

105TH CONGRESS  
1ST SESSION

# S. 690

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

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## IN THE SENATE OF THE UNITED STATES

MAY 1, 1997

Mr. BREAUx (for himself, Mr. COCHRAN, Mr. CONRAD, Mr. DORGAN, Ms. MOSELEY-BRAUN, Mr. REID, Mr. ROCKEFELLER, Mr. DASCHLE, and Mr. ROBB) 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 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.**

4 This Act may be cited as the “Colorectal Cancer  
5 Screening Act of 1997”.

6 **SEC. 2. MEDICARE COVERAGE OF COLORECTAL SCREEN-**  
7 **ING SERVICES.**

8 (a) COVERAGE.—

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

3                   (A) in subsection (s)(2)—

4                           (i) by striking “and” at the end of  
5                           subparagraphs (N) and (O); and

6                           (ii) by inserting after subparagraph  
7                           (O) the following:

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

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

11                   “Colorectal Cancer Screening Tests

12       “(oo)(1) The term ‘colorectal cancer screening test’  
13       means, unless determined otherwise pursuant to section  
14       2(a)(2) of the Colorectal Cancer Screening Act of 1997,  
15       any of the following procedures furnished to an individual  
16       for the purpose of early detection of colorectal cancer:

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

18                   “(B) Screening flexible sigmoidoscopy.

19                   “(C) Screening barium enema.

20                   “(D) In the case of an individual at high risk  
21       for colorectal cancer, screening colonoscopy or  
22       screening barium enema.

23                   “(E) For years beginning after 2002, such  
24       other procedures as the Secretary finds appropriate  
25       for the purpose of early detection of colorectal can-

1 cer, taking into account changes in technology and  
 2 standards of medical practice, availability, effective-  
 3 ness, costs, the particular screening needs of racial  
 4 and ethnic minorities in the United States and such  
 5 other factors as the Secretary considers appropriate.

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

15 (2) REVIEW OF COVERAGE OF COLORECTAL  
 16 CANCER SCREENING TESTS.—

17 (A) IN GENERAL.—Not later than 2 years  
 18 after the date of enactment of this Act (and pe-  
 19 riodically thereafter), the Secretary of Health  
 20 and Human Services (in this paragraph re-  
 21 ferred to as the “Secretary”) shall review—

22 (i) the standards of medical practice  
 23 with regard to colorectal cancer screening  
 24 tests (as defined in section 1861(oo) of the  
 25 Social Security Act (42 U.S.C. 1395x(oo)))

(as added by paragraph (1) of this section);

(ii) the availability, effectiveness, costs, and cost-effectiveness of colorectal cancer screening tests covered under the medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) at the time of such review;

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

(iv) such other factors as the Secretary considers appropriate with regard to the coverage of colorectal cancer screening tests under the medicare program.

(B) DETERMINATION.—If the Secretary determines it appropriate based on the review conducted pursuant to subparagraph (A), the Secretary shall issue and publish a determination that one or more colorectal cancer screening tests described in section 1861(o) of the Social Security Act (42 U.S.C. 1395x(o)) (as added by paragraph (1) of this section) shall no longer be covered under that section.

(b) FREQUENCY AND PAYMENT LIMITS.—

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

4       “(d) FREQUENCY AND PAYMENT LIMITS FOR  
 5       COLORECTAL CANCER SCREENING TESTS.—

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

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

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

16           “(ii) in a subsequent year, shall not  
 17      exceed the limit on the payment amount  
 18      established under this subsection for such  
 19      tests for the preceding year, adjusted by  
 20      the applicable adjustment under section  
 21      1833(h) for tests performed in such year.

22           “(B) FREQUENCY LIMIT.—Subject to revi-  
 23      sion by the Secretary under paragraph (5)(B),  
 24      no payment may be made under this part for

1 colorectal cancer screening test consisting of a  
 2 screening fecal-occult blood test—

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

5 “(ii) if the test is performed within  
 6 the 11 months after a previous screening  
 7 fecal-occult blood test.

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

14 “(i) if the individual is under 50 years  
 15 of age; or

16 “(ii) if the procedure is performed  
 17 within the 47 months after a previous  
 18 screening flexible sigmoidoscopy or screen-  
 19 ing barium enema.

20 “(3) SCREENING FOR INDIVIDUALS AT HIGH  
 21 RISK FOR COLORECTAL CANCER.—Subject to revi-  
 22 sion by the Secretary under paragraph (5)(B), no  
 23 payment may be made under this part for a  
 24 colorectal cancer screening test consisting of a  
 25 screening colonoscopy or screening barium enema for

1 individuals at high risk for colorectal cancer if the  
 2 procedure is performed within the 23 months after  
 3 a previous screening colonoscopy or screening bar-  
 4 ium enema.

5 “(4) PAYMENT AMOUNTS FOR CERTAIN  
 6 COLORECTAL CANCER SCREENING TESTS.—The Sec-  
 7 retary shall establish payment amounts under sec-  
 8 tion 1848 with respect each colorectal cancer screen-  
 9 ing tests described in subparagraphs (B), (C), and  
 10 (D) of section 1861(oo)(1) that are consistent with  
 11 payment amounts under such section for similar or  
 12 related services, except that such payment amount  
 13 shall be established without regard to section  
 14 1848(a)(2)(A).

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

17 “(A) REDUCTIONS IN PAYMENT LIMIT FOR  
 18 SCREENING FECAL-OCCULT BLOOD TESTS.—  
 19 The Secretary shall review from time to time  
 20 the appropriateness of the amount of the pay-  
 21 ment limit established for screening fecal-occult  
 22 blood tests under paragraph (1)(A). The Sec-  
 23 retary may, with respect to tests performed in  
 24 a year after 2000, reduce the amount of such  
 25 limit as it applies nationally or in any area to

the amount that the Secretary estimates is required to assure that such tests of an appropriate quality are readily and conveniently available during the year.

“(B) REVISION OF FREQUENCY.—

“(i) REVIEW.—The Secretary shall review periodically the appropriate frequency for performing colorectal cancer screening tests based on age and such other factors as the Secretary believes to be pertinent.

“(ii) REVISION OF FREQUENCY.—The Secretary, taking into consideration the review made under clause (i), may revise from time to time the frequency with which such tests may be paid for under this subsection, but no such revision shall apply to tests performed before January 1, 2001.

“(6) LIMITING CHARGES OF NONPARTICIPATING PHYSICIANS.—

“(A) IN GENERAL.—In the case of a colorectal cancer screening test consisting of a screening flexible sigmoidoscopy or screening barium enema, or a screening colonoscopy or screening barium enema provided to an individ-



ual at high risk for colorectal cancer for which  
 payment may be made under this part, if a  
 nonparticipating physician provides the proce-  
 dure to an individual enrolled under this part,  
 the physician may not charge the individual  
 more than the limiting charge (as defined in  
 section 1848(g)(2)).

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

(c) CONFORMING AMENDMENTS.—

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

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

(3) Clauses (i) and (ii) of section 1848(a)(2)(A)  
 of the Social Security Act (42 U.S.C. 1395w—

1 4(a)(2)(A)) are each amended by inserting after “a  
 2 service” the following: “(other than a colorectal can-  
 3 cer screening test consisting of a screening  
 4 colonoscopy or screening barium enema provided to  
 5 an individual at high risk for colorectal cancer or a  
 6 screening flexible sigmoidoscopy or screening barium  
 7 enema)”.

8 (4) Section 1862(a) of the Social Security Act  
 9 (42 U.S.C. 1395y(a)) is amended—

10 (A) in paragraph (1)—

11 (i) in subparagraph (E), by striking  
 12 “and” at the end;

13 (ii) in subparagraph (F), by striking  
 14 the semicolon at the end and inserting “,  
 15 and”; and

16 (iii) by adding at the end the follow-  
 17 ing:

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

21 (B) in paragraph (7), by striking “para-  
 22 graph (1)(B) or under paragraph (1)(F)” and  
 23 inserting “subparagraph (B), (F), or (G) of  
 24 paragraph (1)”.

1 **SEC. 3. EFFECTIVE DATE.**

2       The amendments made by section 2 shall apply to  
3 items and services furnished on or after January 1, 1998.

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