

118TH CONGRESS
1ST SESSION

S. 642

To facilitate the development of treatments for cancers, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 2, 2023

Ms. KLOBUCHAR (for herself and Mr. WICKER) introduced the following bill;
which was read twice and referred to the Committee on Finance

A BILL

To facilitate the development of treatments for cancers, 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 “Finn Sawyer Access
5 to Cancer Testing Act”.

6 **SEC. 2. COVERAGE OF CANCER DIAGNOSTIC AND LABORA-**
7 **TORY TESTS.**

8 (a) MEDICARE.—

9 (1) COVERAGE.—Section 1861 of the Social Se-
10 curity Act (42 U.S.C. 1395x) is amended—

1 (A) in subsection (s)(2)—

2 (i) in subparagraph (II), by striking

3 “and” at the end;

4 (ii) in subparagraph (JJ), by adding

5 “and” at the end; and

6 (iii) by adding at the end the fol-

7 lowing new subparagraph:

8 “(KK) cancer diagnostic and laboratory tests

9 (as defined in subsection (nnn)) furnished on or

10 after the date that is 6 months after the date of the

11 enactment of this subparagraph.”; and

12 (B) by adding at the end the following new

13 subsection:

14 “(nnn) CANCER DIAGNOSTIC AND LABORATORY

15 TESTS.—

16 “(1) IN GENERAL.—The term ‘cancer diag-

17 nostic and laboratory tests’ means—

18 “(A) microarray analysis, DNA sequenc-

19 ing, RNA sequencing, whole-exome sequencing,

20 and other forms of next-generation sequencing

21 furnished and reported by a clinical laboratory

22 (as defined in section 353(a) of the Public

23 Health Service Act); and

1 “(B) explanation and interpretation of any
2 analysis or sequencing described in subpara-
3 graph (A);
4 furnished to an individual diagnosed with cancer.

5 “(2) FREQUENCY.—When an individual test as
6 described in paragraph (1) reports out the same ge-
7 netic content, it may only be furnished with respect
8 to an individual diagnosed with a cancer—

9 “(A) once upon the diagnosis of such can-
10 cer;

11 “(B) once upon any recurrence of such
12 cancer; and

13 “(C) as necessary for purposes of planning
14 treatment or monitoring the progression of such
15 cancer or the response of such cancer to treat-
16 ment.”.

17 (2) PAYMENT.—Section 1833 of the Social Se-
18 curity Act (42 U.S.C. 1395l) is amended—

19 (A) in subsection (a)(1)—

20 (i) by striking “and” before “(HH)”;
21 and

22 (ii) by inserting the following before
23 the semicolon: “, and (II) with respect to
24 cancer diagnostic and laboratory tests (as
25 defined in section 1861(nnn)), the amount

1 paid shall be an amount equal to 80 per-
 2 cent (or 100 percent, in the case of such
 3 tests for which payment is made on an as-
 4 signment-related basis) of the lesser of the
 5 actual charge for the test or the amount
 6 that would have been determined for such
 7 test under section 1834A had such test
 8 been a clinical diagnostic laboratory test;”;
 9 and

10 (B) in subsection (b)—

11 (i) by striking “, and (13)” and in-
 12 serting “(13)”; and

13 (ii) by striking “1861(n).” and insert-
 14 ing “section 1861(n), and (14) such de-
 15 ductible shall not apply with respect to
 16 cancer diagnostic and laboratory tests (as
 17 defined in section 1861(nnn))”.

18 (3) EXCLUSION MODIFICATION.—Section
 19 1862(a)(1) of the Social Security Act (42 U.S.C.
 20 1395y(a)(1)) is amended—

21 (A) in subparagraph (O), by striking
 22 “and” at the end;

23 (B) in subparagraph (P), by striking the
 24 semicolon and inserting “, and”; and

1 (C) by adding at the end the following new
2 subparagraph:

3 “(Q) in the case of cancer diagnostic and lab-
4 oratory tests (as defined in section 1861(nnn)),
5 which are performed more frequently than is covered
6 under such section;”.

7 (b) MEDICAID.—

8 (1) INCLUSION AS MEDICAL ASSISTANCE.—Sec-
9 tion 1905(a) of the Social Security Act (42 U.S.C.
10 1396d(a)) is amended—

11 (A) in paragraph (30), by striking “and”
12 at the end;

13 (B) by redesignating paragraph (31) as
14 paragraph (32); and

15 (C) by inserting after paragraph (30) the
16 following new paragraph:

17 “(31) cancer diagnostic and laboratory tests (as
18 defined in section 1861(nnn)); and”.

19 (2) MANDATORY COVERAGE.—Section
20 1902(a)(10)(A) of such Act is amended, in the mat-
21 ter preceding clause (i), by striking “and (30)” and
22 inserting “(30), and (31)”.

23 (3) INCLUSION IN BENCHMARK COVERAGE.—
24 Section 1937(b)(5) of such Act is amended by in-
25 serting before the period at the end the following: “,

1 and beginning January 1, 2025, coverage of cancer
2 diagnostic and laboratory tests (as defined in section
3 1861(nnn))”.

4 (4) CONFORMING AMENDMENTS.—Title XIX of
5 the Social Security Act (42 U.S.C. 1396 et seq.) is
6 amended—

7 (A) in section 1902(nn)(3), by striking
8 “paragraph (30) of section 1905(a)” and in-
9 serting “the last numbered paragraph of the
10 first sentence of section 1905(a)”; and

11 (B) in section 1905(a), in the 4th sentence
12 in the flush matter following the last numbered
13 paragraph of the first sentence of such section,
14 by striking “paragraph (30)” and inserting
15 “the last numbered paragraph”.

16 (5) EFFECTIVE DATE.—

17 (A) IN GENERAL.—The amendments made
18 by this section shall apply with respect to items
19 and services furnished on or after January 1,
20 2025.

21 (B) EXEMPTION FOR STATE LEGISLA-
22 TION.—In the case of a State plan under title
23 XIX of the Social Security Act (42 U.S.C. 1396
24 et seq.), or waiver of such plan, that the Sec-
25 retary of Health and Human Services deter-

1 mines requires State legislation in order for the
2 respective plan to meet any requirement im-
3 posed by amendments made by this section, the
4 respective plan shall not be regarded as failing
5 to comply with the requirements of such title
6 solely on the basis of its failure to meet such
7 an additional requirement before the first day
8 of the first calendar quarter beginning after the
9 close of the first regular session of the State
10 legislature that begins after the date of the en-
11 actment of this Act. For purposes of the pre-
12 vious sentence, in the case of a State that has
13 a 2-year legislative session, each year of the ses-
14 sion shall be considered to be a separate regular
15 session of the State legislature.

16 (c) CHIP.—Section 2103(c) of the Social Security
17 Act (42 U.S.C. 1397cc(c)), as amended by section
18 11405(b)(1) of Public Law 117–169, is amended by add-
19 ing at the end the following new paragraph:

20 “(13) COVERAGE OF CANCER DIAGNOSTIC AND
21 LABORATORY TESTS.—Regardless of the type of cov-
22 erage elected by a State under subsection (a), begin-
23 ning January 1, 2025, child health assistance pro-
24 vided under such coverage for targeted low-income
25 children and, in the case that the State elects to pro-

