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111TH CONGRESS
1ST SESSION

H. R. 1894

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.

IN THE HOUSE OF REPRESENTATIVES

APRIL 2, 2009

Ms. BERKLEY (for herself, Mr. BURGESS, Mr. PAYNE, Mr. GRIJALVA, Mr. MCGOVERN, Mrs. CAPPS, Ms. SCHAKOWSKY, Mr. LEWIS of Georgia, Mr. OLVER, Ms. BALDWIN, Mr. SESTAK, Mr. HINOJOSA, Mr. CULBERSON, Mr. BOSWELL, Mr. GENE GREEN of Texas, Ms. KILPATRICK of Michigan, Mr. PAUL, Mrs. LOWEY, Mr. COURTNEY, Ms. SUTTON, Ms. WASSERMAN SCHULTZ, Mrs. CHRISTENSEN, Ms. JACKSON-LEE of Texas, Ms. SCHWARTZ, Mr. SESSIONS, Mr. THOMPSON of California, Ms. KILROY, Ms. HIRONO, Mr. MCDERMOTT, Ms. CASTOR of Florida, Mr. FALEOMAVAEGA, Mrs. DAVIS of California, Mr. ENGEL, Mr. WEXLER, Mr. TANNER, Mr. FARR, Mr. SHERMAN, Ms. WATSON, Ms. TITUS, Ms. MOORE of Wisconsin, Ms. LINDA T. SÁNCHEZ of California, Ms. KOSMAS, Mr. KENNEDY, Mr. GEORGE MILLER of California, Ms. SPEIER, Ms. TSONGAS, Ms. DEGETTE, Mrs. NAPOLITANO, Mr. CARNAHAN, Ms. ROYBAL-ALLARD, Mr. KAGEN, Ms. HARMAN, Mr. SERRANO, Ms. MARKEY of Colorado, Mr. SCOTT of Virginia, Ms. SHEA-PORTER, Mrs. MALONEY, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. MEEKS of New York, Ms. WOOLSEY, Ms. LEE of California, Ms. CLARKE, Ms. CORRINE BROWN of Florida, Ms. EDWARDS of Maryland, and Mr. PIERLUISI) 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.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Medicare Fracture Prevention and Osteoporosis Testing Act of 2009''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) Since 1997, Congress has recognized the importance of osteoporosis prevention by standardizing reimbursement under the Medicare program for bone mass measurement.

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

(3) Even though osteoporosis is a highly manageable disease, many patients lack access to early diagnosis that can prevent debilitating fractures, morbidity, and loss of mobility.

(4) Although Caucasians are most likely to sustain osteoporosis fractures, the cost of fractures among the nonwhite population is projected to increase by as much as 180 percent over the next 20 years.

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

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

(7) The World Health Organization, the Centers for Medicare & Medicaid Services, and other medical experts concur that the most widely accepted method of measuring bone mass to predict fracture risk is dual-energy x-ray absorptiometry (in this Act referred to as ''DXA''). Vertebral fracture assessment (in this Act referred to as ''VFA'') is another test used to identify patients at high risk for future fracture.

(8) DXA is a cost-effective preventive test with proven results in real world settings. DXA testing increases the number of people diagnosed with osteoporosis and treated so that hip fractures and related costs are dramatically reduced.

(9) Unlike other imaging procedures DXA remains severely underutilized, with only one in four women eligible for the Medicare program using the benefit that provides for bone mass measurement every two years.

(10) Underutilization of bone mass measurement will strain the Medicare budget because—

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

(B) more than 61,000,000 people in the United States are projected to have osteoporosis or low bone mass in 2020, as compared to 43,000,000 in 2002;

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

(D) the population aged 65 and older represents 89 percent of fracture costs; and

(E) the economic burden of osteoporosis fractures are projected to increase by 50 percent over the next 2 decades, reaching $25,300,000,000 in 2025.

(11) Underutilization of bone mass measurement will also strain the Medicaid budget, which funds treatment for osteoporosis in low-income Americans.

(12) Reimbursement under the Medicare program for DXA provided in physician offices and other non-hospital settings was reduced by 50 percent and is scheduled to be reduced by a total of 62 percent by 2010. This drop represents one of the largest reimbursement reductions in the history of the Medicare program. Reimbursement for VFA will also be reduced by 30 percent by 2010.

(13) The reduction in reimbursement discourages physicians from continuing to provide access to DXA or VFA in their offices. Since two-thirds of all DXA scans are performed in nonfacility settings, such as physician offices, patient access to bone mass measurement will be severely compromised when physicians discontinue providing such tests in their offices, thereby exacerbating the current underutilization of the benefit.

SEC. 3. MINIMUM PAYMENT FOR BONE MASS MEASUREMENT.

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

"(6) TREATMENT OF BONE MASS SCANS.—Notwithstanding the provisions of paragraph (1), the Secretary shall establish a national minimum payment amount for CPT code 77080 (relating to dual-energy x-ray absorptiometry) and CPT code 77082 (relating to vertebral fracture assessment), and any successor to such codes as identified by the Secretary. Such minimum payment amount shall not be less than 100 percent of the reimbursement rates in effect for such codes (or predecessor codes) on December 31, 2006.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to bone mass measurement furnished on or after January 1, 2010.

SEC. 4. STUDY AND REPORT BY THE INSTITUTE OF MEDICINE.

(a) IN GENERAL.—The Secretary of Health and Human Services shall enter into an arrangement with the Institute of Medicine of the National Academies to conduct a study on the following:

(1) The ramifications of Medicare reimbursement reductions for DXA and VFA on beneficiary access to bone mass measurement benefits in general and in rural and minority communities specifically.

(2) Methods to increase use of bone mass measurement by Medicare beneficiaries.

(b) REPORT.—The agreement entered into under subsection (a) shall provide for the Institute of Medicine to submit to the Secretary and the Congress, not later than 1 year after the date of the enactment of this Act, a report containing a description of the results of the study conducted under such subsection and the conclusions and recommendations of the Institute of Medicine regarding each of the issues described in paragraphs (1) and (2) of such subsection.

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