

111TH CONGRESS
1ST SESSION

H. R. 1189

To amend the Public Health Service Act to establish a national screening program at the Centers for Disease Control and Prevention and to amend title XIX of the Social Security Act to provide States the option to provide medical assistance for men and women screened and found to have colorectal cancer or colorectal polyps.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 25, 2009

Ms. GRANGER (for herself and Mr. KENNEDY) introduced the following bill;
which was referred to the Committee on Energy and Commerce

A BILL

To amend the Public Health Service Act to establish a national screening program at the Centers for Disease Control and Prevention and to amend title XIX of the Social Security Act to provide States the option to provide medical assistance for men and women screened and found to have colorectal cancer or colorectal polyps.

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 Pre-
5 vention, Early Detection, and Treatment Act of 2009”.

1 **SEC. 2. PREVENTIVE HEALTH MEASURES WITH RESPECT**
2 **TO COLORECTAL CANCER.**

3 Part B of title III of the Public Health Service Act
4 (42 U.S.C. 243 et seq.) is amended by inserting after sec-
5 tion 317T the following new section:

6 **“SEC. 317U. PREVENTIVE HEALTH MEASURES WITH RE-**
7 **SPECT TO COLORECTAL CANCER.**

8 **“(a) GRANT PROGRAM AUTHORIZATION.—**

9 **“(1) IN GENERAL.—**The Secretary, acting
10 through the Director of the Centers for Disease
11 Control and Prevention, may make grants to eligible
12 entities for the purpose of carrying out a program
13 described in subsection (b). An eligible entity that is
14 a recipient of a grant under this subsection may use
15 such grant to carry out such programs directly or
16 through grants to, or contracts with, public and not-
17 for-profit private entities.

18 **“(2) ELIGIBLE ENTITY DEFINED.—**For pur-
19 poses of this section, the term ‘eligible entity’ in-
20 cludes the following:

21 **“(A) A State, including, in addition to the**
22 **several States, the District of Columbia, Guam,**
23 **the Commonwealth of Puerto Rico, the North-**
24 **ern Mariana Islands, the Virgin Islands, Amer-**
25 **ican Samoa, and the Trust Territory of the Pa-**
26 **cific Islands.**

1 “(B) An Indian tribe or tribal organiza-
2 tion, as such terms are defined in section 4 of
3 the Indian Self-Determination and Education
4 Assistance Act.

5 “(b) PROGRAMS DESCRIBED.—

6 “(1) IN GENERAL.—Subject to paragraph (2), a
7 program described in this subsection is a program
8 for planning or implementing each of the following:

9 “(A) Providing screenings for colorectal
10 cancer to individuals who—

11 “(i) are 50 years of age or older; or

12 “(ii)(I) are under 50 years of age; and

13 “(II) are at high risk for such cancer,

14 as determined in accordance with sub-

15 section (e)(2).

16 “(B) Providing appropriate case manage-
17 ment and referrals for medical treatment of in-
18 dividuals screened pursuant to subparagraph
19 (A).

20 “(C) Ensuring (directly or through coordi-
21 nation or an arrangement with health care pro-
22 viders or programs) the full continuum of fol-
23 low-up and cancer care for individuals so
24 screened, including appropriate follow-up for
25 abnormal tests, diagnostic services, therapeutic

1 services, and treatment of detected cancers and
2 management of unanticipated medical complica-
3 tions.

4 “(D) Carrying out activities to improve the
5 education, training, and skills of health profes-
6 sionals (including allied health professionals) in
7 the detection and control of colorectal cancer,
8 which activities are carried out pursuant to the
9 participation of the health professionals in the
10 program.

11 “(E) Establishing mechanisms through
12 which the eligible entity involved can monitor
13 the quality of screening and diagnostic follow-
14 up procedures for colorectal cancer, including
15 the interpretation of such procedures.

16 “(F) Evaluating the activities described in
17 this subsection through appropriate surveillance
18 and program monitoring activities.

19 “(G) Developing and disseminating find-
20 ings derived through such evaluations and the
21 collection of data on outcomes.

22 “(H) Developing and disseminating public
23 information and education programs for the de-
24 tection and control of colorectal cancer and pro-

1 moting the benefits of receiving screenings
2 through this program.

3 “(2) SUPPLEMENT NOT SUPPLANT.—In the
4 case of an eligible entity that implements a universal
5 colorectal screening program under which the eligi-
6 ble entity makes available funds for activities de-
7 scribed in subparagraph (A), (B), or (C) of para-
8 graph (1), such entity shall be able to receive grant
9 funds under subsection (a) only for purposes of—

10 “(A) carrying out those activities under
11 this subsection that are not so funded; or

12 “(B) supplementing (and not supplanting)
13 funds made available by the entity for such
14 funded program.

15 “(c) PRIORITY FOR LOW-INCOME, UNINSURED AND
16 UNDERINSURED INDIVIDUALS.—A grant may be made
17 under subsection (a) to an eligible entity only if the eligible
18 entity agrees that, in providing screenings under sub-
19 section (b)(1)(A), the eligible entity will give priority to
20 low-income individuals who lack adequate coverage, as de-
21 termined by the Secretary, under health insurance and
22 health plans with respect to screenings for colorectal can-
23 cer.

24 “(d) SPECIAL CONSIDERATION FOR CERTAIN APPLI-
25 CANTS.—In making grants under subsection (a) for a fis-

1 cal year, the Secretary shall give special consideration to
2 the following eligible entities:

3 “(1) In the case of services under such sub-
4 section for women, to such entities that, for such
5 year, are grantees under title XV.

6 “(2) In the case of services under such sub-
7 section for men, to such entities that, for such year,
8 are grantees under section 317D.

9 “(3) To such entities that coordinate with other
10 Federal, State, and local colorectal cancer programs.

11 “(4) To such entities with an existing program
12 to provide cancer screening to individuals.

13 “(e) USE OF CERTAIN STANDARDS UNDER MEDI-
14 CARE PROGRAM.—A grant may be made under subsection
15 (a) to an eligible entity only if the eligible entity provides,
16 as applicable, assurances as follows:

17 “(1) Screenings under subsection (b)(1)(A) will
18 be carried out as preventive health measures in ac-
19 cordance with evidence-based screening guidelines
20 and procedures and in accordance with the standard
21 of care required for purposes of title XVIII of the
22 Social Security Act to carry out colorectal screening
23 tests defined in section 1861(pp)(1) of such Act.

24 “(2) An individual will be considered high risk
25 for purposes of subsection (b)(1)(A)(ii) only if the

1 individual is high risk within the meaning of section
2 1861(pp)(2) of such Act.

3 “(3) The payment made from the grant for a
4 screening procedure under subsection (b)(1)(A) will
5 not exceed the amount that would be paid under
6 part B of title XVIII of such Act if payment were
7 made under such part for furnishing the procedure
8 to an individual enrolled under such part.

9 “(f) RELATIONSHIP TO ITEMS AND SERVICES UNDER
10 OTHER PROGRAMS.—A grant under subsection (a) may
11 be made to an eligible entity only if the eligible entity,
12 as applicable, provides assurances that the grant will not
13 be expended to make payment for any item or service to
14 the extent that payment has been made, or can reasonably
15 be expected to be made, with respect to such item or serv-
16 ice—

17 “(1) under any State compensation program,
18 under an insurance policy, or under any Federal or
19 State health benefits program; or

20 “(2) by an entity that provides health services
21 on a prepaid basis.

22 “(g) RECORDS AND AUDITS.—A grant under sub-
23 section (a) may be made to an eligible entity only if the
24 eligible entity provides assurances that the eligible entity
25 will—

1 “(1) establish such fiscal control and fund ac-
2 counting procedures as may be necessary to ensure
3 proper disbursal of, and accounting for, amounts re-
4 ceived under subsection (a); and

5 “(2) upon request, provide records maintained
6 pursuant to paragraph (1) to the Secretary or the
7 Comptroller General of the United States for pur-
8 poses of auditing the expenditures of the grant by
9 the eligible entity.

10 “(h) REQUIREMENT OF MATCHING FUNDS.—

11 “(1) IN GENERAL.—The Secretary may not
12 make a grant under subsection (a) to an eligible en-
13 tity for a fiscal year unless the eligible entity agrees,
14 with respect to the costs to be incurred by the eligi-
15 ble entity for such fiscal year in carrying out the ac-
16 tivities described in subsection (b), to make available
17 non-Federal contributions (in cash or in kind under
18 paragraph (2)) toward such costs in an amount
19 equal to not less than \$1 for each \$3 of Federal
20 funds provided in the grant for such fiscal year.
21 Such contributions may be made directly or through
22 donations from public or private entities.

23 “(2) DETERMINATION OF AMOUNT OF NON-
24 FEDERAL CONTRIBUTION.—

1 “(A) IN GENERAL.—Non-Federal contribu-
2 tions required in paragraph (1) may be in cash
3 or in kind, fairly evaluated, including equipment
4 or services (and excluding indirect or overhead
5 costs). Amounts provided by the Federal Gov-
6 ernment, or services assisted or subsidized to
7 any significant extent by the Federal Govern-
8 ment, may not be included in determining the
9 amount of such non-Federal contributions.

10 “(B) MAINTENANCE OF EFFORT.—In
11 making a determination of the amount of non-
12 Federal contributions for purposes of paragraph
13 (1), the Secretary may include only non-Federal
14 contributions in excess of the average amount
15 of non-Federal contributions made by the eligi-
16 ble entity involved toward the activities de-
17 scribed in subsection (b) for the 2-year period
18 preceding the first fiscal year for which the eli-
19 gible entity is applying to receive a grant under
20 subsection (a).

21 “(C) INCLUSION OF RELEVANT NON-FED-
22 ERAL CONTRIBUTIONS FOR MEDICAID.—In
23 making a determination of the amount of non-
24 Federal contributions for purposes of paragraph
25 (1), the Secretary shall, subject to subpara-

1 graphs (A) and (B) of this paragraph, include
2 any non-Federal amounts expended pursuant to
3 title XIX of the Social Security Act by the eligi-
4 ble entity involved toward the activities de-
5 scribed in subparagraphs (A) and (B) of sub-
6 section (b)(1).

7 “(i) ADDITIONAL REQUIREMENTS.—

8 “(1) LIMITATION ON ADMINISTRATIVE EX-
9 PENSES.—The Secretary may not make a grant to
10 an eligible entity under subsection (a) unless the eli-
11 gible entity provides assurances that not more than
12 10 percent of the grant will be expended for admin-
13 istrative expenses with respect to the activities fund-
14 ed by the grant.

15 “(2) STATEWIDE PROVISION OF SERVICES.—

16 “(A) IN GENERAL.—Subject to subpara-
17 graph (B), the Secretary may not make a grant
18 under subsection (a) to an eligible entity unless
19 the eligible entity provides assurances that any
20 program funded by such grant will be made
21 available throughout the State, including avail-
22 ability to members of an Indian tribe or tribal
23 organization (as such terms are defined in sec-
24 tion 4 of the Indian Self-Determination and
25 Education Assistance Act).

1 “(B) WAIVER.—The Secretary may waive
2 the requirement under subparagraph (A) for an
3 eligible entity if the Secretary determines that
4 compliance by the eligible entity with the re-
5 quirement would result in an inefficient alloca-
6 tion of resources with respect to carrying out
7 the purposes described in subsection (a).

8 “(j) TECHNICAL ASSISTANCE AND PROVISION OF
9 SUPPLIES AND SERVICES IN LIEU OF GRANT FUNDS.—

10 “(1) TECHNICAL ASSISTANCE.—The Secretary
11 may provide training and technical assistance with
12 respect to the planning, development, and operation
13 of any program funded by a grant under subsection
14 (a). The Secretary may provide such technical as-
15 sistance directly to eligible entities or through grants
16 to, or contracts with, public and private entities.

17 “(2) PROVISION OF SUPPLIES AND SERVICES IN
18 LIEU OF GRANT FUNDS.—

19 “(A) IN GENERAL.—Subject to subpara-
20 graph (B), upon the request of an eligible entity
21 receiving a grant under subsection (a), the Sec-
22 retary for the purpose of aiding the eligible en-
23 tity to carry out a program under subsection
24 (b)—

1 “(i) may provide supplies, equipment,
2 and services to the eligible entity; and

3 “(ii) may detail to the eligible entity
4 any officer or employee of the Department
5 of Health and Human Services.

6 “(B) CORRESPONDING REDUCTION IN PAY-
7 MENTS.—With respect to a request made by an
8 eligible entity under subparagraph (A), the Sec-
9 retary shall reduce the amount of payments
10 made under the grant under subsection (a) to
11 the eligible entity by an amount equal to the
12 fair market value of any supplies, equipment, or
13 services provided by the Secretary and the costs
14 of detailing personnel (including pay, allow-
15 ances, and travel expenses) under subparagraph
16 (A). The Secretary shall, for the payment of ex-
17 penses incurred in complying with such request,
18 expend the amounts withheld.

19 “(k) REPORTS.—A grant under subsection (a) may
20 be made only if the applicant involved agrees to submit
21 to the Secretary such reports as the Secretary may require
22 with respect to the grant.

23 “(l) AUTHORIZATION OF APPROPRIATIONS.—

1 “(1) IN GENERAL.—For the purpose of car-
 2 rying out this section, there are authorized to be ap-
 3 propriated—

4 “(A) for fiscal year 2009, \$50,000,000;

5 “(B) for fiscal year 2010, \$75,000,000;

6 “(C) for fiscal year 2011, \$150,000,000;

7 “(D) for fiscal year 2012, \$200,000,000;

8 and

9 “(E) for fiscal year 2013, \$250,000,000.

10 “(2) SET-ASIDE FOR TECHNICAL ASSISTANCE
 11 AND PROVISION OF SUPPLIES AND SERVICES.—Of
 12 the amount appropriated under paragraph (1) for a
 13 fiscal year, the Secretary shall reserve not to exceed
 14 20 percent for carrying out subsection (j).”.

15 **SEC. 3. OPTIONAL MEDICAID COVERAGE OF CERTAIN PER-**
 16 **SONS SCREENED AND FOUND TO HAVE**
 17 **COLORECTAL CANCER.**

18 (a) COVERAGE AS OPTIONAL CATEGORICALLY
 19 NEEDY GROUP.—

20 (1) IN GENERAL.—Section 1902(a)(10)(A)(ii)
 21 of the Social Security Act (42 U.S.C.
 22 1396a(a)(10)(A)(ii)) is amended—

23 (A) in subclause (XVIII), by striking “or”
 24 at the end;

1 (B) in subclause (XIX), by adding “or” at
 2 the end; and

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

4 “(XX) who are described in sub-
 5 section (dd) (relating to certain per-
 6 sons screened and found to need
 7 treatment from complications from
 8 screening or have colorectal cancer);”.

9 (2) GROUP DESCRIBED.—Section 1902 of the
 10 Social Security Act (42 U.S.C. 1396a) is amended
 11 by adding at the end the following:

12 “(dd) Individuals described in this subsection are in-
 13 dividuals who—

14 “(1) are not described in subsection
 15 (a)(10)(A)(i);

16 “(2) have not attained age 65;

17 “(3) have been screened for colorectal cancer
 18 and need treatment for complications due to screen-
 19 ing or colorectal cancer; and

20 “(4) are not otherwise covered under creditable
 21 coverage, as defined in section 2701(c) of the Public
 22 Health Service Act.”.

23 (3) LIMITATION ON BENEFITS.—Section
 24 1902(a)(10) of the Social Security Act (42 U.S.C.

1 1396a(a)(10)) is amended in the matter following
2 subparagraph (G)—

3 (A) by striking “and (XIV)” and inserting
4 “(XIV)”; and

5 (B) by inserting “, and (XV) the medical
6 assistance made available to an individual de-
7 scribed in subsection (dd) who is eligible for
8 medical assistance only because of subpara-
9 graph (A)(10)(ii)(XX) shall be limited to med-
10 ical assistance provided during the period in
11 which such an individual requires treatment for
12 complications due to screening or colorectal
13 cancer” before the semicolon.

14 (4) CONFORMING AMENDMENTS.—Section
15 1905(a) of the Social Security Act (42 U.S.C.
16 1396d(a)) is amended in the matter preceding para-
17 graph (1)—

18 (A) in clause (xii), by striking “or” at the
19 end;

20 (B) in clause (xiii), by adding “or” at the
21 end; and

22 (C) by inserting after clause (xiii) the fol-
23 lowing:

24 “(xiv) individuals described in section
25 1902(dd),”.

1 (b) PRESUMPTIVE ELIGIBILITY.—

2 (1) IN GENERAL.—Title XIX of the Social Se-
3 curity Act (42 U.S.C. 1396 et seq.) is amended by
4 inserting after section 1920B the following:

5 “OPTIONAL APPLICATION OF PRESUMPTIVE ELIGIBILITY
6 PROVISIONS FOR CERTAIN PERSONS WITH
7 COLORECTAL CANCER

8 “SEC. 1920C. A State may elect to apply the provi-
9 sions of section 1920B to individuals described in section
10 1902(dd) (relating to certain colorectal cancer patients)
11 in the same manner as such section applies to individuals
12 described in section 1902(aa) (relating to certain breast
13 or cervical cancer patients).”.

14 (2) CONFORMING AMENDMENTS.—

15 (A) Section 1902(a)(47) of the Social Se-
16 curity Act (42 U.S.C. 1396a(a)(47)) is amend-
17 ed—

18 (i) by striking “and” after “section
19 1920” and inserting a comma;

20 (ii) by striking “and” after “with such
21 section” and inserting a comma; and

22 (iii) by inserting before the semicolon
23 at the end the following: “, and provide for
24 making medical assistance available to in-
25 dividuals described in section 1920C dur-

1 ing a presumptive eligibility period in ac-
 2 cordance with such section”.

3 (B) Section 1903(u)(1)(d)(v) of such Act
 4 (42 U.S.C. 1396b(u)(1)(d)(v)) is amended—

5 (i) by striking “or for” and inserting
 6 “, for”; and

7 (ii) by inserting before the period the
 8 following: “, or for medical assistance pro-
 9 vided to an individual described in section
 10 1920C during a presumptive eligibility pe-
 11 riod under such section”.

12 (c) ENHANCED MATCH.—The first sentence of sec-
 13 tion 1905(b) of the Social Security Act (42 U.S.C.
 14 1396d(b)) is amended—

15 (1) by striking “and” before “(4)”; and

16 (2) by inserting before the period at the end the
 17 following: “, and (5) the Federal medical assistance
 18 percentage shall be equal to the enhanced FMAP de-
 19 scribed in section 2105(b) with respect to medical
 20 assistance provided to individuals who are eligible
 21 for such assistance only on the basis of section
 22 1902(a)(10)(A)(ii)(XX)”.

23 (d) EFFECTIVE DATE.—The amendments made by
 24 this section apply to medical assistance for items and serv-
 25 ices furnished on or after October 1, 2009, without regard

- 1 to whether final regulations to carry out such amendments
- 2 have been promulgated by such date.

○