

116TH CONGRESS  
1ST SESSION

# S. 595

To amend title XVIII of the Social Security Act to provide for the coordination of programs to prevent and treat obesity, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

FEBRUARY 28, 2019

Mr. CASSIDY (for himself, Mr. CARPER, Mrs. CAPITO, Mr. COONS, Mrs. BLACKBURN, Mr. HEINRICH, Ms. MURKOWSKI, and Ms. KLOBUCHAR) introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To amend title XVIII of the Social Security Act 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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Treat and Reduce Obe-  
5 sity Act of 2019”.

6 **SEC. 2. FINDINGS.**

7 Congress makes the following findings:

8 (1) According to the Centers for Disease Con-  
9 trol and Prevention, about 41 percent of adults aged

1 60 and over had obesity in the period of 2015  
2 through 2016, representing more than 27 million  
3 people.

4 (2) The National Institutes of Health has re-  
5 ported that obesity and overweight are now the sec-  
6 ond leading cause of death nationally, with an esti-  
7 mated 300,000 deaths a year attributed to the epi-  
8 demic.

9 (3) Obesity increases the risk for chronic dis-  
10 eases and conditions, including high blood pressure,  
11 heart disease, certain cancers, arthritis, mental ill-  
12 ness, lipid disorders, sleep apnea, and type 2 diabe-  
13 tes.

14 (4) More than half of Medicare beneficiaries are  
15 treated for 5 or more chronic conditions per year.  
16 The rate of obesity among Medicare beneficiaries  
17 doubled from 1987 to 2002 and nearly doubled  
18 again by 2016, with Medicare spending on individ-  
19 uals with obesity during that time rising proportion-  
20 ately to reach \$50 billion in 2014.

21 (5) Men and women with obesity at age 65 have  
22 decreased life expectancy of 1.6 years for men and  
23 1.4 years for women.

24 (6) The direct and indirect cost of obesity was  
25 more than \$427.8 billion in 2014 and is growing.

1           (7) On average, a Medicare beneficiary with  
2 obesity costs \$2,018 (in 2019 dollars) more than a  
3 healthy-weight beneficiary.

4           (8) The prevalence of obesity among older indi-  
5 viduals in the United States is growing at a linear  
6 rate and, if nothing changes, nearly one in two (47  
7 percent) Medicare beneficiaries aged 65 and over  
8 will have obesity in 2030, up from slightly more  
9 than one in four (28 percent) in 2010.

10 **SEC. 3. 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)) is amended by adding at the end the  
15 following new paragraph:

16                   “(4)(A) Subject to subparagraph (B), the Sec-  
17 retary may, in addition to qualified primary care  
18 physicians and other primary care practitioners,  
19 cover intensive behavioral therapy for obesity fur-  
20 nished by any of the following:

21                           “(i) A physician (as defined in subsection  
22                           (r)(1)) who is not a qualified primary care phy-  
23 sician.

24                           “(ii) Any other appropriate health care  
25 provider (including a physician assistant, nurse

1 practitioner, or clinical nurse specialist (as  
2 those terms are defined in subsection (aa)(5)),  
3 a clinical psychologist, a registered dietitian or  
4 nutrition professional (as defined in subsection  
5 (vv)).

6 “(iii) An evidence-based, community-based  
7 lifestyle counseling program approved by the  
8 Secretary.

9 “(B) In the case of intensive behavioral therapy  
10 for obesity furnished by a provider described in  
11 clause (ii) or (iii) of subparagraph (A), the Secretary  
12 may only cover such therapy if such therapy is fur-  
13 nished—

14 “(i) upon referral from, and in coordina-  
15 tion with, a physician or primary care practi-  
16 tioner operating in a primary care setting or  
17 any other setting specified by the Secretary;  
18 and

19 “(ii) in an office setting, a hospital out-  
20 patient department, a community-based site  
21 that complies with the Federal regulations con-  
22 cerning the privacy of individually identifiable  
23 health information promulgated under section  
24 264(c) of the Health Insurance Portability and

1           Accountability Act of 1996, or another setting  
2           specified by the Secretary.

3           “(C) In order to ensure a collaborative effort,  
4           the coordination described in subparagraph (B)(i)  
5           shall include the health care provider or lifestyle  
6           counseling program communicating to the referring  
7           physician or primary care practitioner any rec-  
8           ommendations or treatment plans made regarding  
9           the therapy.”.

10 **SEC. 4. MEDICARE PART D COVERAGE OF OBESITY MEDI-**  
11 **CATION.**

12           (a) IN GENERAL.—Section 1860D–2(e)(2)(A) of the  
13 Social Security Act (42 U.S.C. 1395w–102(e)(2)(A)) is  
14 amended, in the first sentence—

15           (1) by striking “and other than” and inserting  
16           “other than”; and

17           (2) by inserting after “benzodiazepines,” the  
18 following: “and other than subparagraph (A) of such  
19 section if the drug is used for the treatment of obe-  
20 sity (as defined in section 1861(yy)(2)(C)) or for  
21 weight loss management for an individual who is  
22 overweight (as defined in section 1861(yy)(2)(F)(i))  
23 and has one or more related comorbidities,”.

24           (b) EFFECTIVE DATE.—The amendments made by  
25 subsection (a) shall apply to plan years beginning on or

1 after the date that is 2 years after the date of the enact-  
2 ment of this Act.

3 **SEC. 5. REPORT TO CONGRESS.**

4 Not later than the date that is 1 year after the date  
5 of the enactment of this Act, and every 2 years thereafter,  
6 the Secretary of Health and Human Services shall submit  
7 a report to Congress describing the steps the Secretary  
8 has taken to implement the provisions of, and amend-  
9 ments made by, this Act. Such report shall also include  
10 recommendations for better coordination and leveraging of  
11 programs within the Department of Health and Human  
12 Services and other Federal agencies that relate in any way  
13 to supporting appropriate research and clinical care (such  
14 as any interactions between physicians and other health  
15 care providers and their patients) to treat, reduce, and  
16 prevent obesity in the adult population.

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