

111TH CONGRESS
1ST SESSION

S. 1040

To establish a demonstration program requiring the utilization of Value-Based Insurance Design in order to demonstrate that reducing the copayments or coinsurance charged Medicare beneficiaries for selected medications can increase adherence to prescribed medication, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 14, 2009

Mrs. HUTCHISON (for herself and Ms. STABENOW) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To establish a demonstration program requiring the utilization of Value-Based Insurance Design in order to demonstrate that reducing the copayments or coinsurance charged Medicare beneficiaries for selected medications can increase adherence to prescribed medication, 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 “Seniors’ Medication
5 Copayment Reduction Act of 2009”.

1 **SEC. 2. FINDINGS.**

2 Congress makes the following findings:

3 (1) A growing body of evidence demonstrates
4 that patient-level financial barriers, including copay-
5 ments and coinsurance for medications, systemati-
6 cally reduce the use of high value medical services.

7 (2) Empirical studies demonstrate that reduc-
8 tions in cost-sharing can mitigate the adverse health
9 consequences attributable to cost related decreases
10 in the utilization of prescription medications and re-
11 duce aggregate medical expenditures as a result.

12 (3) Financial barriers to prescription medica-
13 tions that are of high value should be reduced or
14 eliminated to increase adherence to prescribed medi-
15 cation.

16 (4) Value-Based Insurance Design recognizes
17 that medical services and prescription medications
18 differ in the clinical benefit achieved and that pa-
19 tient out-of-pocket costs should be adjusted accord-
20 ing to the value of the services provided.

21 (5) The current “one size fits all” copayment or
22 coinsurance design for medications provided under
23 the Medicare program does not recognize the well-es-
24 tablished value differences in health outcomes pro-
25 duced by various medical interventions.

1 (6) The establishment by Medicare of copay-
2 ment and coinsurance requirements for medications
3 using Value-Based Insurance Design will optimize
4 clinical gains for each dollar spent, which would be
5 a benefit to seniors and a fiscally responsible use of
6 taxpayer dollars.

7 **SEC. 3. DEMONSTRATION PROGRAM.**

8 (a) **IN GENERAL.**—Not later than 1 year after the
9 date of enactment of this Act, the Secretary of Health and
10 Human Services (in this section referred to as the “Sec-
11 retary”) shall establish a demonstration program to test
12 Value-Based Insurance Design methodologies for Medi-
13 care beneficiaries with chronic conditions.

14 (b) **DEMONSTRATION PROGRAM DESIGN.**—

15 (1) **IN GENERAL.**—The Secretary shall select
16 not less than 2 Medicare Advantage plans to partici-
17 pate in this demonstration program under this sec-
18 tion initially.

19 (2) **REQUIREMENTS.**—A plan selected to par-
20 ticipate in the demonstration program under para-
21 graph (1) shall meet the following requirements:

22 (A) The plan offers a coordinated Part D
23 drug benefit.

1 (B) The plan and organization offering
2 such plan meet such other criteria as the Sec-
3 retary determines appropriate.

4 (c) DURATION.—

5 (1) IN GENERAL.—Subject to subsection (b),
6 the demonstration program under this section shall
7 be conducted for a 5-year period.

8 (2) EXPANSION OF DEMONSTRATION PROGRAM;
9 IMPLEMENTATION OF DEMONSTRATION PROGRAM
10 RESULTS.—

11 (A) EXPANSION OF DEMONSTRATION PRO-
12 GRAM.—If the report under paragraph sub-
13 section (e) or (f)(3) contains an evaluation that
14 the demonstration program under this section—

15 (i) reduces expenditures under the
16 Medicare program; or

17 (ii) does not increase expenditures
18 under the Medicare program and increases
19 the quality of health care services provided
20 to Medicare beneficiaries,

21 then the Secretary shall continue the existing
22 demonstration program and may expand the
23 demonstration program.

24 (B) IMPLEMENTATION OF DEMONSTRA-
25 TION PROGRAM RESULTS.—If the report under

1 subsection (e) or (f)(3) contains an evaluation
2 contained in clause (i) or (ii) of subparagraph
3 (A), the Secretary may issue regulations to im-
4 plement, on a permanent basis, the components
5 of the demonstration program that are bene-
6 ficial to the Medicare program.

7 (d) VALUE-BASED INSURANCE DESIGN METHOD-
8 OLOGY.—

9 (1) REDUCTION OF COPAYMENTS AND COINSUR-
10 ANCE.—Utilizing Value-Based Insurance Design
11 methodologies, the Secretary shall identify each
12 medication for which the amount of the copayment
13 or coinsurance payable should be reduced or elimi-
14 nated.

15 (2) VALUE-BASED INSURANCE DESIGN.—For
16 purposes of this section, “Value-Based Insurance
17 Design” is a methodology for identifying specific
18 medications or classes of medications for which co-
19 payments or coinsurance should be reduced or elimi-
20 nated due to the high value and effectiveness of such
21 medications when prescribed for particular clinical
22 conditions.

23 (3) PARTICULAR MEDICATIONS.—In identifying
24 medications for purposes of paragraph (1), the Sec-

1 retary shall, at a minimum, consider the medications
2 utilized in the treatment of the following conditions:

- 3 (A) Asthma.
- 4 (B) Atrial fibrillation.
- 5 (C) Deep venous thrombosis.
- 6 (D) Chronic obstructive pulmonary disease.
- 7 (E) Chronic renal failure.
- 8 (F) Congestive heart failure.
- 9 (G) Coronary artery disease.
- 10 (H) Myocardial infarction.
- 11 (I) Depression.
- 12 (J) Epilepsy.
- 13 (K) Diabetes mellitus.
- 14 (L) Hypertension.
- 15 (M) Hypothyroidism.
- 16 (N) Schizophrenia.
- 17 (O) Tobacco abuse disorder.

18 (e) REPORT ON IMPLEMENTATION.—

19 (1) IN GENERAL.—Not later than 1 year after
20 the date of enactment of this Act, the Secretary
21 shall submit to Congress a report on the implemen-
22 tation by the Secretary of the demonstration pro-
23 gram under this section.

24 (2) ELEMENTS.—The report required by para-
25 graph (1) shall include the following:

1 (A) A statement setting forth each medica-
2 tion identified pursuant to subsection (d)(1).

3 (B) For each such medication, a statement
4 of the amount of the copayment or coinsurance
5 required to be paid for such medication and the
6 amount of the reduction from previous levels.

7 (f) REVIEW AND ASSESSMENT OF UTILIZATION OF
8 METHODOLOGIES.—

9 (1) IN GENERAL.—The Secretary shall enter
10 into a contract or agreement with an independent
11 entity having expertise in Value-Based Insurance
12 Design to review and assess the implementation by
13 the Secretary of the demonstration program under
14 this section. The review and assessment shall include
15 the following:

16 (A) An assessment of the utilization by the
17 Secretary of the methodologies referred to in
18 subsection (d).

19 (B) An analysis of whether reducing or
20 eliminating the copayment or coinsurance for
21 each medication identified by the Secretary pur-
22 suant to subsection (d)(1) resulted in increased
23 adherence to medication regimens and better
24 health outcomes.

1 (C) An analysis of the cost savings result-
2 ing from reducing or eliminating the copayment
3 or coinsurance for each medication so identi-
4 fied.

5 (D) Such other matters as the Secretary
6 considers appropriate.

7 (2) REPORT.—The contract or agreement en-
8 tered into under paragraph (1) shall require the en-
9 tity concerned to submit to the Secretary a report on
10 the review and assessment conducted by the entity
11 under that paragraph in time for the inclusion of the
12 results of such report in the report required by para-
13 graph (3).

14 (3) REPORT TO CONGRESS.—Not later than 3
15 years after the date of the enactment of this Act, the
16 Secretary shall submit to Congress a report on the
17 review and assessment conducted under this sub-
18 section. The report shall include the following:

19 (A) A description of the results of the re-
20 view and assessment.

21 (B) Such recommendations as the Sec-
22 retary considers appropriate for enhancing the
23 utilization of the methodologies referred to in
24 subsection (a)(1) so as to reduce copayments
25 and coinsurance paid by Medicare beneficiaries

1 for medications furnished under the Medicare
2 program and to otherwise improve the quality
3 of health care provided under such Medicare
4 program.

5 (g) WAIVER.—The Secretary may waive such provi-
6 sions of titles XI and XVIII of the Social Security Act
7 as may be necessary to carry out the demonstration pro-
8 gram under this section.

9 (h) IMPLEMENTATION FUNDING.—For purposes of
10 carrying out the demonstration program under this sec-
11 tion, the Secretary shall provide for the transfer from the
12 Federal Hospital Insurance Trust Fund under section
13 1817 of the Social Security Act (42 U.S.C. 1395i) and
14 the Federal Supplementary Insurance Trust Fund under
15 section 1841 of the Social Security Act (42 U.S.C. 1395t),
16 including the Medicare Prescription Drug Account in such
17 Trust Fund, in such proportion as determined appropriate
18 by the Secretary, of such sums as may be necessary.

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