

111TH CONGRESS  
1ST SESSION

# S. 1511

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.

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## IN THE SENATE OF THE UNITED STATES

JULY 23, 2009

Mr. CARDIN (for himself and Mr. GRAHAM) introduced the following bill;  
which was read twice and referred to the Committee on Finance

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## 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 programs  
15 may include the following:

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

20 (B) Provide case management and refer-  
21 rals for medical treatment for individuals who  
22 are provided colorectal cancer screening tests  
23 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       regarding 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



to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of the session is considered to be a separate regular session of the State legislature.

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

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

(1) by striking “and” before “(W)”;

(2) by inserting before the semicolon at the end the following: “, and (X) with respect to colorectal cancer screening tests (as defined in subsection (pp)), the amount paid shall be 100 percent of the lesser of the actual charge for the services or the amount determined under the fee schedule that applies to such tests under this part”.

(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, 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 an-  
 2           nual reports under subparagraph (A).

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

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

12       **SEC. 6. PROVIDER INTERVENTIONS.**

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

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

19               “(A) NATIONAL MINIMUM STANDARDS.—

20               The Secretary, in consultation with the Insti-  
 21               tute of Medicine, shall establish a national min-  
 22               imum standard for basic knowledge, training,  
 23               continuing education, and documentation for  
 24               suppliers who furnish colorectal cancer screen-  
 25               ing tests (as defined in subsection (pp)). For

1 purposes of this paragraph, a supplier shall be  
 2 deemed to meet such national minimum stand-  
 3 ards if the supplier is certified in gastro-  
 4 enterology by the American Board of Internal  
 5 Medicine.

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

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

24 “(ii) ESTABLISHMENT OF PREVEN-  
 25 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                  appropriate 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 modified  
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 supplier  
 4 who meets the national minimum  
 5 standards established under subpara-  
 6 graph (A) (as determined by the Sec-  
 7 retary).”.

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

11 “(18) IN GENERAL.—

12 “(A) NATIONAL MINIMUM STANDARDS.—

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

Care, or other accreditation body designated by the Secretary.

“(B) PREVENTIVE SERVICE PAYMENT MODIFIER.—

“(i) DETERMINATION OF RATE GOALS.—The Secretary, in consultation with the United States Preventive Services Task Force, the Institute of Medicine Colorectal Cancer Working Group, and other clinical advisors as determined appropriate by the Secretary, shall determine age-based goal rates for colorectal cancer screening tests (as so defined) to be met or exceeded for beneficiaries under this part not later than July 1, 2010. Such age-based goal rates shall be consistent with the rates of screening for beneficiaries with respect to other cancer screening tests (such as screening mammography and cervical cancer screening).

“(ii) ESTABLISHMENT OF PREVENTIVE SERVICE MODIFIER FOR QUALIFIED COLORECTAL CANCER SCREENING TESTS.—

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

21                   “(II) QUALIFYING COLORECTAL  
22                   CANCER SCREENING TESTS.—For  
23                   purposes of subclause (I), the term  
24                   ‘qualifying colorectal cancer screening  
25                   tests’ means a colorectal cancer

1 screening test furnished by a hospital  
 2 in an outpatient setting which meets  
 3 the national minimum standards es-  
 4 tablished under subparagraph (A) (as  
 5 determined by the Secretary).”.

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

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

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

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

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

18 (3) by adding at the end the following new sub-  
 19 paragraph:

20 “(FF) an outpatient office visit or con-  
 21 sultation for the purpose of beneficiary edu-  
 22 cation, assuring selection of the proper screen-  
 23 ing test, and securing information relating to  
 24 the procedure and sedation of the beneficiary,  
 25 prior to a colorectal cancer screening test con-

sisting of a screening colonoscopy or in conjunction with the beneficiary's decision to obtain such a screening, regardless of whether such screening is medically indicated with respect to the beneficiary;”.

(b) PAYMENT.—

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

(A) by striking “and” before “(W)”;

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

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

(3) REQUIREMENT FOR ESTABLISHMENT OF PAYMENT AMOUNT UNDER PHYSICIAN FEE SCHEDULE.—Section 1834(d) of the Social Security Act (42 U.S.C. 1395m(d)), as amended by section 6, is

1       amended by adding at the end the following new  
2       paragraph:

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

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

○