

to fight for the very best medical care possible. And when the diagnosis is cancer—a disease far too many of our friends and family have faced—it becomes all the more important and all the more time sensitive.

Unfortunately, in some cases, access to care—as well as the life-saving drugs needed to treat a variety of forms of this disease—are being negatively impacted by the current reimbursement structure for Medicare Part B drugs and biologicals. In layman's terms, it's one more hurdle that doctors have to fight for their patients.

That is why I am introducing today legislation that would end the hurdle. My bill would exclude customary prompt pay discounts from the manufacturer's average sales price for purposes of Medicare Part B drugs and biologicals.

In Hillsboro, Kansas we have already seen cancer clinics begin to close as a direct result of the current reimbursement structure which limits patient access to care that they desperately need. Currently the prompt pay discounts artificially reduce Medicare Part B drug reimbursement rates for community oncology clinics, jeopardizing the viability of these providers. The closing of the clinic in Hillsboro can be directly attributed to this reimbursement structure. Additionally, prompt pay discounts also reduce the payment rates of private payers that use Average Sales Price. My legislation is a step forward in addressing problems with Medicare reimbursement for cancer drugs.

Primary Healthcare Distributors, PHDs, act as a middle man between providers and drug and product manufacturers. Most healthcare providers must receive daily deliveries of products from many different manufacturers. PHDs streamline the system and provide efficiencies by aggregating the ordering and shipping logistics. Some 80 percent of prescription medicines in the U.S. are stored, managed and delivered by PHDs. These PHDs receive prompt pay discounts from drug manufacturers in recognition of the efficiencies they provide.

However, these efficiencies are threatened by the Medicare Modernization Act's, MMA's, inappropriate inclusion of these prompt pay discounts in the calculation of the Average Sales Price for Medicare Part B drugs, those administered in a doctor's office. The inclusion of these discounts ultimately reduces reimbursements to providers, who are not the actual beneficiaries of the discounts. It provides a perverse incentive for manufacturers to go around the PHD to offer prompt pay discounts directly to the providers, thereby eliminating the efficiencies of the current system and potentially creating another burden for providers.

Congress has recognized the importance of excluding prompt pay discounts from providers' payment formulas in the Medicaid program. This bill would extend that exclusion to Medicare Part B.

I believe that the policy is right; that is why today I, along with Senator STABENOW, am introducing legislation to amend Part B of Title XVII of the Social Security Act to exclude customary prompt pay discounts from manufacturers to wholesalers from the average sales price for drugs and biologicals under Medicare.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 733

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

SECTION 1. EXCLUDING CUSTOMARY PROMPT PAY DISCOUNTS FROM MANUFACTURERS TO WHOLESALERS FROM THE AVERAGE SALES PRICE FOR MEDICARE PAYMENTS FOR DRUGS AND BIOLOGICALS.

(a) IN GENERAL.—Section 1847A(c)(3) of the Social Security Act (42 U.S.C. 1395w–3a(c)(3)) is amended—

(1) in the first sentence, by inserting “(other than customary prompt pay discounts extended to wholesalers)” after “prompt pay discounts”; and

(2) in the second sentence, by inserting “(other than customary prompt pay discounts extended to wholesalers)” after “other price concessions”.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to drugs and biologicals that are furnished on or after January 1, 2012.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 130—DESIGNATING APRIL 5, 2011, AS “GOLD STAR WIVES DAY”

Mr. BURR (for himself and Mrs. MURRAY) submitted the following resolution; which was considered and agreed to:

S. RES. 130

Whereas the Senate honors the sacrifices made by the spouses and families of the fallen members of the Armed Forces of the United States;

Whereas the Gold Star Wives of America, Inc. represents the spouses and families of the members and veterans of the Armed Forces of the United States who have died on active duty or as a result of a service-connected disability;

Whereas the primary mission of the Gold Star Wives of America, Inc. is to provide services, support, and friendship to the spouses of the fallen members and veterans of the Armed Forces of the United States;

Whereas, in 1945, the Gold Star Wives of America, Inc. was organized with the help of Mrs. Eleanor Roosevelt to assist the families left behind by the fallen members and veterans of the Armed Forces of the United States;

Whereas the first meeting of the Gold Star Wives of America, Inc. was held on April 5, 1945;

Whereas April 5, 2011, marks the 66th anniversary of the first meeting of the Gold Star Wives of America;

Whereas the members and veterans of the Armed Forces of the United States bear the burden of protecting freedom for the United States; and

Whereas the sacrifices of the families of the fallen members and veterans of the Armed Forces of the United States should never be forgotten: Now, therefore, be it

Resolved, That the Senate—

(1) designates April 5, 2011, as “Gold Star Wives Day”;

(2) honors and recognizes—

(A) the contributions of the members of the Gold Star Wives of America, Inc.; and

(B) the dedication of the members of the Gold Star Wives of America, Inc. to the members and veterans of the Armed Forces of the United States; and

(3) encourages the people of the United States to observe “Gold Star Wives Day” to promote awareness of—

(A) the contributions and dedication of the members of the Gold Star Wives of America, Inc. to the members and veterans of the Armed Forces of the United States; and

(B) the important role the Gold Star Wives of America, Inc. plays in the lives of the spouses and families of the fallen members and veterans of the Armed Forces of the United States.

SENATE RESOLUTION 131—DESIGNATING APRIL 2011 AS “TSUNAMI AWARENESS MONTH”

Mr. AKAKA (for himself and Mr. INOUE) submitted the following resolution; which was considered and agreed to:

S. RES. 131

Whereas a tsunami is a series of ocean or sea waves generated by a sea floor disturbance, such as an earthquake, landslide, volcanic eruption, or meteorite;

Whereas a tsunami could occur during any season and at any time;

Whereas a tsunami is a threat to life and property for all coastal communities, and tsunamis have caused serious injuries and millions of dollars in property damage in the United States;

Whereas the danger posed by a tsunami cannot be eliminated, but the impact of a tsunami can be mitigated through community preparedness, timely warnings, and effective response;

Whereas tsunamis historically have posed the greatest hazard to Hawaii, Alaska, California, Oregon, Washington, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, the Commonwealth of Puerto Rico, and the Virgin Islands, tsunamis also pose risks to all ocean coasts of the United States;

Whereas Federal, State, and local officials have partnered to coordinate a national effort to reduce the impact of tsunamis through the National Tsunami Hazard Mitigation Program;

Whereas the National Oceanic and Atmospheric Administration's National Weather Service operates 2 tsunami warning centers, the Pacific Tsunami Warning Center and the West Coast and Alaska Tsunami Warning Center, that detect potential tsunamis and issue warnings;

Whereas Tsunami Awareness Month provides an opportunity to highlight the importance of tsunami preparedness and to encourage the people of the United States to take steps to be better prepared for tsunamis at home, work, and school;

Whereas the people of the United States can prepare for tsunamis by finding out if their home, school, workplace or other frequently visited locations are in tsunami hazard areas, and by identifying evacuation routes; and

Whereas additional information about tsunami preparedness may be obtained through TsunamiReady at National Oceanic and Atmospheric Administration, at www.tsunamiready.noaa.gov: Now, therefore, be it

Resolved, That the Senate—

(1) designates April 2011 as “Tsunami Awareness Month”; and

(2) encourages the Federal Government, States, localities, schools, nonprofit organizations, businesses, and other applicable entities, along with the people of the United States, to observe Tsunami Awareness Month with appropriate events and activities to promote tsunami preparedness.

AMENDMENTS SUBMITTED AND PROPOSED

SA 285. Mr. ROCKEFELLER submitted an amendment intended to be proposed by him to the bill S. 493, to reauthorize and improve the SBIR and STTR programs, and for other purposes; which was ordered to lie on the table.

SA 286. Mr. INOUE submitted an amendment intended to be proposed by him to the bill S. 493, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 285. Mr. ROCKEFELLER submitted an amendment intended to be proposed by him to the bill S. 493, to reauthorize and improve the SBIR and STTR programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 83, strike lines 8 and 9 and insert the following:

“(v) the names and titles of the key individuals that will carry out the project, the position each key individual holds in the small business concern, and contact information for each key individual;

On page 85, strike lines 22 through 24 and insert the following:

“(i) convicted of a fraud-related crime involving funding received under the SBIR program or STTR program; or

“(ii) found civilly liable for a fraud-related violation involving funding received under the SBIR program or STTR program.”; and

On page 89, strike line 18 and all that follows through page 90, line 10, and insert the following:

“(A) continue the most recent study under this section relating to the issues described in subparagraphs (A), (B), (C), and (E) of subsection (a)(1);

“(B) make recommendations with respect to the issues described in subparagraphs (A), (D), and (E) of subsection (a)(2); and

On page 95, line 7, strike “the waste,” and all that follows through “2011” on line 10 and insert “waste, fraud, and abuse prevention activities”.

On page 96, line 13, strike the quotation marks and the second period and insert the following:

“(4) COORDINATION WITH IG.—Each Federal agency shall coordinate the activities funded under subparagraph (E), (F), or (G) of paragraph (1) with their respective Inspectors General, when appropriate, and each Federal agency that allocates more than \$50,000,000 to the SBIR program of the Federal agency for a fiscal year may share such funding with its Inspector General when the Inspector General performs such activities.”.

On page 99, strike lines 17 through 19 and insert the following:

(1) AMENDMENTS REQUIRED FOR FRAUD, WASTE, AND ABUSE PREVENTION.—Not later

On page 100, strike line 1 and all that follows through page 102, line 4, and insert the following:

(2) CONTENT OF AMENDMENTS.—The amendments required under paragraph (1) shall include—

(A) definitions or descriptions of fraud, waste, and abuse;

(B) guidelines for the monitoring and oversight of applicants to and recipients of awards under the SBIR program or the STTR program;

(C) a requirement that each Federal agency that participates in the SBIR program or STTR program include information concerning the method established by the Inspector General of the Federal agency to report fraud, waste, and abuse (including any telephone hotline or Web-based platform)—

(i) on the website of the Federal agency; and

(ii) in any solicitation or notice of funding opportunity issued by the Federal agency for the SBIR program or the STTR program; and

(D) a requirement that each applicant for and small business concern that receives funding under the SBIR program or the STTR program shall certify whether the applicant or small business concern is in compliance with the laws relating to the SBIR program and the STTR program and the conduct guidelines established under the SBIR Policy Directive and the STTR Policy Directive.

(3) CONSULTATION.—The Administrator shall develop the certification required under paragraph (2)(D) in cooperation with the Council of Inspectors General on Integrity and Efficiency and the Office of Advocacy of the Administration.

(4) AMENDMENT TO INSPECTOR GENERAL ACT OF 1978.—Section 4 of the Inspector General Act of 1978 (5 U.S.C. App.) is amended by adding at the end the following:

“(e) Each Inspector General of each establishment that is required to participate in the SBIR program or the STTR program under section 9 of the Small Business Act (15 U.S.C. 638) shall cooperate to prevent fraud, waste, and abuse in the SBIR program and the STTR program by—

“(1) establishing fraud detection indicators;

“(2) reviewing regulations and operating procedures of the Federal agencies;

“(3) coordinating information sharing between the Federal agencies, to the extent otherwise permitted under Federal law; and

“(4) improving the education and training of, and outreach to—

“(A) administrators of the SBIR program and the STTR program of each Federal agency;

“(B) applicants to the SBIR program or the STTR program; and

“(C) recipients of awards under the SBIR program or the STTR program.”.

On page 102, beginning on line 7, strike “, and every 3 years thereafter,” and insert “to establish a baseline of changes made to the program to fight fraud, waste, and abuse, and every 3 years thereafter to evaluate the effectiveness of the agency strategies.”.

On page 103, strike lines 12 through 19 and insert the following:

(vi) the extent to which the Inspector General of each Federal agency that participates in the SBIR and STTR program effectively conducts investigations, audits, inspections, and outreach relating to the SBIR and STTR programs of the Federal agency; and

On page 104, line 10, after “STTR program” insert the following: “, at least 1 Inspector General of a Federal agency with an SBIR program or an STTR program.”.

On page 107, between lines 10 and 11, insert the following:

SEC. 316. REDUCING FRAUD, WASTE, AND ABUSE.

Not later than 4 years after the date of enactment of this Act, and every 4 years thereafter, the Comptroller General of the United States shall—

(1) conduct a study of the effectiveness of the government and public databases described in section 9(k) of the Small Business Act (15 U.S.C. 638(k)) in reducing vulnerabilities of the SBIR program and the STTR program to fraud, waste, and abuse, particularly with respect to Federal agencies funding duplicative proposals and business concerns falsifying information in proposals;

(2) make recommendations with respect to the issues described in paragraph (1); and

(3) submit to the head of each agency described in section 108(a) of the Small Business Reauthorization Act of 2000 (15 U.S.C. 638 note), the Committee on Small Business and Entrepreneurship of the Senate, and the Committee on Small Business of the House of Representatives a report regarding the study conducted under paragraph (1) and containing the recommendations described in paragraph (2).

SA 286. Mr. INOUE submitted an amendment intended to be proposed by him to the bill S. 493, to reauthorize and improve the SBIR and STTR programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title V, add the following:

SEC. ____ . CONSOLIDATING UNNECESSARY DUPLICATIVE AND OVERLAPPING GOVERNMENT PROGRAMS.

Notwithstanding any other provision of law, not later than 150 days after the date of enactment of this Act, the Director of the Office of Management and Budget shall—

(1) compile a list of Government programs and agencies selected from the Government programs and agencies with duplicative and overlapping missions identified in the March 2011 Government Accountability Office report to Congress entitled “Opportunities to Reduce Potential Duplication in Government Programs, Save Tax Dollars, and Enhance Revenue” (GAO-11-318SP); and

(2) in accordance with the Congressional Budget and Impoundment Control Act of 1974, submit to Congress recommended amounts of rescissions of budget authority for Government programs and agencies on that list.

NOTICE OF HEARING

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BINGAMAN. Mr. President, I want to advise that the Committee on Energy and Natural Resources will hold a business meeting on Tuesday, April 12, 2011, at 10 a.m., in room SD-366 of the Dirksen Senate Office Building.

The purpose of the Business Meeting is to consider pending legislation, and the nomination of Peter B. Lyons, to be an Assistant Secretary of Energy (Nuclear Energy).

For further information, please contact Sam Fowler at (202) 224-7571 or Amanda Kelly at (202) 224-6836.