II

114TH CONGRESS
1ST SESSION

S. 1131

To amend title XVIII of the Social Security Act to reduce the incidence of diabetes among Medicare beneficiaries, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 29, 2015

Mr. FRANKEN (for himself, Ms. COLLINS, Mr. GRASSLEY, Mr. BROWN, Mr. MENENDEZ, Mrs. SHAHEEN, Mr. SCHUMER, Ms. HIRONO, Mr. COONS, Ms. KLOBUCHAR, and Mrs. GILLIBRAND) introduced the following bill; which was read twice and referred to the Committee on Finance

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A BILL

To amend title XVIII of the Social Security Act to reduce the incidence of diabetes among Medicare beneficiaries, and for other purposes.

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 Diabetes Prevention Act of 2015''.

SEC. 2. DIABETES PREVENTION UNDER THE MEDICARE PROGRAM.

(a) COVERAGE OF DIABETES PREVENTION PROGRAM SERVICES.—

(1) COVERAGE OF SERVICES.—

(A) IN GENERAL.—Section 1861(s)(2) of the Social Security Act (42 U.S.C. 1395x(s)(2)) is amended—

(i) in subparagraph (EE), by striking ''and'' after the semicolon at the end;

(ii) in subparagraph (FF), by inserting ''and'' after the semicolon at the end; and

(iii) by adding at the end the following new subparagraph:

''(GG) items and services furnished under a diabetes prevention program (as defined in subsection (iii)(1)) to an eligible diabetes prevention program individual (as defined in subsection (iii)(2));''.

(B) DEFINITIONS.—Section 1861 of the Social Security Act (42 U.S.C. 1395x) is amended by adding at the end the following new subsection:

''Diabetes Prevention Program; Eligible Diabetes Prevention Program Individual; Qualified Diabetes Prevention Program Provider

''(iii)(1)(A) The term 'diabetes prevention program' means a program that—

''(i) meets the criteria described in subparagraph (B); and

''(ii) is furnished by a qualified diabetes prevention program provider (as defined in paragraph (3)(A)).

''(B) The Secretary shall establish the criteria for a diabetes prevention program. Such criteria shall be in accordance with the standards under the National Diabetes Prevention Program, as established by the Centers for Disease Control and Prevention, and shall require that the program complies with the Federal regulations (concerning the privacy of individually identifiable health information) promulgated under section 264(c) of the Health Insurance Portability and Accountability Act of 1996. In establishing such criteria, the Secretary may also consider clinical evidence or other factors, such as the results of ongoing translational studies, as the Secretary determines appropriate.

''(C) Items and services furnished under a diabetes prevention program may, as determined appropriate by the Secretary, be furnished—

''(i) in-person in a community setting;

''(ii) virtually; or

''(iii) via one or more proven distance-learning modalities.

''(D)(i) The Secretary shall establish procedures under which a qualified diabetes prevention program provider may contract with a diabetes prevention program delivery partner to furnish the items and services under a diabetes prevention program. Such items and services may be furnished in one or some combination of the settings described in clauses (i) through (iii) of subparagraph (C).

''(ii) For purposes of this subsection, the term 'diabetes prevention program delivery partner' means an entity, including non-profit organizations, public and private hospitals, State and local departments of public health, Federally qualified health centers, and any other entity the Secretary determines appropriate, that meets criteria established by the Secretary. Such criteria shall be in accordance with the standards under the National Diabetes Prevention Program, as established by the Centers for Disease Control and Prevention. In establishing such criteria, the Secretary may also consider other factors or clinical evidence as the Secretary determines appropriate.

''(2)(A) The term 'eligible diabetes prevention program individual' means an individual at risk for diabetes (as defined in subsection (yy)(2)) who would benefit from items and services under a diabetes prevention program, as determined based on criteria established by the Secretary.

''(B) The criteria established under subparagraph (A) shall be in accordance with the standards under the National Diabetes Prevention Program, as established by the Centers for Disease Control and Prevention. In establishing such criteria, the Secretary may also consider other factors or clinical evidence as the Secretary determines appropriate.

''(3)(A)(i) The term 'qualified diabetes prevention program provider' means any entity, including a Federally qualified health center, that the Secretary determines—

''(I) is appropriate to furnish items and services under a diabetes prevention program; and

''(II) meets criteria established by the Secretary, in consultation with the Centers for Disease Control and Prevention.

''(ii) A qualified diabetes prevention program provider may be, as determined appropriate by the Secretary, a supplier (as defined in subsection (d)), a provider of services (as defined in subsection (u)), a health insurance or services company, a community-based organization, or any other appropriate entity.

''(B) A qualified diabetes prevention program provider shall—

''(i) furnish the items and services under the diabetes prevention program through a delivery part-

ner (pursuant to paragraph (1)(D)) unless no such delivery partner is available;

''(ii) manage, track, and verify the outcomes of a diabetes prevention program (including attendance and observed weight loss of participating individuals) through defined systems which do not rely on data self-reported by participating individuals, including outcomes of programs furnished under contract with a diabetes prevention program delivery partner;

''(iii) implement business processes to manage program workflow, such as eligibility, reporting, claims billing, class scheduling, and enrollment;

''(iv) manage and verify billing accuracy and beneficiary eligibility (as described in paragraph (2));

''(v) comply with applicable laws and regulations and ensure such compliance by a diabetes prevention program delivery partner;

''(vi) perform various forms of engagement with, and outreach to, eligible diabetes prevention program individuals, including those participating in programs furnished under contract with a diabetes prevention program delivery partner;

''(vii) comply with all program integrity requirements as established by the Secretary; and

''(viii) perform such other functions as established by the Secretary.''.

(2) AMOUNT OF PAYMENT.—Section 1833(a)(1) of the Social Security Act (42 U.S.C. 1395l(a)(1)) is amended—

(A) by striking ''and (Z)'' and inserting ''(Z)''; and

(B) by inserting before the semicolon at the end the following: '', and (AA) with respect to items and services furnished under a diabetes prevention program (as defined in section 1861(iii)(1)), the amount paid shall be 100 percent of (i) except as provided in clause (ii), the lesser of the actual charge for the items and services or the amount determined under the fee schedule that applies to such items and services under this part, as determined by the Secretary, and (ii) in the case of such items and services that are covered OPD services (as defined in subsection (t)(1)(B)), the amount determined under subsection (t)''.

(3) WAIVER OF APPLICATION OF DEDUCTIBLE.—The first sentence of section 1833(b) of the Social Security Act (42 U.S.C. 1395l(b)) is amended—

(A) by striking ''and'' before ''(10)''; and

(B) by inserting before the period the following: '', and (11) such deductible shall not apply with respect to items and services under a diabetes prevention program (as defined in section 1861(iii)(1))''.

(4) ASSIGNMENT OF CLAIMS.—Section 1842(b)(18)(C) of the Social Security Act (42 U.S.C. 1395u(b)(18)(C)) is amended by adding at the end the following new clause:

''(vii) A qualified diabetes prevention program provider (as defined in section 1861(iii)(3)(A)).''.

(5) EXCLUSION OF ITEMS AND SERVICES UNDER A DIABETES PREVENTION PROGRAM FROM SKILLED NURSING FACILITY PROSPECTIVE PAYMENT SYSTEM.—Section 1888(e)(2)(A)(ii) of the Social Security Act (42 U.S.C. 1395yy(e)(2)(A)(ii)) is amended by inserting ''items and services under a diabetes prevention program (as defined in section 1861(iii)(1)),'' after ''qualified psychologist services,''.

(6) INCLUSION IN FEDERALLY QUALIFIED HEALTH CENTER SERVICES.—Section 1861(aa)(3) of the Social Security Act (42 U.S.C. 1395x(aa)(3)) is amended—

(A) in subparagraph (A), by striking ''and'' at the end;

(B) in subparagraph (B), by striking the comma at the end and inserting ''; and''; and

(C) by adding after subparagraph (B) the following new subparagraph:

''(C) items and services under a diabetes prevention program (as defined in section 1861(iii)(1)),''.

(7) SPECIAL CONSIDERATION FOR THE DUAL ELIGIBLE POPULATION.—In implementing the amendments made by this subsection, the Secretary of Health and Human Services shall give special consideration to the needs of individuals who are dually eligible for benefits under the Medicare and Medicaid programs.

(8) EVALUATION AND REPORT TO CONGRESS.—

(A) EVALUATION.—The Secretary of Health and Human Services shall conduct an evaluation on the coverage of items and services under a diabetes prevention program under the Medicare program, as added by the amendments made by this subsection. Such evaluation shall include an analysis of—

(i) the impact of the provision of such coverage on Medicare beneficiaries, including the impact on various populations, such as individuals who are dually eligible for benefits under the Medicare and Medicaid programs and individuals living in rural or medically underserved areas, and the impact of the provision of such coverage on health disparities;

(ii) the rate at which physicians refer eligible diabetes prevention program individuals to diabetes prevention programs under the Medicare program;

(iii) Medicare beneficiary participation levels in diabetes prevention programs under the Medicare program, including program completion rates, and the awareness of Medicare beneficiaries of the benefit;

(iv) the health outcomes resulting from completion of a diabetes prevention program under the Medicare program, including any measurable variations in outcome between the program settings described in clauses (i) through (iii) of sec-

tion 1861(iii)(1)(C) of the Social Security Act, as added by paragraph (1);

(v) program integrity protections important to diabetes prevention programs under the Medicare program; and

(vi) other areas determined appropriate by the Secretary.

(B) REPORT.—Not later than January 1, 2021, the Secretary of Health and Human Services shall submit to Congress a report on the evaluation conducted under subparagraph (A), together with recommendations for such legislation and administrative actions as the Secretary determines appropriate.

(9) EFFECTIVE DATE.—The amendments made by paragraphs (1) through (6) shall apply with respect to services furnished on or after January 1, 2017.

(b) INCLUSION OF REFERRAL RATES TO DIABETES PREVENTION PROGRAMS IN MEDICARE QUALITY REPORTING REQUIREMENTS.—Section 1848(k)(2)(C)(i) of the Social Security Act (42 U.S.C. 1395w–4(k)(2)(C)(i)) is amended by adding at the end the following new sentence: ''For purposes of reporting data on quality measures for covered professional services furnished during

2020 and each subsequent year, the quality measures specified under this paragraph shall include a measure with respect to referrals of eligible diabetes prevention program individuals (as defined in paragraph (2) of section 1861(iii)) to diabetes prevention programs (as defined in paragraph (1) of such section).''.

(c) INCLUSION OF DIABETES RISK ASSESSMENT IN MEDICARE PERSONALIZED PREVENTION PLAN.—

(1) IN GENERAL.—Section 1861(hhh)(2)(C) of the Social Security Act (42 U.S.C. 1395x(hhh)(2)(C)) is amended by inserting before the period at the end the following: '', and an assessment of whether the individual is an individual at risk for diabetes (as defined in subsection (yy)(2))''.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to personalized prevention plans created or updated on or after January 1, 2017.

SEC. 3. FINDINGS; SENSE OF THE SENATE REGARDING DIABETES PREVENTION UNDER THE MEDICAID PROGRAM.

(a) FINDINGS.—Congress makes the following findings:

(1) The prevalence and cost of diabetes is a significant concern for State Medicaid programs. By

2021, the Medicaid program is expected to cover 13,000,000 people with diabetes and about 9,000,000 people who may have pre-diabetes. By 2021, States will spend an estimated $83,000,000,000 on individuals with diabetes or pre-diabetes.

(2) The National Diabetes Prevention Program, as established by the Centers for Disease Control and Prevention, has been proven to reduce the onset of diabetes in at-risk adults by 58 percent, using a cost-effective, community-based intervention.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the National Diabetes Prevention Program presents an opportunity for States to reduce the incidence of diabetes among individuals enrolled in their Medicaid programs.

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