished to a prediabetic Medicare beneficiary, the  
2 amount of payment under this subsection shall be  
3 the amount payable under this subsection in the pre-  
4 vious year, increased by an appropriate amount, as  
5 determined by the Secretary, to account for infla-  
6 tion. The amount of such increase shall not be less  
7 than the percentage change in the Consumer Price  
8 Index for all urban consumers (U.S. city average)  
9 for such year.

10 “(g) PRIVACY AND SECURITY REQUIREMENTS.—

11 Each eligible entity and third-party intermediary shall, to  
12 the extent such entity or intermediary handles individually  
13 identifiable health information related to furnishing diabe-  
14 tes prevention services under this section, be treated as  
15 a covered entity for purposes of the application of the pro-  
16 visions of (and regulations promulgated under) part C of  
17 title XI, section 264(c) of the Health Insurance Portability  
18 and Accountability Act of 1996 (42 U.S.C. 1320d–2 note),  
19 and subtitle D of title XIII of the American Recovery and  
20 Reinvestment Act of 2009.

21 “(h) NO COST SHARING.—No premium, deductible,  
22 coinsurance, or other cost-sharing requirement shall apply  
23 to any diabetes prevention service furnished to a  
24 prediabetic Medicare beneficiary under this section.

25 “(i) EVALUATION AND REPORT TO CONGRESS.—

1           “(1) EVALUATION.—The Secretary shall con-  
2           duct an evaluation on the coverage of diabetes pre-  
3           vention services under this title. Such evaluation  
4           shall include the analysis of—

5                   “(A) the impact of the provision of such  
6                   coverage on Medicare beneficiaries, including  
7                   the impact on various populations, such as indi-  
8                   viduals who are dual eligible individuals (as  
9                   such term is defined in section 1915(h)(2)(B)),  
10                  and the impact of the provision of such cov-  
11                  erage on health disparities;

12                  “(B) the rate at which physicians refer  
13                  prediabetic Medicare beneficiaries to eligible en-  
14                  tities and third-party intermediaries providing  
15                  such diabetes prevention services;

16                  “(C) the rate at which Medicare bene-  
17                  ficiaries access such services and the awareness  
18                  of Medicare beneficiaries of coverage for such  
19                  services under this title;

20                  “(D) the health outcomes resulting from  
21                  the participation of prediabetic Medicare bene-  
22                  ficiaries in diabetes prevention services under  
23                  this title;

24                  “(E) recommendations for important pro-  
25                  gram integrity protections related to the pay-



1           ment for diabetes prevention services under this  
2           title; and

3                   “(F) other topics determined appropriate  
4           by the Secretary.

5           “(2) REPORT.—Not later than January 1,  
6           2018, the Secretary shall submit to Congress a re-  
7           port that contains—

8                   “(A) the results of the evaluation con-  
9           ducted under paragraph (1); and

10                   “(B) recommendations for any legislative  
11           or administration actions that the Secretary de-  
12           termines appropriate.”.

○