

105TH CONGRESS
1ST SESSION

H. R. 448

To amend title XVIII of the Social Security Act to provide for coverage of early detection of prostate cancer and certain drug treatment services under part B of the Medicare program, to amend chapter 17 of title 38, United States Code, to provide for coverage of such early detection and treatment services under the programs of the Department of Veterans Affairs, and to expand research and education programs of the National Institutes of Health and the Public Health Service relating to prostate cancer.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 9, 1997

Mr. BACHUS introduced the following bill; which was referred to the Committee on Commerce, and in addition to the Committees on Ways and Means, and Veterans' Affairs, 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

A BILL

To amend title XVIII of the Social Security Act to provide for coverage of early detection of prostate cancer and certain drug treatment services under part B of the Medicare program, to amend chapter 17 of title 38, United States Code, to provide for coverage of such early detection and treatment services under the programs of the Department of Veterans Affairs, and to expand research and education programs of the National Institutes of Health and the Public Health Service relating to prostate cancer.

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 “Prostate Cancer Diag-
 5 nosis and Treatment Act of 1997”.

6 **SEC. 2. MEDICARE COVERAGE OF PROSTATE CANCER**
 7 **SCREENING AND CERTAIN DRUG TREAT-**
 8 **MENTS.**

9 (a) COVERAGE OF SCREENING SERVICES.—

10 (1) IN GENERAL.—Section 1861(s)(2) of the
 11 Social Security Act (42 U.S.C. 1395x(s)(2)) is
 12 amended—

13 (A) by striking “and” at the end of sub-
 14 paragraph (N);

15 (B) by striking “and” at the end of sub-
 16 paragraph (O); and

17 (C) by inserting after subparagraph (O)
 18 the following new subparagraph:

19 “(P) services for the early detection of prostate
 20 cancer (as defined in subsection (oo)); and”.

21 (2) SERVICES DESCRIBED.—Section 1861 of
 22 such Act (42 U.S.C. 1395x) is amended by adding
 23 at the end the following new subsection:

1 “SERVICES FOR THE EARLY DETECTION OF PROSTATE
2 CANCER

3 “(oo) The term ‘services for the early detection of
4 prostate cancer’ means the following procedures provided
5 to a man for the purpose of early detection of prostate
6 cancer:

7 “(1) Digital rectal examination.

8 “(2) Prostate-specific antigen blood test.

9 “(3) Transrectal ultrasonography.

10 “(4) Such other procedures as the Secretary
11 may designate as appropriate for early detection of
12 prostate cancer.”.

13 (3) PAYMENT AMOUNTS; LIMITATIONS ON FRE-
14 QUENCY OF COVERAGE.—Section 1834 of such Act
15 (42 U.S.C. 1395m) is amended by inserting after
16 subsection (c) the following new subsection:

17 “(d) PAYMENT AMOUNTS AND FREQUENCY LIMITS
18 FOR SERVICES FOR THE EARLY DETECTION OF PROS-
19 TATE CANCER.—

20 “(1) IN GENERAL.—Notwithstanding any other
21 provision of this part, with respect to expenses in-
22 curred for services for the early detection of prostate
23 cancer (as defined in section 1861(oo))—

1 “(A) payment may be made only for serv-
 2 ices provided consistent with the frequency per-
 3 mitted under paragraph (2); and

4 “(B) the amount of the payment under
 5 this part shall be equal to 80 percent of the
 6 lesser of the actual charge for the service or—

7 “(i) in the case of a service for the
 8 early detection of prostate cancer consist-
 9 ing of a prostate-specific antigen blood
 10 test, the fee schedule amount established
 11 for the service under section 1833(h) (re-
 12 lating to payments for clinical diagnostic
 13 laboratory tests); or

14 “(ii) in the case of any other service
 15 for the early detection of prostate cancer,
 16 the amount provided under the fee sched-
 17 ule established by the Secretary under
 18 paragraph (3) (subject to the deductible
 19 established under section 1833(b)).

20 “(2) FREQUENCY COVERED.—

21 “(A) IN GENERAL.—Subject to subpara-
 22 graph (B) and to revision by the Secretary
 23 under subparagraph (C), no payment may be
 24 made under this part for a service for the early

1 detection of prostate cancer provided to an indi-
2 vidual—

3 “(i) if the individual is under 50 years
4 of age; or

5 “(ii) if the service is provided within
6 the 11 months after a previous service for
7 the early detection of prostate cancer.

8 “(B) EXCEPTION FOR HIGH RISK INDIVID-
9 UALS.—Payment may be made under this part
10 for a service for the early detection of prostate
11 cancer provided to an individual more fre-
12 quently than the limit established under sub-
13 paragraph (A)(ii) if the individual is at a high
14 risk of developing prostate cancer (as deter-
15 mined pursuant to factors identified by the Sec-
16 retary).

17 “(C) REVISION BY SECRETARY.—

18 “(i) REVIEW.—The Secretary, in con-
19 sultation with the Director of the National
20 Cancer Institute, shall review periodically
21 the appropriate frequency for performing
22 services for the early detection of prostate
23 cancer based on age and such other factors
24 as the Secretary believes to be pertinent.

1 “(ii) REVISION OF FREQUENCY.—The
2 Secretary, taking into consideration the re-
3 view made under clause (i), may revise
4 from time to time the frequency with
5 which such services may be paid for under
6 this subsection, but no such revision shall
7 apply to services performed before January
8 1, 2000.

9 “(3) ESTABLISHMENT OF FEE SCHEDULE.—

10 “(A) IN GENERAL.—The Secretary shall
11 establish fee schedules (on such geographic
12 basis as the Secretary considers appropriate)
13 for payment for services for the early detection
14 of prostate cancer under this part (other than
15 prostate-specific antigen blood tests), effective
16 for services furnished after the expiration of the
17 90-day period beginning on the date the Sec-
18 retary establishes the fee schedules.

19 “(B) FACTORS CONSIDERED.—In estab-
20 lishing fee schedules under subparagraph (A),
21 the Secretary shall take into consideration vari-
22 ations in the cost of furnishing such services
23 among geographic areas and among different
24 sites where services are furnished, together with

1 such other factors as may be appropriate to as-
2 sure that payment amounts are equitable.

3 “(4) LIMITING CHARGES OF NONPARTICIPATING
4 PHYSICIANS.—In the case of a service for the early
5 detection of prostate cancer for which payment may
6 be made under this part, if a nonparticipating physi-
7 cian or nonparticipating supplier or other person (as
8 defined in section 1842(i)(2)) who does not accept
9 payment on an assignment-related basis provides the
10 service to an individual enrolled under this part, sec-
11 tion 1848(g)(1) shall apply to the service in the
12 same manner as such section applies to a physician’s
13 service.”.

14 (4) CONFORMING AMENDMENTS.—(A) Para-
15 graphs (1)(D) and (2)(D) of section 1833(a) of such
16 Act (42 U.S.C. 1395l(a)) are each amended by strik-
17 ing “subsection (h)(1),” and inserting “subsection
18 (h)(1) or section 1834(d)(1)(B)(i),”.

19 (B) Section 1833(a)(1) of such Act (42 U.S.C.
20 1395l(a)(1)) is amended—

21 (i) by striking “and (P)” and inserting
22 “(P)”; and

1 (ii) by striking the semicolon at the end
2 and inserting the following: “, and (Q) with re-
3 spect to services for the early detection of pros-
4 tate cancer (as defined in section 1861(oo))
5 (other than prostate-specific antigen tests), the
6 amounts paid shall be the amounts described in
7 section 1834(d)(1);”.

8 (C) Section 1833(a) of such Act (42 U.S.C.
9 1395l(a)) is amended—

10 (i) by striking “and” at the end of para-
11 graph (6);

12 (ii) by striking the period at the end of
13 paragraph (7) and inserting “; and”; and

14 (iii) by adding at the end the following new
15 paragraph:

16 “(8) in the case of services for the early detec-
17 tion of prostate cancer (as defined in section
18 1861(oo)) (other than prostate-specific antigen
19 tests), the amounts described in section
20 1834(d)(1).”.

21 (D) Section 1833(h)(1)(A) of such Act (42
22 U.S.C. 1395l(h)(1)(A)) is amended by striking “The
23 Secretary” and inserting “Subject to section
24 1834(d), the Secretary”.

1 (E) Section 1862(a) of such Act (42 U.S.C.
2 1395y(a)) is amended—

3 (i) in paragraph (1)—

4 (I) in subparagraph (E), by striking
5 “and” at the end,

6 (II) in subparagraph (F), by striking
7 the semicolon at the end and inserting “,
8 and”, and

9 (III) by adding at the end the follow-
10 ing new subparagraph:

11 “(G) in the case of services for the early detec-
12 tion of prostate cancer (as defined in section
13 1861(oo)), which are performed more frequently
14 than is covered under section 1834(d)(2);”; and

15 (ii) in paragraph (7), by striking “para-
16 graph (1)(B) or under paragraph (1)(F)” and
17 inserting “subparagraphs (B), (F), or (G) of
18 paragraph (1)”.

19 (b) COVERAGE OF CERTAIN DRUG TREATMENTS.—
20 Section 1861(s)(2) of the Social Security Act (42 U.S.C.
21 1395x(s)(2)), as amended by subsection (a)(1), is further
22 amended—

23 (1) by striking “and” at the end of subpara-
24 graph (P);

1 (2) by adding “and” at the end of subpara-
2 graph (Q); and

3 (3) by adding at the end the following new sub-
4 paragraph:

5 “(R) an oral drug prescribed for the treatment
6 of prostate cancer, if the use of the drug for such
7 purpose is a medically accepted indication under
8 subsection (t)(2);”.

9 (c) EFFECTIVE DATE.—The amendments made by
10 this section shall apply to services provided on or after
11 January 1, 1998, without regard to whether or not the
12 Secretary has established fee schedules under section
13 1834(d)(3) of the Social Security Act (as added by sub-
14 section (a)(3)) or promulgated other regulations to carry
15 out such amendments by that date.

16 **SEC. 3. EARLY DETECTION AND TREATMENT OF PROSTATE**
17 **CANCER IN VETERANS.**

18 (a) PREVENTIVE HEALTH SERVICES.—Section
19 1701(9) of title 38, United States Code is amended—

20 (1) by redesignating subparagraphs (J) and (K)
21 as subparagraphs (K) and (L), respectively; and

22 (2) by inserting after subparagraph (I) the fol-
23 lowing new subparagraph (J):

24 “(J) tests for the early detection and diagnosis
25 of prostate cancer;”.

1 (b) COVERAGE OF SERVICES FOR EARLY DETECTION
2 AND TREATMENT OF PROSTATE CANCER.—

3 (1) IN GENERAL.—Chapter 17 of such title is
4 amended by inserting after section 1724 the follow-
5 ing new section:

6 **“§ 1725. Prostate cancer detection and treatment**

7 “(a) The Secretary shall include in the medical serv-
8 ices furnished to veterans under this chapter—

9 “(1) services for the early detection and treat-
10 ment of prostate cancer;

11 “(2) information on the early detection and
12 treatment of prostate cancer; and

13 “(3) counseling regarding prostate cancer.

14 “(b) Based on the best available medical evidence, the
15 Secretary shall implement a schedule for early detection
16 of prostate cancer for veterans confined to hospitals or
17 other institutions.

18 “(c) For the purposes of this section—

19 “(1) services for the early detection of prostate
20 cancer are procedures provided to a male for the
21 purpose of the early detection of prostate cancer, in-
22 cluding digital rectal examinations, prostate-specific
23 antigen blood tests, and transrectal ultrasonography;
24 and

1 “(2) services for treatment of prostate cancer
 2 may include the furnishing of drugs approved by the
 3 Food and Drug Administration for the treatment of
 4 prostate cancer.

5 “(d) The Secretary may carry out research and re-
 6 search training in the diagnosis and treatment of prostate
 7 cancer based upon the prostate cancer services provided
 8 under this section and may develop guidelines outlining
 9 effective treatment regimens for prostate cancer.”.

10 (2) CLERICAL AMENDMENT.—The table of sec-
 11 tions at the beginning of such chapter is amended
 12 by inserting after the item relating to section 1724
 13 the following new item:

“1725. Prostate cancer detection and treatment.”.

14 **SEC. 4. RESEARCH AND EDUCATION REGARDING PROS-**
 15 **TATE CANCER; CERTAIN PROGRAMS OF PUB-**
 16 **LIC HEALTH SERVICE.**

17 (a) NATIONAL INSTITUTES OF HEALTH.—Section
 18 417B(c) of the Public Health Service Act (42 U.S.C.
 19 286a–8(c)) is amended in the first sentence by striking
 20 “\$72,000,000” and all that follows and inserting the fol-
 21 lowing: “\$86,000,000 for fiscal year 1998, \$100,000,000
 22 for fiscal year 1999, \$115,000,000 for fiscal year 2000,
 23 and \$130,000,000 for fiscal year 2001.”.

24 (b) AGENCY FOR HEALTH CARE POLICY AND RE-
 25 SEARCH.—Section 902 of the Public Health Service Act

1 (42 U.S.C. 299a) is amended by adding at the end the
2 following subsection:

3 “(f) ACTIVITIES REGARDING PROSTATE CANCER.—

4 The Administrator shall, with respect to prostate cancer—

5 “(1) conduct and support research on the out-
6 comes, effectiveness, and appropriateness of health
7 services and procedures; and

8 “(2) in carrying out section 912(a), provide for
9 the development, periodic review, and updating of
10 clinically relevant guidelines, standards of quality,
11 performance measures, and medical review criteria.”.

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