

110TH CONGRESS  
1ST SESSION

# H. R. 4206

To amend title XVIII of the Social Security Act to improve access to, and increase utilization of, bone mass measurement benefits under the Medicare part B Program.

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## IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 15, 2007

Ms. BERKLEY (for herself, Mr. BURGESS, Mrs. MALONEY of New York, Mr. McNULTY, Mr. PAUL, Mr. ROTHMAN, Mr. GOODE, Mr. SESSIONS, Mrs. MYRICK, Mr. GENE GREEN of Texas, Mrs. CAPPS, Mr. KLEIN of Florida, Ms. LORETTA SANCHEZ of California, Ms. MOORE of Wisconsin, Ms. ROYBAL-ALLARD, Ms. LINDA T. SÁNCHEZ of California, Mrs. TAUSCHER, Ms. ZOE LOFGREN of California, Mrs. DAVIS of California, Ms. SOLIS, Ms. MATSUI, Mr. BERRY, Mr. HINCHEY, Ms. SCHAKOWSKY, Ms. GIFFORDS, Ms. CASTOR, Mrs. GILLIBRAND, Mr. ELLSWORTH, Ms. WOOLSEY, Ms. WATSON, Ms. BORDALLO, Ms. SCHWARTZ, Mr. ISRAEL, Ms. VELÁZQUEZ, Mr. PASCRELL, Ms. MCCOLLUM of Minnesota, Mr. CROWLEY, Mr. HARE, Mr. JOHNSON of Georgia, Mrs. MCCARTHY of New York, Ms. HOOLEY, and Mrs. NAPOLITANO) 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 improve access to, and increase utilization of, bone mass measurement benefits under the Medicare part B Program.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2       This Act may be cited as the “Medicare Fracture  
3 Prevention and Osteoporosis Testing Act of 2007”.

4 **SEC. 2. FINDINGS.**

5       Congress finds the following:

6           (1) Since 1997, Congress has recognized the  
7 importance of osteoporosis prevention by standard-  
8 izing reimbursement under the Medicare program  
9 for bone mass measurement.

10          (2) One decade later, osteoporosis remains  
11 underdiagnosed and untreated despite numerous  
12 Federal initiatives, including recommendations of the  
13 United States Preventive Services Task Force, the  
14 2004 United States Surgeon General’s Report on  
15 Bone Health and Osteoporosis, and inclusion of bone  
16 mass measurement in the Welcome to Medicare  
17 exam.

18          (3) Even though osteoporosis is a highly man-  
19 ageable disease, many patients lack access to early  
20 diagnosis that can prevent debilitating fractures,  
21 morbidity, and loss of mobility.

22          (4) Although Caucasians are most likely to sus-  
23 tain osteoporosis fractures, the cost of fractures  
24 among the nonwhite population is projected to in-  
25 crease by as much as 180 percent over the next 20  
26 years.

1           (5) Black women are more likely than White  
2 women to die following a hip fracture.

3           (6) Osteoporosis is a critical women’s health  
4 issue. Women account for 71 percent of fractures  
5 and 75 percent of osteoporosis-associated costs.

6           (7) The World Health Organization, the Cen-  
7 ters for Medicare & Medicaid Services, and other  
8 medical experts concur that the most widely accept-  
9 ed method of measuring bone mass to predict frac-  
10 ture risk is dual-energy x-ray absorptiometry (in this  
11 Act referred to as “DXA”). Vertebral fracture as-  
12 sessment (in this Act referred to as “VFA”) is an-  
13 other test used to identify patients at high risk for  
14 future fracture.

15           (8) Unlike other imaging procedures, bone mass  
16 measurement testing remains severely underutilized  
17 with less than 20 percent of eligible Medicare bene-  
18 ficiaries taking advantage of the benefit.

19           (9) Underutilization of bone mass measurement  
20 will strain the Medicare budget because—

21                   (A) 55 percent of the people age 50 and  
22 older in 2002 had osteoporosis or low bone  
23 mass;

24                   (B) more than 61,000,000 people in the  
25 United States are projected to have osteoporosis

1 or low bone mass in 2020, as compared to  
2 43,000,000 in 2002;

3 (C) osteoporosis fractures are projected to  
4 increase by almost 50 percent over the next 2  
5 decades with at least 3,000,000 fractures ex-  
6 pected to occur annually by 2025;

7 (D) the population aged 65 and older rep-  
8 resents 89 percent of fracture costs; and

9 (E) the economic burden of osteoporosis  
10 fractures are projected to increase by 50 per-  
11 cent over the next 2 decades, reaching  
12 \$25,300,000,000 in 2025.

13 (10) Underutilization of bone mass measure-  
14 ment will also strain the Medicaid budget, which  
15 funds treatment for osteoporosis in low-income  
16 Americans.

17 (11) Reimbursement under the Medicare pro-  
18 gram for DXA provided in physician offices and  
19 other non-hospital settings was reduced by 40 per-  
20 cent and will be reduced by a total of 75 percent by  
21 2010. This drop represents one of the largest reim-  
22 bursement reductions in the history of the Medicare  
23 program. Reimbursement for VFA will also be re-  
24 duced by 50 percent by 2010.

1           (12) The reduction in reimbursement discour-  
2           ages physicians from continuing to provide access to  
3           DXA or VFA in their offices. Since two-thirds of all  
4           DXA scans are performed in nonfacility settings,  
5           such as physician offices, patient access to bone  
6           mass measurement will be severely compromised  
7           when physicians discontinue providing those tests in  
8           their offices, thereby exacerbating the current under-  
9           utilization of the benefit.

10 **SEC. 3. MINIMUM PAYMENT FOR BONE MASS MEASURE-**  
11 **MENT.**

12           (a) IN GENERAL.—Section 1848(b) of the Social Se-  
13           curity Act (42 U.S.C. 1395w–4(b)) is amended by adding  
14           at the end the following:

15                   “(5) TREATMENT OF BONE MASS SCANS.—Not-  
16           withstanding the provisions of paragraph (1), the  
17           Secretary shall establish a national minimum pay-  
18           ment amount for CPT code 77080 (relating to dual-  
19           energy x-ray absorptiometry) and CPT code 77082  
20           (relating to vertebral fracture assessment), and any  
21           successor to such codes as identified by the Sec-  
22           retary. Such minimum payment amount shall not be  
23           less than 100 percent of the reimbursement rates in  
24           effect for such codes (or predecessor codes) on De-  
25           cember 31, 2006.”.

1 (b) EFFECTIVE DATE.—The amendment made by  
2 subsection (a) shall apply to bone mass measurement fur-  
3 nished on or after January 1, 2008.

4 **SEC. 4. STUDY AND REPORT BY THE INSTITUTE OF MEDI-**  
5 **CINE.**

6 (a) IN GENERAL.—The Secretary of Health and  
7 Human Services shall enter into an arrangement with the  
8 Institute of Medicine of the National Academies to con-  
9 duct a study on the following:

10 (1) The ramifications of Medicare reimburse-  
11 ment reductions for DXA and VFA on beneficiary  
12 access to bone mass measurement benefits in general  
13 and in rural and minority communities specifically.

14 (2) Methods to increase use of bone mass meas-  
15 urement by Medicare beneficiaries.

16 (b) REPORT.—The agreement entered into under  
17 subsection (a) shall provide for the Institute of Medicine  
18 to submit to the Secretary and the Congress, not later  
19 than 1 year after the date of the enactment of this Act,  
20 a report containing a description of the results of the  
21 study conducted under such subsection and the conclu-  
22 sions and recommendations of the Institute of Medicine  
23 regarding each of the issues described in paragraphs (1)  
24 and (2) of such subsection.

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