

Calendar No. 182

114TH CONGRESS
1ST SESSION**S. 704****[Report No. 114–103]**

To establish a Community-Based Institutional Special Needs Plan demonstration program to target home and community-based care to eligible Medicare beneficiaries.

IN THE SENATE OF THE UNITED STATES

MARCH 11, 2015

Mr. GRASSLEY (for himself, Mr. CARDIN, Mr. SCHUMER, Mr. FRANKEN, Mr. HELLER, and Mrs. GILLIBRAND) introduced the following bill; which was read twice and referred to the Committee on Finance

JULY 30, 2015

Reported by Mr. HATCH, with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

A BILL

To establish a Community-Based Institutional Special Needs Plan demonstration program to target home and community-based care to eligible Medicare beneficiaries.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Community Based
3 Independence for Seniors Act”.

4 **SEC. 2. FINDINGS.**

5 Congress makes the following findings:

6 (1) Community-based services play an essential
7 role in keeping individuals healthy.

8 (2) Without community-based long-term serv-
9 ices and supports, which are not typically covered by
10 Medicare, seniors frequently experience negative
11 health outcomes and lose their ability to live inde-
12 pendently.

13 (3) Seniors who deplete their resources often
14 have no option but to turn to Medicaid for coverage
15 of long-term care expenses.

16 (4) Targeting community-based services and
17 supports to at-risk seniors can help these individuals
18 avoid depleting their assets and becoming Medicaid
19 dependent.

20 **SEC. 3. COMMUNITY-BASED INSTITUTIONAL SPECIAL**
21 **NEEDS PLAN DEMONSTRATION.**

22 (a) IN GENERAL.—The Secretary of Health and
23 Human Services (in this section referred to as the “Sec-
24 retary”) shall establish a Community-Based Institutional
25 Special Needs Plan demonstration program (in this sec-
26 tion referred to as the “CBI-SNP demonstration pro-

1 gram”) to target home and community-based care to eligi-
 2 ble Medicare beneficiaries.

3 ~~(b) ESTABLISHMENT.—~~

4 ~~(1) IN GENERAL.—~~The Secretary shall enter
 5 into agreements with up to 5 Medicare Advantage
 6 plans to conduct the CBI-SNP demonstration pro-
 7 gram. Each such MA plan may enroll up to 1,000
 8 eligible Medicare beneficiaries (including new enroll-
 9 ees) in such program.

10 ~~(2) BENEFITS.—~~Under the CBI-SNP dem-
 11 onstration program, eligible Medicare beneficiaries
 12 shall receive benefits, in addition to those under part
 13 C of title XVIII of the Social Security Act (including
 14 benefits under section 1852(a)(3) of such Act (42
 15 U.S.C. 1395w22(a)(3))) and notwithstanding any
 16 waivers under section 1915(c) (42 U.S.C. 1396n(c)),
 17 including long-term care services and supports, that
 18 the Secretary determines appropriate for the pur-
 19 poses of the CBI-SNP demonstration program, such
 20 as—

- 21 ~~(A) homemaker services;~~
- 22 ~~(B) home delivered meals;~~
- 23 ~~(C) transportation services;~~
- 24 ~~(D) respite care;~~
- 25 ~~(E) adult day care services; and~~

1 (F) non-Medicare-covered safety and other
2 equipment.

3 (3) PAYMENTS.—The Secretary shall establish
4 a benchmark payment amount for reimbursing Medi-
5 care Advantage plans participating in the CBI-SNP
6 demonstration program for benefits provided to eligi-
7 ble beneficiaries under such program. Such pay-
8 ments shall be in addition to payments made to such
9 plans under part C of title XVIII of the Social Secu-
10 rity Act.

11 (e) ELIGIBLE PLANS.—To be eligible to participate
12 in the CBI-SNP demonstration program, a Medicare Ad-
13 vantage plan must—

14 (1) have experience in offering special needs
15 plans for nursing home-eligible, non-institutionalized
16 Medicare beneficiaries who live in the community;

17 (2) have experience working with low income
18 seniors groups;

19 (3) be located in a State that the Secretary has
20 determined will participate in the CBI-SNP dem-
21 onstration program by agreeing to make available
22 data necessary for purposes of conducting the inde-
23 pendent evaluation required under subsection (h);
24 and

1 (4) meet such other criteria as the Secretary
2 may require.

3 ~~(d) ELIGIBLE MEDICARE BENEFICIARY DEFINED.—~~

4 In this section, the term “eligible Medicare beneficiary”
5 means a Medicare beneficiary who—

6 (1) is enrolled or eligible to enroll in a Medicare
7 Advantage plan that has been selected to participate
8 in the CBI-SNP demonstration program;

9 (2) is a subsidy eligible individual (as defined in
10 section ~~1860D–14(a)(3)(A)~~ of the Social Security
11 Act (~~42 U.S.C. 1395w114(a)(3)(A)~~));

12 (3) is not eligible to receive benefits under title
13 XIX of the Social Security Act;

14 (4) is unable to perform 2 or more activities of
15 daily living (as defined in section ~~7702B(e)(2)(B)~~ of
16 the Internal Revenue Code of 1986); and

17 (5) is age 65 or older.

18 ~~(e) SPECIAL ELECTION PERIOD.—~~Notwithstanding
19 sections ~~1852(e)(2)(C)~~ and ~~1860D–1(b)(1)(B)(iii)~~ of the
20 Social Security Act (~~42 U.S.C. 1395w–21(e)(2)(C)~~;
21 ~~1395w–101(b)(1)(B)(iii)~~), an eligible Medicare beneficiary
22 may, other than during the annual, coordinated election
23 periods under such sections—

24 (1) discontinue enrollment in a Medicare Ad-
25 vantage plan not participating in the CBI-SNP dem-

1 onstration program and enroll in a Medicare Advan-
 2 tage plan participating in such program; and

3 ~~(2) discontinue enrollment under the original~~
 4 ~~medicare fee-for-service program under parts A and~~
 5 ~~B of such title and the enrollment in a prescription~~
 6 ~~drug plan under part D of such title and enroll in~~
 7 ~~a Medicare Advantage plan participating in the CBI-~~
 8 ~~SNP demonstration program.~~

9 ~~(f) BENEFICIARY EDUCATION.~~—The Secretary shall
 10 help to educate eligible Medicare beneficiaries on the avail-
 11 ability of the CBI-SNP demonstration program through
 12 State Health Insurance Assistance Programs and other
 13 organizations dedicated to assisting seniors with Medicare
 14 benefits and enrollment.

15 ~~(g) IMPLEMENTATION.~~—

16 ~~(1) DEADLINE.~~—The CBI-SNP demonstration
 17 program shall be implemented not later than Janu-
 18 ary 1, 2017.

19 ~~(2) DURATION.~~—Subject to paragraph ~~(3)~~, the
 20 CBI-SNP demonstration program shall be conducted
 21 for a period of 5 years.

22 ~~(3) EXTENSION OR EXPANSION.~~—Taking into
 23 account the report under subsection ~~(h)(2)~~, the Sec-
 24 retary may, through rulemaking, expand (including
 25 implementation on a nationwide or permanent basis)

the duration or the scope CBI-SNP demonstration program to the extent determined appropriate by the Secretary, unless the Secretary determines that such expansion is expected to—

(A) increase expenditures under titles XVIII and XIX of the Social Security Act with respect to eligible Medicare beneficiaries participating in the CBI-SNP demonstration program; or

(B) decrease the quality of health care services furnished to eligible Medicare beneficiaries participating in the CBI-SNP demonstration program.

(h) INDEPENDENT EVALUATION AND REPORTS.—

(1) INDEPENDENT EVALUATION.—The Secretary shall provide for the evaluation of the CBI-SNP demonstration program by an independent third party. Such evaluation shall be completed using evaluation criteria that are clearly articulated prior to the implementation of such program. Such criteria shall include specific goals of such program, hypotheses being tested, clear data collection and reporting requirements, recognizing that definitions, benefits and program requirements for long-term care services and supports vary across States. Such

1 evaluation shall determine whether the CBI-SNP
 2 demonstration program has—

3 ~~(A) improved patient care;~~

4 ~~(B) reduced hospitalizations or rehos-~~
 5 ~~pitalizations;~~

6 ~~(C) reduced or delayed Medicaid nursing~~
 7 ~~facility admissions and lengths of stay;~~

8 ~~(D) reduced spend down of income and as-~~
 9 ~~sets for purposes of becoming eligible for Med-~~
 10 ~~icaid; and~~

11 ~~(E) improved quality of life for the dem-~~
 12 ~~onstration population and beneficiary and care-~~
 13 ~~giver satisfaction.~~

14 ~~(2) REPORTS.—Not later than 4 years after the~~
 15 ~~implementation of the CBI-SNP demonstration pro-~~
 16 ~~gram, the Secretary shall submit to Congress a re-~~
 17 ~~port containing the results of the evaluation con-~~
 18 ~~ducted under paragraph (1), together with such rec-~~
 19 ~~ommendations for legislative or administrative action~~
 20 ~~as the Secretary determines appropriate. In pre-~~
 21 ~~paring such report, the Secretary shall use at least~~
 22 ~~3 years worth of data under the demonstration pro-~~
 23 ~~gram.~~

24 ~~(i) BUDGET NEUTRALITY.—By the end of the third~~
 25 ~~year of the CBI-SNP demonstration program, the Sec-~~

1 retary shall ensure that the aggregate payments made
 2 under titles XVIII and XIX of the Social Security Act,
 3 including under the demonstration program, for subse-
 4 quent periods do not exceed the amount which the Sec-
 5 retary estimates would have been expended under such ti-
 6 tles during such a period if the CBI-SNP demonstration
 7 program had not been implemented.

8 (j) PAPERWORK REDUCTION ACT.—Chapter 35 of
 9 title 44, United States Code, shall not apply to the testing
 10 and evaluation of the CBI-SNP demonstration program.

11 **SECTION 1. SHORT TITLE.**

12 *This Act may be cited as the “Community Based Inde-*
 13 *pendence for Seniors Act”.*

14 **SEC. 2. FINDINGS.**

15 *Congress makes the following findings:*

16 (1) *Community-based services play an essential*
 17 *role in keeping individuals healthy.*

18 (2) *Without community-based long-term services*
 19 *and supports, which are not typically covered by*
 20 *Medicare, seniors frequently experience negative*
 21 *health outcomes and lose their ability to live inde-*
 22 *pendently.*

23 (3) *Seniors who deplete their resources often have*
 24 *no option but to turn to Medicaid for coverage of*
 25 *long-term care expenses.*

1 (4) *Targeting community-based services and sup-*
 2 *ports to at-risk seniors can help these individuals*
 3 *avoid depleting their assets and becoming Medicaid*
 4 *dependent.*

5 **SEC. 3. COMMUNITY-BASED INSTITUTIONAL SPECIAL**
 6 **NEEDS PLAN DEMONSTRATION.**

7 (a) *IN GENERAL.—The Secretary of Health and*
 8 *Human Services (referred to in this section as the “Sec-*
 9 *retary”)* shall establish a *Community-Based Institutional*
 10 *Special Needs Plan demonstration program (in this section*
 11 *referred to as the “CBI-SNP demonstration program”) to*
 12 *prevent and delay institutionalization under the Medicaid*
 13 *program among eligible low-income Medicare beneficiaries.*

14 (b) *ESTABLISHMENT.—*

15 (1) *IN GENERAL.—The Secretary shall enter into*
 16 *agreements with not more than 5 eligible MA plans*
 17 *to conduct the CBI-SNP demonstration program.*
 18 *Each such eligible MA plan may enroll up to 1,000*
 19 *eligible low-income Medicare beneficiaries (including*
 20 *new enrollees) in such program.*

21 (2) *USE OF PART C REBATE TO FURNISH CER-*
 22 *TAIN BENEFITS.—Under the CBI-SNP demonstration*
 23 *program, an eligible MA plan selected to participate*
 24 *in such program shall use the rebate that the plan is*
 25 *required (under section 1854 of the Social Security*

1 *Act (42 U.S.C. 13954–24)) to provide to eligible low-*
 2 *income Medicare beneficiaries enrolled in the plan in*
 3 *order to furnish, as supplemental benefits under sec-*
 4 *tion 1852(a)(3) of such Act (42 U.S.C. 1395w–*
 5 *22(a)(3)) and notwithstanding any waivers under*
 6 *section 1915(c) of such Act (42 U.S.C. 1396n(c)), ben-*
 7 *efits to such beneficiaries, including long-term care*
 8 *services and supports, that the Secretary determines*
 9 *appropriate for the purposes of the CBI-SNP dem-*
 10 *onstration program, such as—*

11 *(A) homemaker services;*
 12 *(B) home delivered meals;*
 13 *(C) transportation services;*
 14 *(D) respite care;*
 15 *(E) adult day care services; and*
 16 *(F) non-Medicare-covered safety and other*
 17 *equipment.*

18 *(c) ELIGIBLE MA PLAN.—In this section, the term “el-*
 19 *igible MA plan” means a specialized MA plan for special*
 20 *needs individuals (as defined in section 1859(b)(6) of the*
 21 *Social Security Act (42 U.S.C. 1395w–28(b)(6)) that—*

22 *(1) has experience in offering special needs plans*
 23 *for nursing home-eligible, non-institutionalized Medi-*
 24 *care beneficiaries who live in the community;*

1 (2) *has experience working with low income*
 2 *beneficiaries, including low income beneficiaries du-*
 3 *ally eligible for benefits under titles XVIII and XIX*
 4 *of such Act;*

5 (3) *has a service area in a State that has agreed*
 6 *to make available to the Secretary Medicaid data nec-*
 7 *essary for purposes of conducting the independent*
 8 *evaluation required under subsection (j); and*

9 (4) *meets such other criteria as the Secretary*
 10 *may require.*

11 (d) *ELIGIBLE LOW-INCOME MEDICARE BENEFICIARY*
 12 *DEFINED.—In this section, the term “eligible low-income*
 13 *Medicare beneficiary” means an individual who is—*

14 (1) *a Medicare Advantage eligible individual (as*
 15 *defined in section 1851(a)(3) of the Social Security*
 16 *Act (42 U.S.C. 1395w–21(a)(3));*

17 (2) *a subsidy eligible individual (as defined in*
 18 *section 1860D–14(a)(3)(A) of such Act (42 U.S.C.*
 19 *1395w–114(a)(3)(A));*

20 (3) *not eligible to receive benefits under title XIX*
 21 *of the Social Security Act;*

22 (4) *unable to perform 2 or more activities of*
 23 *daily living (as defined in section 7702B(c)(2)(B) of*
 24 *the Internal Revenue Code of 1986); and*

25 (5) *age 65 or older.*

1 (e) *SPECIAL ELECTION PERIOD.*—Notwithstanding
 2 sections 1852(e)(2)(C) and 1860D–1(b)(1)(B)(iii) of the So-
 3 cial Security Act (42 U.S.C. 1395w–21(e)(2)(C); 1395w–
 4 101(b)(1)(B)(iii)), an eligible Medicare beneficiary may,
 5 other than during the annual, coordinated election periods
 6 under such sections—

7 (1) *discontinue enrollment in a Medicare Advan-*
 8 *tage plan not participating in the CBI-SNP dem-*
 9 *onstration program and enroll in an eligible MA plan*
 10 *participating in such program if the beneficiary re-*
 11 *sides in the participating plan’s service area; and*

12 (2) *discontinue enrollment under the original*
 13 *medicare fee-for-service program under parts A and B*
 14 *of title XVIII of such Act and the enrollment in a*
 15 *prescription drug plan under part D of such title and*
 16 *enroll in an eligible MA plan participating in the*
 17 *CBI-SNP demonstration program if the beneficiary*
 18 *resides in the participating plan’s service area.*

19 (f) *BENEFICIARY EDUCATION.*—The Secretary shall
 20 help to educate eligible Medicare beneficiaries on the avail-
 21 ability of the CBI-SNP demonstration program through
 22 State Health Insurance Assistance Programs and other or-
 23 ganizations dedicated to assisting seniors with Medicare
 24 benefits and enrollment.

1 (g) *DURATION.*—*The CBI-SNP demonstration pro-*
 2 *gram shall be implemented not later than January 1, 2018,*
 3 *and shall be conducted for a period of 5 years.*

4 (h) *BUDGET NEUTRALITY.*—*In conducting the CBI-*
 5 *SNP demonstration program, the Secretary shall ensure*
 6 *that the aggregate payments made by the Secretary do not*
 7 *exceed the amount which the Secretary estimates would*
 8 *have been expended under titles XVIII and XIX of the So-*
 9 *cial Security Act (42 U.S.C. 1395 et seq., 1396 et seq.) if*
 10 *the CBI-SNP demonstration program had not been imple-*
 11 *mented.*

12 (i) *EXPANSION OF DEMONSTRATION PROGRAM.*—*Tak-*
 13 *ing into account the evaluation under subsection (j), the*
 14 *Secretary may, through notice and comment rulemaking,*
 15 *expand (including implementation on a nationwide basis)*
 16 *the duration and scope of the CBI-SNP demonstration pro-*
 17 *gram under title XVIII of the Social Security Act, other*
 18 *than under the original medicare fee-for-service program*
 19 *under parts A and B of such title, to the extent determined*
 20 *appropriate by the Secretary, if the requirements of para-*
 21 *graphs (1), (2) and (3) of subsection (c) of section 1115A*
 22 *of the Social Security Act (42 U.S.C. 1315a), as applied*
 23 *to the testing of a model under subsection (b) of such section,*
 24 *applied to the CBI-SNP demonstration program.*

25 (j) *INDEPENDENT EVALUATION AND REPORTS.*—

1 (1) *INDEPENDENT EVALUATION.*—*The Secretary*
2 *shall provide for the evaluation of the CBI-SNP dem-*
3 *onstration program by an independent third party.*
4 *Such evaluation shall be completed using evaluation*
5 *criteria that are clearly articulated prior to the im-*
6 *plementation of such program. Such criteria shall in-*
7 *clude specific goals of such program, hypotheses being*
8 *tested, and clear data collection and reporting re-*
9 *quirements, recognizing that definitions, benefits, and*
10 *program requirements for long-term care services and*
11 *supports vary across States. Such evaluation shall de-*
12 *termine whether the CBI-SNP demonstration pro-*
13 *gram has—*

14 (A) *improved patient care;*

15 (B) *reduced hospitalizations or rehos-*
16 *pitalizations;*

17 (C) *reduced or delayed Medicaid nursing fa-*
18 *cility admissions and lengths of stay;*

19 (D) *reduced spend down of income and as-*
20 *sets for purposes of becoming eligible for Med-*
21 *icaid; and*

22 (E) *improved quality of life for the dem-*
23 *onstration population and beneficiary and care-*
24 *giver satisfaction.*

1 (2) *REPORTS.*—*Not later than January 1, 2022,*
 2 *the Secretary shall submit to Congress a report con-*
 3 *taining the results of the evaluation conducted under*
 4 *paragraph (1), together with such recommendations*
 5 *for legislative or administrative action as the Sec-*
 6 *retary determines appropriate. In preparing such re-*
 7 *port, the Secretary shall use at least 3 years worth of*
 8 *data under the CBI-SNP demonstration program.*

9 (k) *FUNDING.*—

10 (1) *FUNDING FOR IMPLEMENTATION.*—*For pur-*
 11 *poses of administering the CBI-SNP demonstration*
 12 *program (other than the evaluation and report under*
 13 *subsection (j)), the Secretary shall provide for the*
 14 *transfer from the Federal Hospital Insurance Trust*
 15 *Fund under section 1817 of the Social Security Act*
 16 *(42 U.S.C. 1395i) and the Federal Supplementary*
 17 *Medical Insurance Trust Fund under section 1841 of*
 18 *such Act (42 U.S.C. 1395t), in such proportion as the*
 19 *Secretary determines appropriate, of \$3,000,000 to*
 20 *the Centers for Medicare & Medicaid Services Pro-*
 21 *gram Management Account.*

22 (2) *FUNDING FOR EVALUATION AND REPORT.*—
 23 *For purposes of carrying out the evaluation and re-*
 24 *port under subsection (j), the Secretary shall provide*
 25 *for the transfer from the Federal Hospital Insurance*

1 *Trust Fund under such section 1817 and the Federal*
2 *Supplementary Medical Insurance Trust Fund under*
3 *such section 1841, in such proportion as the Secretary*
4 *determines appropriate, of \$500,000 to the Centers for*
5 *Medicare & Medicaid Services Program Management*
6 *Account.*

7 (3) *AVAILABILITY.—Amounts transferred under*
8 *paragraph (1) or (2) shall remain available until ex-*
9 *pended.*

10 (1) *PAPERWORK REDUCTION ACT.—Chapter 35 of title*
11 *44, United States Code, shall not apply to the testing and*
12 *evaluation of the CBI-SNP demonstration program.*

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[Report No. 114-103]

A BILL

To establish a Community-Based Institutional Special Needs Plan demonstration program to target home and community-based care to eligible Medicaid beneficiaries.

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