

111TH CONGRESS
1ST SESSION

H. R. 3559

To amend titles XVIII and XIX of the Social Security Act to improve awareness and access to colorectal cancer screening tests under the Medicare and Medicaid programs, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 14, 2009

Mr. NEAL of Massachusetts 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

A BILL

To amend titles XVIII and XIX of the Social Security Act to improve awareness and access to colorectal cancer screening tests under the Medicare and Medicaid programs, and for other purposes.

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 “Supporting ColoRectal
5 Examination and Education Now (SCREEN) Act of
6 2009”.

1 **SEC. 2. FINDINGS AND SENSE OF CONGRESS.**

2 (a) FINDINGS.—Congress makes the following find-
3 ings:

4 (1) A majority of the deaths and costs associ-
5 ated with colorectal cancer, the second leading cause
6 of cancer deaths in the United States, are avoidable
7 through timely preventive screening, including
8 colonoscopy.

9 (2) The United States Preventive Services Task
10 Force provides its only grade “A” recommendation
11 of cancer screenings for colorectal interventions.

12 (3) Colorectal cancer screening test rates are
13 far too low, with only 50 percent of recommended
14 populations receiving colorectal cancer screening
15 tests, and rates of such screening tests among mi-
16 norities and those without insurance lag consider-
17 ably.

18 (4) The colorectal cancer screening benefit
19 under the Medicare program under title XVIII of
20 the Social Security Act is severely underutilized.

21 (5) Numerous barriers for patients, commu-
22 nities, and health care providers detrimentally affect
23 the utilization of colorectal cancer screening tests.
24 Such barriers include patient knowledge, coinsurance
25 burdens, restrictions on Medicare coverage for an of-

1 fice visit prior to a screening colonoscopy, and reduc-
 2 tions in Medicare reimbursement.

3 (b) SENSE OF CONGRESS.—It is the sense of Con-
 4 gress that—

5 (1) if legislation to provide health insurance
 6 coverage, public or private, to persons under the age
 7 of 65, is enacted, coverage of colorectal cancer
 8 screening tests and the provisions of this Act should
 9 be included as part of any basic benefit package re-
 10 required under such legislation; and

11 (2) Congress, Federal agencies, State and local
 12 governments, health care providers, and patient
 13 groups should make a concerted and sustained effort
 14 to increase the rate of colorectal cancer screening
 15 tests.

16 **SEC. 3. COMMUNITY AND PATIENT INTERVENTIONS.**

17 (a) GRANT PROGRAM TO INCREASE COLORECTAL
 18 CANCER AWARENESS, SCREENING, AND TREATMENT.—

19 (1) DEFINITIONS.—In this subsection:

20 (A) COLORECTAL CANCER SCREENING
 21 TESTS.—The term “colorectal cancer screening
 22 test” has the meaning given such term in sec-
 23 tion 1861(pp)(1) of the Social Security Act (42
 24 U.S.C. 1395x(pp)(1)).

1 (B) INDIAN TRIBE.—The term “Indian
2 tribe” has the meaning given such term in sec-
3 tion 4 of the Indian Self-Determination and
4 Education Assistance Act (25 U.S.C. 450b).

5 (C) SECRETARY.—The term “Secretary”
6 means the Secretary of Health and Human
7 Services, acting through the Director of the
8 Centers for Disease Control and Prevention.

9 (D) STATE.—The term “State” means—
10 (i) a State; and
11 (ii) the District of Columbia.

12 (2) GRANTS AUTHORIZED.—The Secretary is
13 authorized to make grants to States and Indian
14 tribes for colorectal health programs. Such a pro-
15 gram may include the following:

16 (A) The provision of colorectal cancer
17 screening tests, including colonoscopy, to indi-
18 viduals who are over 50 years of age or who are
19 determined to be at high risk for such cancer.

20 (B) The provision of case management and
21 referrals for medical treatment for individuals
22 who are provided colorectal cancer screening
23 tests under the program.

24 (C) Programs to ensure that individuals
25 who are provided colorectal cancer screening

1 tests under the program receive the full con-
2 tinuum of follow-up and cancer care, as appro-
3 priate.

4 (D) Activities to improve the education,
5 training, and skills of health professionals in
6 the detection and treatment of colorectal can-
7 cer.

8 (E) The development and dissemination of
9 public information and education programs—

10 (i) for the detection and treatment of
11 colorectal cancer; and

12 (ii) promoting the benefits of receiving
13 colorectal cancer screening tests through
14 the program.

15 (3) PRIORITY.—In making grants under para-
16 graph (2), the Secretary shall give priority to States
17 and Indian tribes that will use grant funds to pro-
18 vide colorectal cancer screening tests to low-income
19 individuals who lack adequate health insurance cov-
20 erage with respect to such screening.

21 (4) EXISTING FUNDING AUTHORITY.—The Sec-
22 retary shall make a grant under this section under
23 an existing funding authority.

24 (b) BENEFICIARY REMINDERS FOR INCREASING
25 COLORECTAL CANCER SCREENING TESTS.—

1 (1) DEFINITIONS.—In this subsection:

2 (A) COLORECTAL CANCER SCREENING
3 TESTS.—The term “colorectal cancer screening
4 test” has the meaning given such term in sec-
5 tion 1861(pp)(1) of the Social Security Act (42
6 U.S.C. 1395x(pp)(1)).

7 (B) MEDICARE BENEFICIARY.—The term
8 “Medicare beneficiary” means an individual en-
9 titled to, or enrolled for, benefits under part A
10 of title XVIII of the Social Security Act and en-
11 rolled for benefits under part B of such title.

12 (C) SECRETARY.—The term “Secretary”
13 means the Secretary of Health and Human
14 Services.

15 (2) ANNUAL NOTIFICATION UNDER THE MEDI-
16 CARE PROGRAM.—The Secretary shall establish a
17 program under which all Medicare beneficiaries are
18 notified annually about the coverage of colorectal
19 cancer screening tests under the Medicare program
20 under title XVIII of the Social Security Act. Under
21 the program, such notification—

22 (A) may be provided through direct mail or
23 direct electronic communications; and

24 (B) may accompany other information cur-
25 rently provided to such beneficiaries, including

1 marketing materials or information provided to
 2 enrollees by Medicare Advantage organizations
 3 under section 1852(c)(1) of the Social Security
 4 Act (42 U.S.C. 1395w-22) and information
 5 provided by PDP sponsors under section
 6 1860D-4(a)(1) of such Act (42 U.S.C. 1395w-
 7 104(a)(1)).

8 (3) STATE PLAN AMENDMENT UNDER MED-
 9 ICAID.—

10 (A) IN GENERAL.—Section 1902(a) of the
 11 Social Security Act (42 U.S.C. 1396a(a)), as
 12 amended by section 5006(e)(2)(A) of division B
 13 of the American Recovery and Reinvestment
 14 Act of 2009 (Public Law 111-5), is amended—

15 (i) in paragraph (72), by striking
 16 “and” at the end;

17 (ii) in paragraph (73)(B), by striking
 18 the period at the end and inserting “;
 19 and”; and

20 (iii) by inserting after paragraph (73),
 21 the following new paragraph:

22 “(74) if the State has elected to provide medical
 23 assistance described in section 1905(a)(13) and such
 24 assistance includes colorectal cancer screening tests,
 25 provide for the establishment of a program under

1 which individuals at risk for colon cancer, including
2 minorities who are identified as at high-risk for
3 colon cancer, who are over an age that the Secretary
4 determines appropriate (based on the recommenda-
5 tions of appropriate entities, including the United
6 States Preventive Services Task Force and appro-
7 priate medical specialty societies) are provided a no-
8 tification of the availability of medical assistance for
9 colorectal cancer screening tests and a reminder re-
10 garding the benefits of such tests.”.

11 (B) EFFECTIVE DATE.—

12 (i) IN GENERAL.—Except as provided
13 in clause (ii), the amendments made by
14 this paragraph take effect on January 1,
15 2011.

16 (ii) EXTENSION OF EFFECTIVE DATE
17 FOR STATE LAW AMENDMENT.—In the
18 case of a State plan under title XIX of the
19 Social Security Act (42 U.S.C. 1396 et
20 seq.) which the Secretary of Health and
21 Human Services determines requires State
22 legislation in order for the plan to meet the
23 additional requirements imposed by the
24 amendments made by this paragraph, the
25 State plan shall not be regarded as failing

1 to comply with the requirements of such
 2 title solely on the basis of its failure to
 3 meet these additional requirements before
 4 the first day of the first calendar quarter
 5 beginning after the close of the first reg-
 6 ular session of the State legislature that
 7 begins after the date of enactment of this
 8 Act. For purposes of the previous sentence,
 9 in the case of a State that has a 2-year
 10 legislative session, each year of the session
 11 is considered to be a separate regular ses-
 12 sion of the State legislature.

13 **SEC. 4. ELIMINATION OF COINSURANCE FOR COLORECTAL**
 14 **CANCER SCREENING TESTS.**

15 (a) IN GENERAL.—Section 1833(a)(1) of the Social
 16 Security Act (42 U.S.C. 1395l(a)(1)) is amended—

- 17 (1) by striking “and” before “(W)”;
- 18 (2) by inserting before the semicolon at the end
 19 the following: “, and (X) with respect to colorectal
 20 cancer screening tests (as defined in subsection
 21 (pp)), the amount paid shall be 100 percent of the
 22 lesser of the actual charge for the services or the
 23 amount determined under the fee schedule that ap-
 24 plies to such tests under this part”.

25 (b) CONFORMING AMENDMENTS.—

1 (1) SCREENING SIGMOIDOSCOPIES AND
2 COLONOSCOPIES.—Section 1834(d) of the Social Se-
3 curity Act (42 U.S.C. 1395m(d)) is amended—

4 (A) in paragraph (2)—

5 (i) in subparagraph (A), by inserting
6 “, except that payment for such tests
7 under such section shall be 100 percent of
8 the payment determined under such sec-
9 tion for such tests” before the period at
10 the end; and

11 (ii) in subparagraph (C)—

12 (I) by striking clause (ii); and

13 (II) in clause (i)—

14 (aa) by striking “(i) IN GEN-
15 ERAL.—Notwithstanding” and
16 inserting “Notwithstanding”;

17 (bb) by redesignating sub-
18 clauses (I) and (II) as clauses (i)
19 and (ii), respectively, and moving
20 such clauses and the flush matter
21 following such clauses 2 ems to
22 the left; and

23 (cc) in the flush matter fol-
24 lowing clause (ii), as so redesign-

1 nated, by inserting “100 percent
2 of” after “based on”; and

3 (B) in paragraph (3)—

4 (i) in subparagraph (A), by inserting
5 “, except that payment for such tests
6 under such section shall be 100 percent of
7 the payment determined under such sec-
8 tion for such tests” before the period at
9 the end; and

10 (ii) in subparagraph (C)—

11 (I) by striking clause (ii); and

12 (II) in clause (i)—

13 (aa) by striking “(i) IN GEN-
14 ERAL.—Notwithstanding” and
15 inserting “Notwithstanding”; and

16 (bb) by inserting “100 per-
17 cent of” after “based on”.

18 (2) OUTPATIENT HOSPITAL SETTINGS.—Section
19 1833(t) of the Social Security Act (42 U.S.C.
20 1395l(t)) is amended—

21 (A) in paragraph (4)(C), by striking
22 “paragraph (8)(C)” and inserting “subpara-
23 graphs (C) and (F) of paragraph (8)”; and

24 (B) in paragraph (8), by adding at the end
25 the following new subparagraph:

1 “(F) NO COPAYMENT FOR COLORECTAL
 2 CANCER SCREENING TESTS.—The copayment
 3 amount that would otherwise apply under this
 4 subsection to colorectal cancer screening tests
 5 (as defined in section 1861(pp)) shall be re-
 6 duced to zero.”.

7 (c) EFFECTIVE DATE.—The amendments made by
 8 this section shall apply to items and services furnished on
 9 or after January 1, 2010.

10 **SEC. 5. MEDICARE ADVANTAGE REPORTING REQUIRE-**
 11 **MENTS.**

12 (a) IN GENERAL.—Section 1857(e) of the Social Se-
 13 curity Act (42 U.S.C. 1395w–27(e)) is amended by adding
 14 at the end the following new paragraph:

15 “(4) ANNUAL REPORTING REGARDING
 16 COLORECTAL CANCER SCREENING TESTS.—

17 “(A) IN GENERAL.—Not later than 6
 18 months after the date of enactment of this
 19 paragraph and annually thereafter, a contract
 20 under this section with an MA organization
 21 shall require the organization to submit to the
 22 Secretary an annual report on the following:

23 “(i) The coverage of colorectal cancer
 24 screening tests (as defined in section
 25 1861(pp)) under each MA plan offered by

1 the organization, including the level of any
2 coinsurance or copayments applicable for
3 enrollees under the plan.

4 “(ii) Any educational outreach the or-
5 ganization provides to enrollees, providers
6 of services, and suppliers with respect to
7 such tests.

8 “(iii) Any pay-for-performance incen-
9 tives under MA plans offered by the orga-
10 nization for providers of services and sup-
11 pliers with respect to such tests, or any
12 other financial-sharing program with pro-
13 viders of services and suppliers with re-
14 spect to such tests.

15 “(iv) The total number of enrollees
16 furnished such tests during the preceding
17 year, listed according to the specific test
18 furnished, the type of facility in which the
19 test was furnished, and the gender and
20 race of the enrollees to whom such tests
21 were furnished.

22 “(B) REPORT TO CONGRESS AND PUBLIC
23 AVAILABILITY.—

24 “(i) REPORT.—The Secretary shall
25 submit to Congress an annual report con-

1 taining information submitted in the cor-
 2 responding annual report under subpara-
 3 graph (A).

4 “(ii) PUBLIC AVAILABILITY.—The
 5 Secretary shall make such information
 6 available to the public, including by posting
 7 such information on the Internet website of
 8 the Centers for Medicare & Medicaid Serv-
 9 ices.”.

10 (b) EFFECTIVE DATE.—The amendment made by
 11 this section shall apply to contracts entered into on or
 12 after January 1, 2011.

13 **SEC. 6. PROVIDER INTERVENTIONS.**

14 (a) IN GENERAL.—Section 1834(d) of the Social Se-
 15 curity Act (42 U.S.C. 1395m(d)) is amended by adding
 16 at the end the following new paragraph:

17 “(4) PREVENTIVE SERVICE PAYMENT MODIFIED
 18 FOR CERTAIN COLORECTAL CANCER SCREENING
 19 TESTS.—

20 “(A) NATIONAL MINIMUM STANDARDS.—

21 The Secretary, in consultation with the Insti-
 22 tute of Medicine, shall establish a national min-
 23 imum standard for basic knowledge, training,
 24 continuing education, and documentation for
 25 suppliers who furnish colorectal cancer screen-

1 ing tests (as defined in subsection (pp)). For
2 purposes of this paragraph, a supplier shall be
3 deemed to meet such national minimum stand-
4 ards if the supplier is certified in gastro-
5 enterology by the American Board of Internal
6 Medicine.

7 “(B) PREVENTIVE SERVICE PAYMENT
8 MODIFIER.—

9 “(i) DETERMINATION OF RATE
10 GOALS.—The Secretary, in consultation
11 with the United States Preventive Services
12 Task Force, the Institute of Medicine
13 Colorectal Cancer Working Group, and
14 other clinical advisors as determined ap-
15 propriate by the Secretary, shall determine
16 age-based goal rates for colorectal cancer
17 screening tests (as so defined) to be met or
18 exceeded for beneficiaries under this part
19 not later than July 1, 2010. Such age-
20 based goal rates shall be consistent with
21 the rates of screening for beneficiaries with
22 respect to other cancer screening tests
23 (such as screening mammography and cer-
24 vical cancer screening).

1 “(ii) ESTABLISHMENT OF PREVEN-
2 TIVE SERVICE MODIFIER FOR QUALIFIED
3 COLORECTAL CANCER SCREENING
4 TESTS.—

5 “(I) IN GENERAL.—The Sec-
6 retary shall establish an upward pre-
7 ventive service payment modifier for
8 qualifying colorectal cancer screening
9 tests furnished on or after January 1,
10 2010, which reflects the annual deter-
11 mination by the Secretary of the ap-
12 propriate amount of additional pay-
13 ment (not less than 10 percent of the
14 amount of payment otherwise pro-
15 vided) sufficient to increase the rate
16 of colorectal cancer screening tests
17 furnished under this part to the goal
18 rates determined under clause (i). The
19 Secretary shall update such modifier
20 on an annual basis, taking into con-
21 sideration the rate of colorectal cancer
22 screening tests furnished under this
23 part during the preceding year and
24 such goal rates.

1 “(II) QUALIFYING COLORECTAL
2 CANCER SCREENING TESTS.—For
3 purposes of subclause (I), the term
4 ‘qualifying colorectal cancer screening
5 tests’ means a colorectal cancer
6 screening test furnished by a supplier
7 who meets the national minimum
8 standards established under subpara-
9 graph (A) (as determined by the Sec-
10 retary).”.

11 (b) OUTPATIENT SETTINGS.—Section 1833(t) of the
12 Social Security Act (42 U.S.C. 1395l(t)) is amended by
13 adding at the end the following new paragraph:

14 “(18) IN GENERAL.—

15 “(A) NATIONAL MINIMUM STANDARDS.—
16 The Secretary, in consultation with the Insti-
17 tute of Medicine, shall establish a national min-
18 imum standard for basic knowledge, training,
19 continuing education, and documentation for
20 hospitals in outpatient settings which furnish
21 colorectal cancer screening tests (as defined in
22 subsection (pp)). For purposes of this para-
23 graph, a hospital shall be deemed to meet such
24 national minimum standards if the hospital is
25 certified by the Joint Commission on the Ac-

1 accreditation of Healthcare Organizations, the Ac-
2 creditation Association for Ambulatory Health
3 Care, or other accreditation body designated by
4 the Secretary.

5 “(B) PREVENTIVE SERVICE PAYMENT
6 MODIFIER.—

7 “(i) DETERMINATION OF RATE
8 GOALS.—The Secretary, in consultation
9 with the United States Preventive Services
10 Task Force, the Institute of Medicine
11 Colorectal Cancer Working Group, and
12 other clinical advisors as determined ap-
13 propriate by the Secretary, shall determine
14 age-based goal rates for colorectal cancer
15 screening tests (as so defined) to be met or
16 exceeded for beneficiaries under this part
17 not later than July 1, 2010. Such age-
18 based goal rates shall be consistent with
19 the rates of screening for beneficiaries with
20 respect to other cancer screening tests
21 (such as screening mammography and cer-
22 vical cancer screening).

23 “(ii) ESTABLISHMENT OF PREVEN-
24 TIVE SERVICE MODIFIER FOR QUALIFIED

1 COLORECTAL CANCER SCREENING
2 TESTS.—

3 “(I) IN GENERAL.—The Sec-
4 retary shall establish an upward pre-
5 ventive service payment modifier for
6 qualifying colorectal cancer screening
7 tests furnished on or after January 1,
8 2010, which reflects the annual deter-
9 mination by the Secretary of the ap-
10 propriate amount of additional pay-
11 ment (not less than 10 percent of the
12 amount of payment otherwise pro-
13 vided) sufficient to increase the rate
14 of colorectal cancer screening tests
15 furnished under this part to the goal
16 rates determined under clause (i). The
17 Secretary shall update such modifier
18 on an annual basis, taking into con-
19 sideration the rate of colorectal cancer
20 screening tests furnished under this
21 part during the preceding year and
22 such goal rates.

23 “(II) QUALIFYING COLORECTAL
24 CANCER SCREENING TESTS.—For
25 purposes of subclause (I), the term

1 ‘qualifying colorectal cancer screening
 2 tests’ means a colorectal cancer
 3 screening test furnished by a hospital
 4 in an outpatient setting which meets
 5 the national minimum standards es-
 6 tablished under subparagraph (A) (as
 7 determined by the Secretary).”.

8 (c) EFFECTIVE DATE.—The amendments made by
 9 this section shall apply to items and services furnished on
 10 or after January 1, 2010.

11 **SEC. 7. COVERAGE FOR AN OFFICE VISIT OR CONSULTA-**
 12 **TION PRIOR TO A QUALIFYING SCREENING**
 13 **COLONOSCOPY.**

14 (a) COVERAGE.—Section 1861(s)(2) of the Social Se-
 15 curity Act (42 U.S.C. 1395x(s)(2)) is amended—

16 (1) in subparagraph (DD), by striking “and” at
 17 the end;

18 (2) in subparagraph (EE), by inserting “and”
 19 at the end; and

20 (3) by adding at the end the following new sub-
 21 paragraph:

22 “(FF) an outpatient office visit or consultation
 23 for the purpose of beneficiary education, assuring se-
 24 lection of the proper screening test, and securing in-
 25 formation relating to the procedure and sedation of

1 the beneficiary, prior to a colorectal cancer screening
2 test consisting of a screening colonoscopy or in con-
3 junction with the beneficiary's decision to obtain
4 such a screening, regardless of whether such screen-
5 ing is medically indicated with respect to the bene-
6 ficiary;”.

7 (b) PAYMENT.—

8 (1) IN GENERAL.—Section 1833(a)(1) of the
9 Social Security Act (42 U.S.C. 1395l(a)(1)), as
10 amended by section 4, is amended—

11 (A) by striking “and” before “(W)”;

12 (B) by inserting before the semicolon at
13 the end the following: “, and (Y) with respect
14 to an outpatient office visit or consultation
15 under section 1861(s)(2)(BB), the amounts
16 paid shall be 80 percent of the lesser of the ac-
17 tual charge or the amount established under
18 section 1848”.

19 (2) PAYMENT UNDER PHYSICIAN FEE SCHED-
20 ULE.—Section 1848(j)(3) of the Social Security Act
21 (42 U.S.C. 1395w-4(j)(3)) is amended by inserting
22 “(2)(FF),” after “(2)(EE),”.

23 (3) REQUIREMENT FOR ESTABLISHMENT OF
24 PAYMENT AMOUNT UNDER PHYSICIAN FEE SCHED-
25 ULE.—Section 1834(d) of the Social Security Act

1 (42 U.S.C. 1395m(d)), as amended by section 6, is
2 amended by adding at the end the following new
3 paragraph:

4 “(5) PAYMENT FOR OUTPATIENT OFFICE VISIT
5 OR CONSULTATION PRIOR TO SCREENING
6 COLONOSCOPY.—With respect to an outpatient office
7 visit or consultation under section 1861(s)(2)(BB),
8 payment under section 1848 shall be consistent with
9 the payment amounts for CPT codes 99203 and
10 99243.”.

11 (c) EFFECTIVE DATE.—The amendments made by
12 this section shall apply to items and services furnished on
13 or after January 1, 2010.

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