

113TH CONGRESS
1ST SESSION

S. 1184

To amend title XVIII of the Social Security Act to include information on the coverage of intensive behavioral therapy for obesity in the Medicare and You Handbook and to provide for the coordination of programs to prevent and treat obesity, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 19, 2013

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

A BILL

To amend title XVIII of the Social Security Act to include information on the coverage of intensive behavioral therapy for obesity in the Medicare and You Handbook and to provide for the coordination of programs to prevent and treat obesity, 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 “Treat and Reduce Obe-
5 sity Act of 2013”.

6 **SEC. 2. FINDINGS.**

7 Congress makes the following findings:

1 (1) According to the Centers for Disease Con-
2 trol and Prevention, about 35 percent of adults aged
3 65 and over were obese in the period of 2007
4 through 2010, representing over 8 million adults
5 aged 65 through 74.

6 (2) Obesity increases the risk for chronic dis-
7 eases and conditions, including high blood pressure,
8 heart disease, and type 2 diabetes.

9 (3) More than half of Medicare beneficiaries are
10 treated for 5 or more chronic conditions per year.
11 The rate of obesity among Medicare patients dou-
12 bled from 1987 to 2002, and spending on those indi-
13 viduals more than doubled.

14 (4) Obese men and women at age 65 have de-
15 creased life expectancy of 1.6 years for men and 1.4
16 years for women.

17 (5) The direct and indirect cost of obesity is
18 more than \$450 billion annually.

19 (6) On average, an obese Medicare beneficiary
20 costs \$1,964 more than a normal-weight beneficiary.

21 (7) The prevalence of obesity among older
22 Americans is growing at a linear rate and, left un-
23 changed, nearly half of the elderly population will be
24 obese in 2030 according to a Congressional Research
25 Report on obesity.

1 **SEC. 3. INCLUSION OF INFORMATION ON COVERAGE OF IN-**
2 **TENSIVE BEHAVIORAL THERAPY FOR OBE-**
3 **SITY IN THE MEDICARE AND YOU HANDBOOK.**

4 (a) IN GENERAL.—Section 1804(a) of the Social Se-
5 curity Act (42 U.S.C. 1395b–2(a)) is amended—

6 (1) in paragraph (2), by striking “and” at the
7 end;

8 (2) in paragraph (3), by striking the period at
9 the end and inserting “, and”; and

10 (3) by inserting after paragraph (3) the fol-
11 lowing new paragraph:

12 “(4) information on the coverage of intensive
13 behavioral therapy for obesity under this title, in-
14 cluding information regarding primary care physi-
15 cians and other providers of services and suppliers
16 who are eligible to furnish such therapy.”.

17 (b) EFFECTIVE DATE.—The amendments made by
18 this section shall apply to notices distributed on or after
19 the date of enactment of this Act.

1 **SEC. 4. PLAN FOR COORDINATION OF HHS EFFORTS; PRO-**
 2 **VIDING THE SECRETARY OF HEALTH AND**
 3 **HUMAN SERVICES WITH AUTHORITY TO CO-**
 4 **ORDINATE PROGRAMS TO PREVENT AND**
 5 **TREAT OBESITY AND EXPAND COVERAGE OP-**
 6 **TIONS FOR OBESITY UNDER MEDICARE.**

7 Section 1861(ddd) of the Social Security Act (42
 8 U.S.C. 1395x(ddd)), as amended by section 3, is amended
 9 by adding at the end the following new paragraph:

10 “(5)(A) Not later than 1 year after the date of enact-
 11 ment of the Treat and Reduce Obesity Act of 2013, the
 12 Secretary shall develop and implement a plan to coordi-
 13 nate the efforts of all offices and agencies of the Depart-
 14 ment of Health and Human Services (such as the Centers
 15 for Medicare & Medicaid Services, the Centers for Disease
 16 Control and Prevention, the National Institutes of Health,
 17 the Health Resources and Services Administration, and
 18 other offices and agencies) to treat, reduce, and prevent
 19 obesity and overweight in the adult population. Beginning
 20 2 years after such date of enactment, the Secretary shall
 21 annually update such plan.

22 “(B) In developing and implementing the plan under
 23 subparagraph (A), the Secretary shall work with at least
 24 5 representatives, selected by the Secretary, of expert or-
 25 ganizations (such as public health associations, physician
 26 associations, key healthcare provider groups, planning and

1 development organizations, education associations, advo-
2 cacy groups, patient groups, relevant industries, State and
3 local leadership, and other entities as determined appro-
4 priate by the Secretary).

5 “(C) The Secretary shall ensure that the plan under
6 subparagraph (A) is coordinated with the National Pre-
7 vention Strategy and does not duplicate the efforts of the
8 National Prevention Council and the National Prevention
9 Strategy.

10 “(D) The plan under subparagraph (A) shall include
11 the following:

12 “(i) Strategies to comprehensively treat and re-
13 duce overweight and obesity.

14 “(ii) A description of—

15 “(I) the coordination of interagency co-
16 operation under the plan; and

17 “(II) actions under the plan related to the
18 treatment and reduction of overweight and obe-
19 sity in the United States.

20 “(iii) Identification of best practices in States,
21 communities, organizations, businesses, and other
22 entities as appropriate, regarding treatment of over-
23 weight and obesity.

24 “(iv) A description of collaboration with States,
25 communities, organizations, businesses, and other

1 appropriate entities to evaluate the effectiveness of
2 obesity and overweight interventions under the plan.

3 “(v) Research initiatives, including ongoing sur-
4 veillance and monitoring using tools such as the Na-
5 tional Health and Nutrition Examination Survey
6 and the Behavioral Risk Factor Surveillance System
7 and assurances for adequate and consistent funding
8 to support data collection and analysis to inform pol-
9 icy under the plan.

10 “(vi) Recommendations for the coordination of
11 budgets, grant and pilot programs, policies, and pro-
12 grams across Federal agencies to cohesively treat
13 overweight and obesity.

14 “(E) Not later than 24 months after the date of en-
15 actment of the Treat and Reduce Obesity Act of 2013,
16 and on an annual basis thereafter, the Secretary shall sub-
17 mit to the President and to the relevant committees of
18 Congress, a report that—

19 “(i) summarizes the plan under subparagraph
20 (A) to coordinate interagency efforts surrounding
21 the treatment, reduction, and prevention of obesity
22 and overweight, including a detailed strategic plan
23 with recommendations for each office and agency in-
24 volved;

1 “(ii) in the case of the second report submitted
 2 under this subparagraph (and each subsequent re-
 3 port), evaluates the effectiveness of those coordi-
 4 nated interventions and conducts interim assess-
 5 ments and reporting of health outcomes, achieve-
 6 ment of milestones, and implementation of strategic
 7 plan goals; and

8 “(iii) makes recommendations for updating the
 9 plan for the following year based on data and find-
 10 ings from the previous year.”.

11 **SEC. 5. AUTHORITY TO EXPAND HEALTH CARE PROVIDERS**
 12 **QUALIFIED TO FURNISH INTENSIVE BEHAV-**
 13 **IORAL THERAPY.**

14 Section 1861(ddd) of the Social Security Act (42
 15 U.S.C. 1395x(ddd)), as amended by sections 3 and 4, is
 16 amended by adding at the end the following new para-
 17 graph:

18 “(6)(A) The Secretary may, in addition to qualified
 19 primary care physicians and other primary care practi-
 20 tioners, cover intensive behavioral therapy for obesity—

21 “(i) furnished by a physician (as defined in sub-
 22 section (r)(1)) who is not a qualified primary care
 23 physician;

24 “(ii) furnished—

1 “(I) by any other appropriate health care
2 provider (including a physician assistant, nurse
3 practitioner, or clinical nurse specialist (as
4 those terms are defined in subsection (aa)(5)),
5 a clinical psychologist, and a registered dietitian
6 or nutrition professional (as defined in sub-
7 section (vv));

8 “(II) upon referral from, and in coordina-
9 tion with, a physician or primary care practi-
10 tioner operating in a primary care setting or
11 any other setting specified by the Secretary;
12 and

13 “(III) in an office setting, a hospital out-
14 patient department, or another setting specified
15 by the Secretary; or

16 “(iii) furnished by an evidence-based, commu-
17 nity-based lifestyle counseling program certified by
18 the Secretary.

19 “(B) In order to ensure a collaborative effort, the co-
20 ordination described in subparagraph (A)(ii)(II) may in-
21 clude the health care provider communicating to the physi-
22 cian or primary care practitioner making the referral any
23 recommendations or treatment plans made regarding the
24 therapy.”.

1 **SEC. 6. MEDICARE PART D COVERAGE OF OBESITY MEDI-**
2 **CATION.**

3 (a) IN GENERAL.—Section 1860D–2(e)(2)(A) of the
4 Social Security Act (42 U.S.C. 1395w–102(e)(2)(A)) is
5 amended by inserting after “restricted under section
6 1927(d)(2),” the following, “other than subparagraph (A)
7 of such section if the drug is used for the treatment of
8 obesity (as defined for purposes of section 1861(yy)(2)(C))
9 or for being overweight (as defined for purposes of section
10 1861(yy)(2)(F)(i)) and if the individual has one or more
11 comorbidities,”.

12 (b) EFFECTIVE DATE.—The amendment made by
13 subsection (a) shall apply to plan years beginning on or
14 after the date that is 2 years after the date of enactment
15 of this Act.

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