S. 1287

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DEFINITION OF A HISPANIC-SERVING INSTITUTION.

Section 502(a)(5) of the Higher Education Act of 1965 (20 U.S.C. 1101a(a)(5)) is amended—

(1) in subparagraph (A), by inserting ''and'' after the semicolon;

(2) in subparagraph (B), by striking ''; and'' and inserting a period; and

(3) by striking subparagraph (C).

By Mr. CHAMBLISS (for himself and Mr. MILLER):

S. 1288. A bill to amend title XVIII of the Social Security Act to exclude brachytherapy devices from the prospective payment system for outpatient hospital services under the medicare program; to the Committee on Finance.

Mr. CHAMBLISS. Madam President, I rise today to introduce legislation, along with my colleague Senator MILLER of Georgia, that would amend the Medicare portion of the Social Security Act to exclude brachytherapy devices from the prospective payment system for outpatient hospital services under the Medicare Program. Currently, the number of devices reimbursed by Medicare is one set number and non-specific to the prostate cancer patient.

Prostate cancer accounts for 43 percent of all cancers found in men—more than triple the rate of lung cancer. The American Cancer Society estimates that nearly 221,000 men in the United States will be diagnosed with prostate cancer in 2003 and approximately 27,000 of these men will die as a result. The American Cancer Society also estimates that about 5,700 men diagnosed will be from Georgia and nearly 700 of them may die. This legislation will help some of these men fight and survive this indiscriminate killer. Over 130,000 men and their sons nationwide have been treated with brachytherapy Theraseeds to date.

Brachytherapy is an important form of radiation treatment for prostate cancer in which radioactive ''seeds'' are implanted into the patient. While there are several ways to treat prostate cancer, patients need the freedom to choose the treatment that best suits them and their situation. Tremendous variations exist that may effect the clinical requirements for cancer patients using brachytherapy theraseeds, including variations in the types of radioactive isotopes, as well as the number and radioactive intensity of the seeds. The brachytherapy community indicates that these variations result in considerable differences in total brachytherapy costs among patients, varying from several hundred dollars to over $10,000 per patient. Prostate brachytherapy is different from many other clinical interventions because of the dramatic variability in the type, number and radioactivity of brachytherapy seeds needed to treat each patient. This variability is due to differences in the clinical presentation from patient to patient, including the type, staging, and size of a patient's cancer. This variability also results in a broad range of costs per patient. This legislation will allow a more fair reimbursement for physicians who are using brachytherapy to treat prostate cancer patients. This bill will also allow Medicare patients to receive another type of therapy when making decisions and dealing with the reality of being diagnosed with prostate cancer.

I encourage all of my colleagues to support this piece of legislation so that men suffering with prostate cancer will have more coverage under Medicare should they choose brachytherapy for their treatment.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 174—DESIGNATING THURSDAY, NOVEMBER 20, 2003, AS ''FEED AMERICA THURSDAY''

Mr. HATCH submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 174

Whereas Thanksgiving Day celebrates the spirit of selfless giving and an appreciation for family and friends;

Whereas the spirit of Thanksgiving Day is a virtue upon which our Nation was founded;

Whereas 33,000,000 Americans, including 13,000,000 children, continue to live in households that do not have an adequate supply of food;

Whereas almost 3,000,000 of those children experience hunger; and

Whereas selfless sacrifice breeds a genuine spirit of Thanksgiving, both affirming and restoring fundamental principles in our society: Now, therefore, be it

Resolved, That the Senate

(1) designates Thursday, November 20, 2003, as ''Feed America Thursday''; and

(2) requests that the President issue a proclamation calling upon the people of the United States to sacrifice 2 meals on Thursday, November 20, 2003, and to donate the money that they would have spent on food to a religious or charitable organization of their choice for the purpose of feeding the hungry.

SENATE RESOLUTION 175—DESIGNATING THE MONTH OF OCTOBER 2003, AS ''FAMILY HISTORY MONTH''

Mr. HATCH submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 175

Whereas it is the family, striving for a future of opportunity and hope, that reflects our Nation's belief in community, stability, and love;

Whereas the family remains an institution of promise, reliance, and encouragement;

Whereas we look to the family as an unwavering symbol of constancy that will help us discover a future of prosperity, promise, and potential;

Whereas within our Nation's libraries and archives lie the treasured records that detail the history of our Nation, our States, our communities, and our citizens;

Whereas individuals from across our Nation and across the world have embarked on a genealogical journey by discovering who their ancestors were and how various forces shaped their past;

Whereas an ever-growing number in our Nation and in other nations are collecting, preserving, and sharing genealogies, personal documents, and memorabilia that detail the life and times of families around the world;

Whereas 54,000,000 individuals belong to a family where someone in the family has used the Internet to research their family history;

Whereas individuals from across our Nation and across the world continue to research their family heritage and its impact upon the history of our Nation and the world;

Whereas approximately 60 percent of Americans have expressed an interest in tracing their family history;

Whereas the study of family history gives individuals a sense of their heritage and a sense of responsibility in carrying out a legacy that their ancestors began;

Whereas as individuals learn about their ancestors who worked so hard and sacrificed so much, their commitment to honor their ancestors' memory by doing good is increased;

Whereas interest in our personal family history transcends all cultural and religious affiliations;

Whereas to encourage family history research, education, and the sharing of knowledge is to renew the commitment to the concept of home and family; and

Whereas the involvement of National, State, and local officials in promoting genealogy and in facilitating access to family history records in archives and libraries are important factors in the successful perception of nationwide camaraderie, support, and participation: Now, therefore, be it

Resolved, That the Senate—

(1) designates the month of October 2003, as ''Family History Month''; and

(2) requests that the President issue a proclamation calling upon the people of the United States to observe the month with appropriate ceremonies and activities.

AMENDMENTS SUBMITTED & PROPOSED

SA 929. Mr. NELSON, of Nebraska submitted an amendment intended to be proposed by him to the bill S. 1, to amend title XVIII of the Social Security Act to make improvements in the medicare program, to provide prescription drug coverage under the medicare program, and for other purposes; which was ordered to lie on the table.

SA 930. Mrs. HUTCHISON submitted an amendment intended to be proposed by her to the bill S. 1, supra; which was ordered to lie on the table.

SA 931. Ms. STABENOW (for herself, Mrs. BOXER, Mr. GRAHAM, of Florida, Mr. ROCKEFELLER, Mr. HARKIN, Ms. CANTWELL, Mr. KERRY, Mr. BINGAMAN, Mr. REED, Mrs. CLINTON, Ms. MIKULSKI, Mr. LEVIN, Mr. KOHL, Mr. DODD, Mr. LIEBERMAN, Mr. REID, Mr. DAYTON, and Mr. JOHNSON) proposed an amendment to the bill S. 1, supra.

SA 932. Mr. ENZI (for himself and Mr. PRYOR) proposed an amendment to the bill S. 1, supra.

SA 933. Mr. BINGAMAN proposed an amendment to the bill S. 1, supra.

SA 934. Mrs. LINCOLN submitted an amendment intended to be proposed by her to the bill S. 1, supra; which was ordered to lie on the table.

SA 935. Mrs. LINCOLN submitted an amendment intended to be proposed by her to the bill S. 1, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 929. Mr. NELSON of Nebraska submitted an amendment intended to be proposed by him to the bill S. 1, to amend title XVIII of the Social Security Act to make improvements in the Medicare program, to provide prescription drug coverage under the Medicare program, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VI, insert the following:

SEC. ___. MEDICARE BENEFICIARY ACCESS TO REHABILITATION FACILITIES.

(a) DEFINITIONS OF REHABILITATION HOSPITAL; REHABILITATION UNIT.—Section 1886(j)(42 U.S.C. 1395ww(j)) is amended by adding at the end the following new subsection:

''(8) DEFINITIONS OF REHABILITATION HOSPITAL; REHABILITATION UNIT.—

''(A) IN GENERAL.—The Secretary shall by regulation define the terms 'rehabilitation hospital' and 'rehabilitation unit' in a manner fully consistent with all the rehabilitation impairment categories (except miscellaneous) used to classify patients into case-mix groups pursuant to paragraph (2).

''(B) PERIODIC UPDATE REQUIRED.—The Secretary shall update the regulations promulgated under subparagraph (A) periodically to ensure that such definitions remain fully consistent with the rehabilitation impairment categories used to classify patients into case-mix groups pursuant to paragraph (2).''.

(b) PROHIBITION ON RETROACTIVE ENFORCEMENT.—Notwithstanding any other provision of law, the Secretary of Health and Human Services shall not seek to recoup any overpayment, take any enforcement action, or impose any sanction or penalty, with respect to a rehabilitation hospital, or a converted rehabilitation unit, (as such terms are defined for purposes of the medicare program under title XVIII of the Social Security Act) insofar as such overpayment, enforcement action, sanction or penalty, is for failure to satisfy the requirement of section 412.23(b)(2) of title 42, Code of Federal Regulations, that 75 percent of the patients of the rehabilitation hospital or converted rehabilitation unit are in 1 or more of 10 listed treatment categories (commonly referred to as the ''75 Percent Rule'').

SA 930. Mrs. HUTCHISON submitted an amendment intended to be proposed by her to the bill S. 1, to amend title XVIII of the Social Security Act to make improvements in the Medicare program, to provide prescription drug coverage under the Medicare program, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle A of title IV, add the following:

SEC. ___. FREEZING INDIRECT MEDICAL EDUCATION (IME) ADJUSTMENT PERCENTAGE AT 6.5 PERCENT.

(a) IN GENERAL.—Section 1886(d)(5)(B)(ii)(42 U.S.C. 1395ww(d)(5)(B)(ii)) is amended—

(1) in subclause (V), by inserting ''and'' at the end; and

(2) by striking subclauses (VI) and (VII) and inserting the following new subclause:

''(VI) on or after October 1, 2001, 'c' is equal to 1.6.''.

(b) CONFORMING AMENDMENT RELATING TO DETERMINATION OF STANDARDIZED AMOUNT.—Section 1886(d)(2)(C)(i) (42 U.S.C. 1395ww(d)(2)(C)(i)) is amended—

(1) by striking ''1999 or'' and inserting ''1999,''; and

(2) by inserting '', or the Prescription Drug and Medicare Improvement Act of 2003'' after ''2000''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to discharges occurring on or after October 1, 2002.

SA 931. Ms. STABENOW (for herself, Mrs. BOXER, Mr. GRAHAM of Florida, Mr. ROCKEFELLER, Mr. HARKIN, Ms. CANTWELL, Mr. KERRY, Mr. BINGAMAN, Mr. REED, Mrs. CLINTON, Ms. MIKULSKI, Mr. LEVIN, Mr. KOHL, Mr. DODD, Mr. LIEBERMAN, Mr. REID, Mr. DAYTON, and Mr. JOHNSON) proposed an amendment to the bill S. 1, to amend title XVIII of the Social Security Act to make improvements in the medicare program, to provide prescription drug coverage under the medicare program, and for other purposes; as follows:

''(e) MEDICARE GUARANTEED OPTION.—

''(1) ACCESS.—

''(A) IN GENERAL.—The Administrator shall enter into a contract with an entity in each area (established under section 1860D–10) to provide eligible beneficiaries enrolled under this part (and not, except for an MSA plan or a private fee-for-service plan that does not provide qualified prescription drug coverage, enrolled in a MedicareAdvantage plan) and residing in the area with standard prescription drug coverage (including access to negotiated prices for such beneficiaries pursuant to section 1860D–6(e)). An entity may be awarded a contract for more than 1 area but the Administrator may enter into only 1 such contract in each such area.

''(B) ENTITY REQUIRED TO MEET BENEFICIARY PROTECTION AND OTHER REQUIREMENTS.—An entity with a contract under subparagraph (A) shall meet the requirements described in section 1860D–5 and such other requirements determined appropriate by the Administrator.

''(C) COMPETITIVE PROCEDURES.—Competitive procedures (as defined in section 4(5) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(5))) shall be used to enter into a contract under subparagraph (A).

''(D) SAME TIMEFRAME AS MEDICARE PRESCRIPTION DRUG PLANS.—The Administrator shall apply similar timeframes for the submission of bids and entering into to contracts under this subsection as the Administrator applies to Medicare Prescription Drug plans.

''(2) MONTHLY BENEFICIARY OBLIGATION FOR ENROLLMENT.—In the case of an eligible beneficiary receiving access to qualified prescription drug coverage through enrollment with an entity with a contract under paragraph (1)(A), the monthly beneficiary obligation of such beneficiary for such enrollment shall be an amount equal to the applicable percent (as determined under section 1860D–17(c) before any adjustment under paragraph (2) of such section) of the monthly national average premium (as computed under section 1860D–15 before any adjustment under subsection (b) of such section) for the year.

''(3) PAYMENTS UNDER THE CONTRACT.—

''(A) IN GENERAL.—A contract entered into under paragraph (1)(A) shall provide for—

''(i) payment for the negotiated costs of covered drugs provided to eligible beneficiaries enrolled with the entity; and

''(ii) payment of prescription management fees that are tied to performance requirements established by the Administrator for the management, administration, and delivery of the benefits under the contract.

''(B) PERFORMANCE REQUIREMENTS.—The performance requirements established by the Administrator pursuant to subparagraph (A)(ii) shall include the following:

''(i) The entity contains costs to the Prescription Drug Account and to eligible beneficiaries enrolled under this part and with the entity.

''(ii) The entity provides such beneficiaries with quality clinical care.

''(iii) The entity provides such beneficiaries with quality services.

''(C) ENTITY ONLY AT RISK TO THE EXTENT OF THE FEES TIED TO PERFORMANCE REQUIREMENTS.—An entity with a contract under paragraph (1)(A) shall only be at risk for the provision of benefits under the contract to the extent that the management fees paid to the entity are tied to performance requirements under subparagraph (A)(ii).

''(4) TERM OF CONTRACT.—A contract entered into under paragraph (1)(A) shall be for a period of at least 2 years but not more than 5 years.

''(5) NO EFFECT ON ACCESS REQUIREMENTS.—The contract entered into under subparagraph (1)(A) shall be in addition to the plans required under subsection (d)(1).

''(6) AUTHORITY TO PREVENT INCREASED COSTS.—If the Administrator determines that Federal payments made with respect to eligible beneficiaries enrolled in a contract under paragraph (1)(A) exceed on average the Federal payments made with respect to eligible beneficiaries enrolled in a Medicare Prescription Drug plan or a MedicareAdvantage plan (with respect to qualified prescription drug coverage), the Administrator may adjust the requirements or payments under such a contract to eliminate such excess.

SA 932. Mr. ENZI (for himself and Mr. PRYOR) proposed an amendment to the bill S. 1, to amend title XVIII of the Social Security Act to make improvements in the Medicare program, to provide prescription drug coverage under the Medicare program, and for other purposes; as follows:

On page 57, between lines 21 and 22, insert the following:

''(3) DISCLOSURE.—The eligible entity offering a Medicare Prescription Drug plan and the MedicareAdvantage organization offering a MedicareAdvantage plan shall disclose to the Administrator (in a manner specified by the Administrator) the extent to which discounts, direct or indirect subsidies, rebates, or other price concessions or direct or indirect remunerations made available to the entity or organization by a manufacturer are passed through to enrollees through pharmacies and other dispensers or otherwise. The provisions of section 1927(b)(3)(D) shall apply to information disclosed to the Administrator under this paragraph in the same manner as such provisions apply to information disclosed under such section.

''(4) AUDITS AND REPORTS.—To protect against fraud and abuse and to ensure proper disclosures and accounting under this part, in addition to any protections against fraud and abuse provided under section 1860D–7(f)(1), the Administrator may periodically audit the financial statements and records of an eligible entity offering a Medicare Prescription Drug plan and a MedicareAdvantage organization offering a MedicareAdvantage plan.

On page 37, between lines 20 and 21, insert the following:

''(C) LEVEL PLAYING FIELD.—An eligible entity offering a Medicare Prescription Drug plan shall permit enrollees to receive benefits (which may include a 90-day supply of drugs or biologicals) through a community pharmacy, rather than through mail order, with any differential in cost paid by such enrollees.

''(D) PARTICIPATING PHARMACIES NOT REQUIRED TO ACCEPT INSURANCE RISK.—An eligible entity offering a Medicare Prescription