

105TH CONGRESS
1ST SESSION

S. 311

To amend title XVIII of the Social Security Act to improve preventive benefits under the Medicare program.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 12, 1997

Mr. GRAHAM 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 improve preventive benefits under the Medicare program.

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; TABLE OF CONTENTS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “Medicare Preventive Benefit Improvement Act of 1997”.

6 (b) **TABLE OF CONTENTS.**—The table of contents of
7 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Screening mammography.
- Sec. 3. Screening pap smear and pelvic exams.
- Sec. 4. Coverage of colorectal screening.
- Sec. 5. Prostate cancer screening tests.
- Sec. 6. Diabetes screening benefits.
- Sec. 7. Effective date.

1 **SEC. 2. SCREENING MAMMOGRAPHY.**

2 (a) PROVIDING ANNUAL SCREENING MAMMOGRAPHY
3 FOR WOMEN OVER AGE 49.—Section 1834(c)(2)(A) of
4 the Social Security Act (42 U.S.C. 1395m(c)(2)(A)) is
5 amended—

6 (1) in clause (iv), by striking “but under 65
7 years of age,”, and

8 (2) by striking clause (v).

9 (b) WAIVER OF DEDUCTIBLE.—The first sentence of
10 section 1833(b) of the Social Security Act (42 U.S.C.
11 1395l(b)) is amended—

12 (1) by striking “and” before “(4)”, and

13 (2) by inserting before the period at the end the
14 following: “, and (5) such deductible shall not apply
15 with respect to screening mammography (as de-
16 scribed in section 1861(jj))”.

17 (c) CONFORMING AMENDMENT.—Section
18 1834(c)(1)(C) of the Social Security Act (42 U.S.C.
19 1395m(c)(1)(C)) is amended by striking “, subject to the
20 deductible established under section 1833(b),”.

21 **SEC. 3. SCREENING PAP SMEAR AND PELVIC EXAMS.**

22 (a) COVERAGE OF PELVIC EXAM; INCREASING FRE-
23 QUENCY OF COVERAGE OF PAP SMEAR.—Section
24 1861(nn) of the Social Security Act (42 U.S.C.
25 1395x(nn)) is amended—

1 (1) in the heading, by striking “Smear” and in-
2 serting “Smear; Screening Pelvic Exam”;

3 (2) by striking “(nn)” and inserting “(nn)(1)”;

4 (3) by striking “3 years” and all that follows
5 and inserting “3 years, or during the preceding year
6 in the case of a woman described in paragraph (3).”;
7 and

8 (4) by adding at the end the following:

9 “(2) The term ‘screening pelvic exam’ means a pelvic
10 examination provided to a woman if the woman involved
11 has not had such an examination during the preceding 3
12 years, or during the preceding year in the case of a woman
13 described in paragraph (3), and includes a clinical breast
14 examination.

15 “(3) A woman described in this paragraph is a
16 woman who—

17 “(A) is of childbearing age and has not had a
18 test described in this subsection during each of the
19 preceding 3 years that did not indicate the presence
20 of cervical cancer; or

21 “(B) is at high risk of developing cervical can-
22 cer (as determined pursuant to factors identified by
23 the Secretary).”.

1 (b) WAIVER OF DEDUCTIBLE.—The first sentence of
 2 section 1833(b) of the Social Security Act (42 U.S.C.
 3 1395l(b)), as amended by section 2(b), is amended—

4 (1) by striking “and” before “(5)”, and

5 (2) by inserting before the period at the end the
 6 following: “, and (6) such deductible shall not apply
 7 with respect to screening pap smear and screening
 8 pelvic exam (as described in section 1861(nn))”.

9 (c) CONFORMING AMENDMENTS.—Sections
 10 1861(s)(14) and 1862(a)(1)(F) of the Social Security Act
 11 (42 U.S.C. 1395x(s)(14), 1395y(a)(1)(F)) are each
 12 amended by inserting “and screening pelvic exam” after
 13 “screening pap smear”.

14 **SEC. 4. COVERAGE OF COLORECTAL SCREENING.**

15 (a) COVERAGE.—

16 (1) IN GENERAL.—Section 1861 of the Social
 17 Security Act (42 U.S.C. 1395x) is amended—

18 (A) in subsection (s)(2)—

19 (i) by striking “and” at the end of
 20 subparagraphs (N) and (O), and

21 (ii) by inserting after subparagraph
 22 (O) the following:

23 “(P) colorectal cancer screening tests (as de-
 24 fined in subsection (oo)); and”; and

25 (B) by adding at the end the following:

1 “Colorectal Cancer Screening Tests

2 “(oo)(1) The term ‘colorectal cancer screening test’
3 means, unless determined otherwise pursuant to section
4 4(a)(2) of Medicare Preventive Benefit Improvement Act
5 of 1997, any of the following procedures furnished to an
6 individual for the purpose of early detection of colorectal
7 cancer:

8 “(A) Screening fecal-occult blood test.

9 “(B) Screening flexible sigmoidoscopy.

10 “(C) Screening barium enema.

11 “(D) In the case of an individual at high risk
12 for colorectal cancer, screening colonoscopy or
13 screening barium enema.

14 “(E) For years beginning after 2002, such
15 other procedures as the Secretary finds appropriate
16 for the purpose of early detection of colorectal can-
17 cer, taking into account changes in technology and
18 standards of medical practice, availability, effective-
19 ness, costs, the particular screening needs of racial
20 and ethnic minorities in the United States and such
21 other factors as the Secretary considers appropriate.

1 “(2) In paragraph (1)(D), an ‘individual at high risk
 2 for colorectal cancer’ is an individual who, because of fam-
 3 ily history, prior experience of cancer or precursor neo-
 4 plastic polyps, a history of chronic digestive disease condi-
 5 tion (including inflammatory bowel disease, Crohn’s Dis-
 6 ease, or ulcerative colitis), the presence of any appropriate
 7 recognized gene markers for colorectal cancer, or other
 8 predisposing factors, faces a high risk for colorectal can-
 9 cer.”.

10 (2) REVIEW OF COVERAGE OF COLORECTAL
 11 CANCER SCREENING TESTS.—

12 (A) IN GENERAL.—Not later than 2 years
 13 after the date of enactment of this Act (and pe-
 14 riodically thereafter), the Secretary of Health
 15 and Human Services (in this paragraph re-
 16 ferred to as the “Secretary”) shall review—

17 (i) the standards of medical practice
 18 with regard to colorectal cancer screening
 19 tests (as defined in section 1861(o) of the
 20 Social Security Act (42 U.S.C. 1395x(o)))
 21 (as added by paragraph (1) of this sec-
 22 tion);

23 (ii) the availability, effectiveness,
 24 costs, and cost-effectiveness of colorectal
 25 cancer screening tests covered under title

1 XVIII of the Social Security Act (42
 2 U.S.C. 1395 et seq.) at the time of such
 3 review;

4 (iii) the particular screening needs of
 5 racial and ethnic minorities in the United
 6 States; and

7 (iv) such other factors as the Sec-
 8 retary considers appropriate with regard to
 9 the coverage of colorectal cancer screening
 10 tests under the Medicare program.

11 (B) DETERMINATION.—If the Secretary
 12 determines it appropriate based on the review
 13 conducted pursuant to subparagraph (A), the
 14 Secretary shall issue and publish a determina-
 15 tion that one or more colorectal cancer screen-
 16 ing tests described in section 1861(o) of the
 17 Social Security Act (42 U.S.C. 1395x(o)) (as
 18 added by paragraph (1) of this section) shall no
 19 longer be covered under that section.

20 (b) FREQUENCY AND PAYMENT LIMITS.—

21 (1) IN GENERAL.—Section 1834 of the Social
 22 Security Act (42 U.S.C. 1395m) is amended by in-
 23 serting after subsection (c) the following:

24 “(d) FREQUENCY AND PAYMENT LIMITS FOR
 25 COLORECTAL CANCER SCREENING TESTS.—

1 “(1) SCREENING FECAL-OCCULT BLOOD
2 TESTS.—

3 “(A) PAYMENT LIMIT.—In establishing fee
4 schedules under section 1833(h) with respect to
5 colorectal cancer screening tests consisting of
6 screening fecal-occult blood tests, except as pro-
7 vided by the Secretary under paragraph (5)(A),
8 the payment amount established for tests per-
9 formed—

10 “(i) in 1998 shall not exceed \$5; and

11 “(ii) in a subsequent year, shall not
12 exceed the limit on the payment amount
13 established under this subsection for such
14 tests for the preceding year, adjusted by
15 the applicable adjustment under section
16 1833(h) for tests performed in such year.

17 “(B) FREQUENCY LIMIT.—Subject to revi-
18 sion by the Secretary under paragraph (5)(B),
19 no payment may be made under this part for
20 colorectal cancer screening test consisting of a
21 screening fecal-occult blood test—

22 “(i) if the individual is under 50 years
23 of age; or

1 “(ii) if the test is performed within
 2 the 11 months after a previous screening
 3 fecal-occult blood test.

4 “(2) SCREENING FOR INDIVIDUALS NOT AT
 5 HIGH RISK.—Subject to revision by the Secretary
 6 under paragraph (5)(B), no payment may be made
 7 under this part for a colorectal cancer screening test
 8 consisting of a screening flexible sigmoidoscopy or
 9 screening barium enema—

10 “(i) if the individual is under 50 years
 11 of age; or

12 “(ii) if the procedure is performed
 13 within the 47 months after a previous
 14 screening flexible sigmoidoscopy or screen-
 15 ing barium enema.

16 “(3) SCREENING FOR INDIVIDUALS AT HIGH
 17 RISK FOR COLORECTAL CANCER.—Subject to revi-
 18 sion by the Secretary under paragraph (5)(B), no
 19 payment may be made under this part for a
 20 colorectal cancer screening test consisting of a
 21 screening colonoscopy or screening barium enema for
 22 individuals at high risk for colorectal cancer if the
 23 procedure is performed within the 23 months after
 24 a previous screening colonoscopy or screening bar-
 25 ium enema.

1 “(4) PAYMENT AMOUNTS FOR CERTAIN
2 COLORECTAL CANCER SCREENING TESTS.—The Sec-
3 retary shall establish payment amounts under sec-
4 tion 1848 with respect each colorectal cancer screen-
5 ing tests described in subparagraphs (B), (C), and
6 (D) of section 1861(oo)(1) that are consistent with
7 payment amounts under such section for similar or
8 related services, except that such payment amount
9 shall be established without regard to section
10 1848(a)(2)(A).

11 “(5) REDUCTIONS IN PAYMENT LIMIT AND RE-
12 VISION OF FREQUENCY.—

13 “(A) REDUCTIONS IN PAYMENT LIMIT FOR
14 SCREENING FECAL-OCCULT BLOOD TESTS.—
15 The Secretary shall review from time to time
16 the appropriateness of the amount of the pay-
17 ment limit established for screening fecal-occult
18 blood tests under paragraph (1)(A). The Sec-
19 retary may, with respect to tests performed in
20 a year after 2000, reduce the amount of such
21 limit as it applies nationally or in any area to
22 the amount that the Secretary estimates is re-
23 quired to assure that such tests of an appro-
24 priate quality are readily and conveniently
25 available during the year.

1 “(B) REVISION OF FREQUENCY.—

2 “(i) REVIEW.—The Secretary shall re-
3 view periodically the appropriate frequency
4 for performing colorectal cancer screening
5 tests based on age and such other factors
6 as the Secretary believes to be pertinent.

7 “(ii) REVISION OF FREQUENCY.—The
8 Secretary, taking into consideration the re-
9 view made under clause (i), may revise
10 from time to time the frequency with
11 which such tests may be paid for under
12 this subsection, but no such revision shall
13 apply to tests performed before January 1,
14 2001.

15 “(6) LIMITING CHARGES OF NONPARTICIPATING
16 PHYSICIANS.—

17 “(A) IN GENERAL.—In the case of a
18 colorectal cancer screening test consisting of a
19 screening flexible sigmoidoscopy or screening
20 barium enema, or a screening colonoscopy or
21 screening barium enema provided to an individ-
22 ual at high risk for colorectal cancer for which
23 payment may be made under this part, if a
24 nonparticipating physician provides the proce-
25 dure to an individual enrolled under this part,

1 the physician may not charge the individual
 2 more than the limiting charge (as defined in
 3 section 1848(g)(2)).

4 “(B) ENFORCEMENT.—If a physician or
 5 supplier knowingly and willfully imposes a
 6 charge in violation of subparagraph (A), the
 7 Secretary may apply sanctions against such
 8 physician or supplier in accordance with section
 9 1842(j)(2).”.

10 (c) CONFORMING AMENDMENTS.—

11 (1) Paragraphs (1)(D) and (2)(D) of section
 12 1833(a) of the Social Security Act (42 U.S.C.
 13 1395l(a)) are each amended by inserting “or section
 14 1834(d)(1)” after “subsection (h)(1)”.

15 (2) Section 1833(h)(1)(A) of the Social Secu-
 16 rity Act (42 U.S.C. 1395l(h)(1)(A)) is amended by
 17 striking “The Secretary” and inserting “Subject to
 18 paragraphs (1) and (5)(A) of section 1834(d), the
 19 Secretary”.

20 (3) Clauses (i) and (ii) of section 1848(a)(2)(A)
 21 of the Social Security Act (42 U.S.C. 1395w-
 22 4(a)(2)(A)) are each amended by inserting after “a
 23 service” the following: “(other than a colorectal can-
 24 cer screening test consisting of a screening
 25 colonoscopy or screening barium enema provided to

1 an individual at high risk for colorectal cancer or a
 2 screening flexible sigmoidoscopy or screening barium
 3 enema)’’.

4 (4) Section 1862(a) of the Social Security Act
 5 (42 U.S.C. 1395y(a)) is amended—

6 (A) in paragraph (1)—

7 (i) in subparagraph (E), by striking
 8 “and” at the end,

9 (ii) in subparagraph (F), by striking
 10 the semicolon at the end and inserting “,
 11 and”, and

12 (iii) by adding at the end the follow-
 13 ing:

14 “(G) in the case of colorectal cancer screening
 15 tests, which are performed more frequently than is
 16 covered under section 1834(d);”; and

17 (B) in paragraph (7), by striking “para-
 18 graph (1)(B) or under paragraph (1)(F)” and
 19 inserting “subparagraph (B), (F), or (G) of
 20 paragraph (1)”.

21 **SEC. 5. PROSTATE CANCER SCREENING TESTS.**

22 (a) COVERAGE.—Section 1861 of the Social Security
 23 Act (42 U.S.C. 1395x), as amended by section 4(a), is
 24 amended—

25 (1) in subsection (s)(2)—

1 (A) by striking “and” at the end of sub-
 2 paragraph (P);

3 (B) by adding “and” at the end of sub-
 4 paragraph (Q); and

5 (C) by adding at the end the following:

6 “(R) prostate cancer screening tests (as defined
 7 in subsection (pp)); and”; and

8 (2) by adding at the end the following:

9 “Prostate Cancer Screening Tests

10 “(pp)(1) The term ‘prostate cancer screening test’
 11 means a test that consists of any (or all) of the procedures
 12 described in paragraph (2) provided for the purpose of
 13 early detection of prostate cancer to a man over 50 years
 14 of age who has not had such a test during the preceding
 15 year.

16 “(2) The procedures described in this paragraph are
 17 as follows:

18 “(A) A digital rectal examination.

19 “(B) A prostate-specific antigen blood test.

20 “(C) For years beginning after 2001, such
 21 other procedures as the Secretary finds appropriate
 22 for the purpose of early detection of prostate cancer,
 23 taking into account changes in technology and

1 standards of medical practice, availability, effective-
 2 ness, costs, and such other factors as the Secretary
 3 considers appropriate.”.

4 (b) PAYMENT FOR PROSTATE-SPECIFIC ANTIGEN
 5 BLOOD TEST UNDER CLINICAL DIAGNOSTIC LABORA-
 6 TORY TEST FEE SCHEDULES.—Section 1833(h)(1)(A) of
 7 the Social Security Act (42 U.S.C. 1395l(h)(1)(A)) is
 8 amended by inserting after “laboratory tests” the follow-
 9 ing: “(including prostate cancer screening tests under sec-
 10 tion 1861(pp) consisting of prostate-specific antigen blood
 11 tests)”.

12 (c) CONFORMING AMENDMENT.—Section 1862(a) of
 13 the Social Security Act (42 U.S.C. 1395y(a)), as amended
 14 by section 4(c)(4), is amended—

15 (1) in paragraph (1)—

16 (A) in subparagraph (F), by striking
 17 “and” at the end,

18 (B) in subparagraph (G), by striking the
 19 semicolon at the end and inserting “, and”, and

20 (C) by adding at the end the following:

21 “(H) in the case of prostate cancer screening
 22 tests (as defined in section 1861(oo)), which are per-
 23 formed more frequently than is covered under such
 24 section;”; and

1 (2) in paragraph (7), by striking “or (G)” and
 2 inserting “(G), or (H)”.

3 **SEC. 6. DIABETES SCREENING BENEFITS.**

4 (a) COVERAGE OF DIABETES OUTPATIENT SELF-
 5 MANAGEMENT TRAINING SERVICES.—

6 (1) IN GENERAL.—Section 1861 of the Social
 7 Security Act (42 U.S.C. 1395x), as amended by sec-
 8 tions 4(a) and 5(a), is amended—

9 (A) in subsection (s)(2)—

10 (i) by striking “and” at the end of
 11 subparagraph (Q);

12 (ii) by adding “and” at the end of
 13 subparagraph (R); and

14 (iii) by adding at the end the follow-
 15 ing:

16 “(S) diabetes outpatient self-management train-
 17 ing services (as defined in subsection (qq)); and”;
 18 and

19 (B) by adding at the end the following:

20 “Diabetes Outpatient Self-Management Training Services

21 “(qq)(1) The term ‘diabetes outpatient self-manage-
 22 ment training services’ means educational and training
 23 services furnished to an individual with diabetes by or
 24 under arrangements with a certified provider (as described

1 in paragraph (2)(A)) in an outpatient setting by an indi-
2 vidual or entity who meets the quality standards described
3 in paragraph (2)(B), but only if the physician who is man-
4 aging the individual's diabetic condition certifies that such
5 services are needed under a comprehensive plan of care
6 related to the individual's diabetic condition to provide the
7 individual with necessary skills and knowledge (including
8 skills related to the self-administration of injectable drugs)
9 to participate in the management of the individual's condi-
10 tion.

11 “(2) In paragraph (1)—

12 “(A) a ‘certified provider’ is an individual or
13 entity that, in addition to providing diabetes out-
14 patient self-management training services, provides
15 other items or services for which payment may be
16 made under this title; and

17 “(B) an individual or entity meets the quality
18 standards described in this paragraph if the individ-
19 ual or entity meets quality standards established by
20 the Secretary, except that the individual or entity
21 shall be deemed to have met such standards if the
22 individual or entity meets applicable standards origi-
23 nally established by the National Diabetes Advisory
24 Board and subsequently revised by organizations
25 who participated in the establishment of standards

1 by such Board, or is recognized by the American Di-
 2 abetes Association as meeting standards for furnish-
 3 ing the services.”.

4 (2) CONSULTATION WITH ORGANIZATIONS IN
 5 ESTABLISHING PAYMENT AMOUNTS FOR SERVICES
 6 PROVIDED BY PHYSICIANS.—In establishing payment
 7 amounts under section 1848(a) of the Social Secu-
 8 rity Act (42 U.S.C. 1395w–4(a)) for physicians’
 9 services consisting of diabetes outpatient self-man-
 10 agement training services, the Secretary of Health
 11 and Human Services shall consult with appropriate
 12 organizations, including the American Diabetes As-
 13 sociation, in determining the relative value for such
 14 services under section 1848(c)(2) of such Act.

15 (b) BLOOD-TESTING STRIPS FOR INDIVIDUALS WITH
 16 DIABETES.—

17 (1) INCLUDING STRIPS AS DURABLE MEDICAL
 18 EQUIPMENT.—The first sentence of section 1861(n)
 19 of the Social Security Act (42 U.S.C. 1395x(n)) is
 20 amended by inserting before the semicolon the fol-
 21 lowing: “, and includes blood-testing strips for indi-
 22 viduals with diabetes without regard to whether the
 23 individual has Type I or Type II diabetes or to the
 24 individual’s use of insulin (as determined under

8 (A) by striking “or” at the end of clause
9 (ii);

12 (C) by inserting after clause (iii) the fol-
13 lowing:

16 (c) ESTABLISHMENT OF OUTCOME MEASURES FOR
17 BENEFICIARIES WITH DIABETES.—

(1) IN GENERAL.—The Secretary of Health and Human Services, in consultation with appropriate organizations (including the American Diabetes Association), shall establish outcome measures, including glycosylated hemoglobin (past 90-day average blood sugar levels), for purposes of evaluating the improvement of the health status of Medicare beneficiaries with diabetes mellitus.

1 (2) RECOMMENDATIONS FOR MODIFICATIONS
2 TO SCREENING BENEFITS.—Taking into account in-
3 formation on the health status of Medicare bene-
4 ficiaries with diabetes mellitus as measured under
5 the outcome measures established under subpara-
6 graph (A), the Secretary shall from time to time
7 submit recommendations to Congress regarding
8 modifications to the coverage of services for such
9 beneficiaries under the Medicare program.

10 **SEC. 7. EFFECTIVE DATE.**

11 The amendments made by this Act shall apply to
12 items and services furnished on or after January 1, 1998.

○