

114TH CONGRESS
1ST SESSION

S. 598

To improve the understanding of, and promote access to treatment for,
chronic kidney disease, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 26, 2015

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

A BILL

To improve the understanding of, and promote access to
treatment for, chronic kidney disease, 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 “Chronic Kidney Dis-
5 ease Improvement in Research and Treatment Act of
6 2015”.

7 **SEC. 2. TABLE OF CONTENTS.**

8 The table of contents of this Act is as follows:

Sec. 1. Short title.

Sec. 2. Table of contents.

TITLE I—IMPROVING UNDERSTANDING OF CHRONIC KIDNEY
DISEASE THROUGH EXPANDED RESEARCH AND COORDINATION

- Sec. 101. Identifying gaps in chronic kidney disease research.
 Sec. 102. Coordinating research on chronic kidney disease.
 Sec. 103. Understanding the progression of kidney disease and treatment of kidney failure in minority populations.
 Sec. 104. Identifying Medicare payment disincentives for transplant and post-transplant care.

TITLE II—PROMOTING ACCESS TO CHRONIC KIDNEY DISEASE TREATMENTS

- Sec. 201. Increasing access to Medicare kidney disease education benefit.
 Sec. 202. Improving access to chronic kidney disease treatment in underserved rural and urban areas.
 Sec. 203. Promoting access to home dialysis treatments.
 Sec. 204. Expanding access for patients with acute kidney injury.

TITLE III—CREATING ECONOMIC STABILITY FOR PROVIDERS CARING FOR INDIVIDUALS WITH CHRONIC KIDNEY DISEASE

- Sec. 301. Stabilizing Medicare payments for services provided to beneficiaries with stage V chronic kidney disease receiving dialysis services.
 Sec. 302. Providing individuals with kidney failure access to managed care and coordinated care programs.

1 **TITLE I—IMPROVING UNDER-** 2 **STANDING OF CHRONIC KID-** 3 **NEY DISEASE THROUGH EX-** 4 **PANDED RESEARCH AND CO-** 5 **ORDINATION**

6 **SEC. 101. IDENTIFYING GAPS IN CHRONIC KIDNEY DISEASE** 7 **RESEARCH.**

8 (a) REPORT.—Not later than one year after the date
 9 of enactment of this Act, the Comptroller General of the
 10 United States shall develop and submit to Congress a com-
 11 prehensive report assessing the adequacy of Federal ex-
 12 penditures in chronic kidney disease research relative to
 13 Federal expenditures for chronic kidney disease care.

14 (b) CONTENTS.—The report required by this section
 15 shall—

1 (1) analyze the current chronic kidney disease
2 research projects being funded by Federal agencies;

3 (2) identify, including by surveying the kidney
4 care community, areas of chronic kidney disease
5 knowledge gaps that are not part of current Federal
6 research efforts;

7 (3) report on the level of Federal expenditures
8 on kidney research as compared to the amount of
9 Federal expenditures on treating individuals with
10 chronic kidney disease; and

11 (4) identify areas of kidney failure knowledge
12 gaps in research to assess treatment patterns associ-
13 ated with providing care to minority populations
14 that are disproportionately affected by kidney fail-
15 ure.

16 **SEC. 102. COORDINATING RESEARCH ON CHRONIC KIDNEY**
17 **DISEASE.**

18 (a) INTERAGENCY COMMITTEE.—The Secretary of
19 Health and Human Services shall establish and maintain
20 an interagency committee for the purpose of improving the
21 coordination of chronic kidney disease research.

22 (b) REPORTS.—For the purpose described in sub-
23 section (a), the interagency committee established under
24 such subsection shall issue public reports that—

1 (1) include a strategic plan, including rec-
2 ommendations for—

3 (A) improving communication and coordi-
4 nation among Federal agencies;

5 (B) procedures for monitoring Federal
6 chronic kidney disease research activities; and

7 (C) ways to maximize the efficiency of the
8 Federal chronic kidney disease research invest-
9 ment and minimize the potential for unneces-
10 sary duplication;

11 (2) include a portfolio analysis that provides in-
12 formation on chronic kidney disease research
13 projects, organized by the strategic plan objectives;
14 and

15 (3) address such other topics as the interagency
16 committee determines appropriate.

17 (c) MEETINGS.—The interagency committee estab-
18 lished under subsection (a) shall meet not less frequently
19 than semi-annually.

20 **SEC. 103. UNDERSTANDING THE PROGRESSION OF KIDNEY**
21 **DISEASE AND TREATMENT OF KIDNEY FAIL-**
22 **URE IN MINORITY POPULATIONS.**

23 Not later than one year after the date of enactment
24 of this Act, the Secretary of Health and Human Services
25 shall—

1 (1) complete a study on—

2 (A) the social, behavioral, and biological
3 factors leading to kidney disease;

4 (B) efforts to slow the progression of kid-
5 ney disease in minority populations that are
6 disproportionately affected by such disease; and

7 (C) treatment patterns associated with
8 providing care, under the Medicare program
9 under title XVIII of the Social Security Act, the
10 Medicaid program under title XIX of such Act,
11 and through private health insurance, to minor-
12 ity populations that are disproportionately af-
13 fected by kidney failure; and

14 (2) submit to Congress a report on the results
15 of such study.

16 **SEC. 104. IDENTIFYING MEDICARE PAYMENT DISINCEN-**
17 **TIVES FOR TRANSPLANT AND POST-TRANS-**
18 **PLANT CARE.**

19 Not later than 2 years after the date of enactment
20 of this Act, the Secretary of Health and Human Services
21 shall submit to Congress a report on any disincentives in
22 the payment systems under the Medicare program under
23 title XVIII of the Social Security Act that create barriers
24 to kidney transplants and post-transplant care for bene-
25 ficiaries with end-stage renal disease.

1 **TITLE II—PROMOTING ACCESS**
 2 **TO CHRONIC KIDNEY DIS-**
 3 **EASE TREATMENTS**

4 **SEC. 201. INCREASING ACCESS TO MEDICARE KIDNEY DIS-**
 5 **EASE EDUCATION BENEFIT.**

6 (a) IN GENERAL.—Section 1861(ggg) of the Social
 7 Security Act (42 U.S.C. 1395x(ggg)) is amended—

8 (1) in paragraph (1)—

9 (A) in subparagraph (A), by inserting “ or
 10 stage V” after “stage IV”; and

11 (B) in subparagraph (B), by inserting “or
 12 of a physician assistant, nurse practitioner, or
 13 clinical nurse specialist (as defined in section
 14 1861(aa)(5)) assisting in the treatment of the
 15 individual’s kidney condition” after “kidney
 16 condition”; and

17 (2) in paragraph (2)—

18 (A) by striking subparagraph (B); and

19 (B) in subparagraph (A)—

20 (i) by striking “(A)” after “(2)”;

21 (ii) by striking “and” at the end of
 22 clause (i);

23 (iii) by striking the period at the end
 24 of clause (ii) and inserting “; and”;

1 (iv) by redesignating clauses (i) and
 2 (ii) as subparagraphs (A) and (B), respec-
 3 tively; and

4 (v) by adding at the end the following:

5 “(C) a renal dialysis facility subject to the
 6 requirements of section 1881(b)(1) with per-
 7 sonnel who—

8 “(i) provide the services described in
 9 paragraph (1); and

10 “(ii) is a physician (as defined in sub-
 11 section (r)(1)) or a physician assistant,
 12 nurse practitioner, or clinical nurse spe-
 13 cialist (as defined in subsection (aa)(5)).”.

14 (b) PAYMENT TO RENAL DIALYSIS FACILITIES.—
 15 Section 1881(b) of such Act (42 U.S.C. 1395rr(b)) is
 16 amended by adding at the end the following new para-
 17 graph:

18 “(15) For purposes of paragraph (14), the sin-
 19 gle payment for renal dialysis services under such
 20 paragraph shall not take into account the amount of
 21 payment for kidney disease education services (as
 22 defined in section 1861(ggg)). Instead, payment for
 23 such services shall be made to the renal dialysis fa-
 24 cility on an assignment-related basis under section
 25 1848.”.

1 (c) EFFECTIVE DATE.—The amendments made by
 2 this section apply to kidney disease education services fur-
 3 nished on or after January 1, 2016.

4 **SEC. 202. IMPROVING ACCESS TO CHRONIC KIDNEY DIS-**
 5 **EASE TREATMENT IN UNDERSERVED RURAL**
 6 **AND URBAN AREAS.**

7 (a) DEFINITION OF PRIMARY CARE SERVICES.—Sec-
 8 tion 331(a)(3)(D) of the Public Health Service Act (42
 9 U.S.C. 254d(a)(3)(D)) is amended by inserting “and in-
 10 cludes renal dialysis services” before the period at the end.

11 (b) NATIONAL HEALTH SERVICE CORPS SCHOLAR-
 12 SHIP PROGRAM.—Section 338A(a)(2) of the Public Health
 13 Service Act (42 U.S.C. 254l(a)(2)) is amended by insert-
 14 ing “, including nephrologists and non-physician practi-
 15 tioners providing renal dialysis services” before the period
 16 at the end.

17 (c) NATIONAL HEALTH SERVICE CORPS LOAN RE-
 18 PAYMENT PROGRAM.—Section 338B(a)(2) of the Public
 19 Health Service Act (42 U.S.C. 254l–1(a)(2)) is amended
 20 by inserting “, including nephrologists and non-physician
 21 practitioners providing renal dialysis services” before the
 22 period at the end.

1 **SEC. 203. PROMOTING ACCESS TO HOME DIALYSIS TREAT-**
 2 **MENTS.**

3 Section 1834(m)(4)(C)(ii) of the Social Security Act
 4 (42 U.S.C. 1395m(m)(4)(C)(ii)) is amended by adding at
 5 the end the following new subclause:

6 “(IX) A renal dialysis facility (as
 7 defined in section 1881).”.

8 **SEC. 204. EXPANDING ACCESS FOR PATIENTS WITH ACUTE**
 9 **KIDNEY INJURY.**

10 Section 1881(b) of the Social Security Act (42 U.S.C.
 11 1395rr(b)) is amended—

12 (1) in paragraph (1), by inserting “or acute
 13 kidney injury” after “individuals who have been de-
 14 termined to have end stage renal disease”;

15 (2) in paragraph (2)(A), by inserting “or acute
 16 kidney injury” after “end stage renal disease”;

17 (3) in paragraph (2)(B), by inserting “or acute
 18 kidney injury” after “end stage renal disease”;

19 (4) in paragraph (3), in the matter preceding
 20 subparagraph (A), by inserting “or acute kidney in-
 21 jury” after “end stage renal disease”;

22 (5) in paragraph (11)(A), by inserting “or
 23 acute kidney injury” after “end stage renal disease”;

24 (6) in paragraph (11)(B), by inserting “or
 25 acute kidney injury” after “end stage renal disease”;

26 (7) in paragraph (14)(B)—

1 (A) in clause (ii), by inserting “or acute
2 kidney injury” after “end stage renal disease”;

3 (B) in clause (iii), by inserting “or acute
4 kidney injury” after “end stage renal disease”;
5 and

6 (C) in clause (iv), by inserting “or acute
7 kidney injury” after “end stage renal disease”;
8 and

9 (8) in paragraph (14)(H)(i), by inserting “or
10 acute kidney injury” after “end stage renal disease”.

11 **TITLE III—CREATING ECONOMIC**
12 **STABILITY FOR PROVIDERS**
13 **CARING FOR INDIVIDUALS**
14 **WITH CHRONIC KIDNEY DIS-**
15 **EASE**

16 **SEC. 301. STABILIZING MEDICARE PAYMENTS FOR SERV-**
17 **ICES PROVIDED TO BENEFICIARIES WITH**
18 **STAGE V CHRONIC KIDNEY DISEASE RECEIV-**
19 **ING DIALYSIS SERVICES.**

20 Section 1881(b)(14) of the Social Security Act (42
21 U.S.C. 1395rr(b)(14)) is amended—

22 (1) in subparagraph (D), in the matter pre-
23 ceding clause (i), by striking “Such system” and in-
24 serting “Subject to subparagraph (J), such system”;
25 and

1 (2) by adding at the end the following new sub-
2 paragraph:

3 “(J)(i) For payment for renal dialysis services fur-
4 nished on or after January 1, 2016, under the system
5 under this paragraph—

6 “(I) the payment adjustment described in
7 clause (i) of subparagraph (D) shall not take into
8 account comorbidities;

9 “(II) the payment adjustment described in
10 clause (ii) of such subparagraph shall not be in-
11 cluded;

12 “(III) the standardization factor described in
13 the final rule published in the Federal Register on
14 November 8, 2012 (77 Fed. Reg. 67470), shall be
15 established using the most currently available data
16 (and not historical data) and adjusted on an annual
17 basis, based on such available data, to account for
18 any change in utilization of drugs and any modifica-
19 tion in adjustors applied under this paragraph; and

20 “(IV) the Secretary shall take into account rea-
21 sonable costs consistent with paragraph (2)(B) when
22 calculating such payments.

23 “(ii) Not later than January 1, 2016, the Secretary
24 shall amend the ESRD facility cost report to—

1 “(I) include the per treatment network fee (as
 2 described in paragraph (7)) as an allowable cost;
 3 and

4 “(II) eliminate the limitation for reporting med-
 5 ical director fees on such reports in order to take
 6 into account the wages of a board-certified
 7 nephrologist.”.

8 **SEC. 302. PROVIDING INDIVIDUALS WITH KIDNEY FAILURE**
 9 **ACCESS TO MANAGED CARE AND COORDI-**
 10 **NATED CARE PROGRAMS.**

11 (a) EXPANDING ACCESS TO MEDICARE ADVAN-
 12 TAGE.—

13 (1) ELIGIBILITY UNDER MEDICARE ADVAN-
 14 TAGE.—

15 (A) IN GENERAL.—Section 1851(a)(3) of
 16 the Social Security Act (42 U.S.C. 1395w-
 17 21(a)(3)) is amended—

18 (i) by striking subparagraph (B); and

19 (ii) by striking “ELIGIBLE INDI-
 20 VIDUAL.—” and all that follows through
 21 “In this title” and inserting “ELIGIBLE IN-
 22 DIVIDUAL.—In this title”.

23 (B) CONFORMING AMENDMENT.—Section
 24 1852(b)(1) of the Social Security Act (42
 25 U.S.C. 1395w-22(b)(1)) is amended—

1 (i) by striking subparagraph (B); and
 2 (ii) by striking “BENEFICIARIES.—”
 3 and all that follows through “A
 4 Medicare+Choice organization” and in-
 5 serting “BENEFICIARIES.—A Medicare Ad-
 6 vantage organization”.

7 (C) EFFECTIVE DATE.—The amendments
 8 made by this paragraph shall apply with respect
 9 to plan years beginning on or after January 1,
 10 2016.

11 (2) EDUCATION.—Section 1851(d)(2)(A)(iii) of
 12 the Social Security Act (42 U.S.C. 1395w-
 13 21(d)(2)(A)(iii)) is amended by inserting before the
 14 period at the end the following “, including any ad-
 15 ditional information that individuals determined to
 16 have end stage renal disease may need to make in-
 17 formed decisions with respect to such an election”.

18 (3) QUALITY METRICS.—Section 1852(e)(3)(A)
 19 of the Social Security Act (42 U.S.C. 1395w-
 20 22(e)(3)(A)) is amended by adding at the end the
 21 following new clause:

22 “(v) REQUIREMENTS WITH RESPECT
 23 TO INDIVIDUALS WITH ESRD.—In addition
 24 to the data required to be collected, ana-
 25 lyzed, and reported under clause (i) and

1 notwithstanding the limitations under sub-
 2 paragraph (B), as part of the quality im-
 3 provement program under paragraph (1),
 4 each MA organization shall provide for the
 5 collection, analysis, and reporting of data,
 6 determined in consultation with the kidney
 7 care community, that permits the measure-
 8 ment of health outcomes and other indices
 9 of quality with respect to individuals deter-
 10 mined to have end stage renal disease.”.

11 (b) PERMANENT EXTENSION OF MEDICARE ADVAN-
 12 TAGE ESRD SPECIAL NEEDS PLANS AUTHORITY.—Sec-
 13 tion 1859(f)(1) of the Social Security Act (42 U.S.C.
 14 1395w–28(f)(1)) is amended by inserting “, in the case
 15 of a specialized MA plan for special needs individuals who
 16 have not been determined to have end stage renal dis-
 17 ease,” before “for periods before January 1, 2017”.

18 (c) VOLUNTARY ESRD COORDINATED CARE
 19 GAINSHARING PROGRAM.—

20 (1) IN GENERAL.—Section 1881(b) of the So-
 21 cial Security Act (42 U.S.C. 1395rr(b)) is amended
 22 by adding at the end the following new paragraph:
 23 “(15)(A) Not later than January 1, 2017, the Sec-
 24 retary shall, in accordance with this paragraph, establish
 25 an ESRD Care Coordination gainsharing program for

1 nephrologists, renal dialysis facilities, and providers of
2 services that develop coordinated care organizations to
3 provide a full range of clinical and supportive services (as
4 described in subparagraph (D)) to individuals determined
5 to have end stage renal disease.

6 “(B) Under such program, subject to subparagraph
7 (C), the payment amounts renal dialysis facilities and pro-
8 viders of services described in subparagraph (A) would
9 otherwise receive under paragraph (14) and nephrologists
10 described in subparagraph (A) would otherwise receive
11 under section 1848 with respect to dialysis services fur-
12 nished by such a facility, provider, or nephrologist during
13 a year, shall be increased by a portion of the amount (as
14 determined by the Secretary) of actual reductions in ex-
15 penditures under this title attributable to the coordinated
16 care organization developed by such facility, provider, or
17 nephrologist involved, taking into account non-dialysis ex-
18 penditures under parts A and B, during the preceding cal-
19 endar year. The payment amount under this subparagraph
20 shall be provided to a nephrologist, renal dialysis facility,
21 and provider of services that developed the coordinated
22 care organization not later than March 31 of the year
23 after the year during which such services are provided by
24 such nephrologist, facility, or provider.

1 “(C) The aggregate incentive payment amounts pro-
2 vided under such program for a year may not exceed the
3 amount equal to 2 percent less than the estimated total
4 amount of non-dialysis expenditures under parts A and
5 B for 2017 for items and services that are not related
6 to dialysis or transplant services.

7 “(D) For purposes of subparagraph (A), the full
8 range of clinical and supportive services includes at least
9 the following:

10 “(i) Primary care and other preventative serv-
11 ices.

12 “(ii) Specialty care for co-morbidities or non-
13 renal acute conditions, including at least podiatry,
14 cardiology, and orthopedics.

15 “(iii) Vascular access.

16 “(iv) Laboratory testing and diagnostic imag-
17 ing.

18 “(v) Pharmacy care management.

19 “(vi) Patient, family, and caregiver education.

20 “(vii) Psychiatric, behavioral therapy, and coun-
21 seling services.

22 “(E) In providing payment incentive amounts under
23 such program, the Secretary shall apply a risk adjustment
24 methodology that—

1 “(i) uses risk adjuster factors applied under
2 part C; and

3 “(ii) adjusts such payments to exclude the top
4 2 percent of outliers.

5 “(F) In establishing such program, the Secretary
6 shall ensure that each of the following is satisfied:

7 “(i) The program allows for all types and sizes
8 of renal dialysis facilities and providers of services
9 described in subparagraph (A), including profit and
10 not-for-profit, urban and rural, as well as all other
11 types and sizes of such facilities and providers, to
12 participate.

13 “(ii) The program rewards high quality, effi-
14 cient facilities and providers through gain-sharing.

15 “(iii) For purposes of determining the actual
16 reductions in expenditures under this title attrib-
17 utable to a coordinated care organization described
18 in subparagraph (A), the program includes a mar-
19 ket-based benchmark system that will not be rebased
20 against which such expenditures shall be compared.

21 “(iv) The program results in reductions of ex-
22 penditures under parts A and B for services that are
23 not dialysis-related services.

1 “(v) The program allows new applicants to par-
2 ticipate in the program after the initial implementa-
3 tion period.

4 “(vi) The program establishes clear quality
5 metrics in consultation with the kidney care commu-
6 nity.

7 “(vii) The program provides for waivers of Fed-
8 eral laws or requirements, in consultation with inter-
9 ested stakeholders.

10 “(viii) Under such program the Secretary at-
11 tributes individuals described in subparagraph (A)
12 who receive treatment through a care coordination
13 organization described in such subparagraph to such
14 organization rather than to any other payment
15 model that requires beneficiary attribution.

16 “(ix) Under such program the Secretary pro-
17 vides quarterly Medicare parts A and B claims data
18 to facilities and providers described in subparagraph
19 (A) participating in such program.

20 “(G) Not later than 3 years after the date of the im-
21 plementation of the ESRD Care Coordination gainsharing
22 program, the Secretary shall submit to Congress a report
23 on the waivers granted under subparagraph (F)(vii) and
24 the effectiveness of such waivers in allowing the coordina-
25 tion of care.”.

1 (2) CONFORMING AMENDMENTS.—

2 (A) SECTION 1881.—Section 1881(b) of the
3 Social Security Act (42 U.S.C. 1395rr(b)) is
4 amended—

5 (i) in each of paragraphs (12)(A) and
6 (13)(A), by striking “paragraph (14)” and
7 inserting “paragraphs (14) and (15)”; and

8 (ii) in paragraph (14)(A)(i), by insert-
9 ing “and paragraph (15)” after “Subject
10 to subparagraph (E)”.

11 (B) SECTION 1848.—Section 1848 of the
12 Social Security Act (42 U.S.C. 1395w-4) is
13 amended by adding at the end the following
14 new subsection:

15 “(q) VOLUNTARY ESRD COORDINATED CARE PRO-
16 GRAM.—For provisions related to incentive payment
17 amounts to nephrologists under the ESRD Care Coordina-
18 tion gainsharing program, see section 1881(b)(15).”.

19 (d) PATIENT INFORMATION REQUIREMENT.—The
20 Secretary of Health and Human Services shall require
21 hospitals that furnish items and services to individuals en-
22 titled to benefits under part A of title XVIII of the Social
23 Security Act or eligible for benefits under part B of such
24 title and who subsequently receive dialysis services at a
25 renal dialysis facility (as defined in section 1881 of such

1 Act (42 U.S.C. 1395rr)) to provide to such facility health
2 information with respect to such individual, including a
3 discharge summary and co-morbidity information, upon
4 request of the facility, not later than 7 days after notifica-
5 tion by the hospital of the provision of such services to
6 such individual or of the determination that such indi-
7 vidual has end stage renal disease, as applicable.

○