

103^D CONGRESS
2^D SESSION

H. R. 4809

To amend title XVIII of the Social Security Act to provide for coverage of prostate cancer screening and certain drug treatment services under part B of the medicare program, to amend chapter 17 of title 38, United States Code, to provide for coverage of such screening and services under the programs of the Department of Veterans Affairs, and to expand research and education programs of the National Institutes of Health and the Public Health Service relating to prostate cancer.

IN THE HOUSE OF REPRESENTATIVES

JULY 21, 1994

Mr. McDERMOTT (for himself, Mr. APPLEGATE, Mr. FIELDS of Texas, Mr. GUTIERREZ, Mr. HORN, Mr. HUGHES, Mr. KING, Mrs. MINK, Mrs. MORELLA, Ms. PELOSI, Mr. ROMERO-BARCELÓ, Mr. SWIFT, and Mr. WASHINGTON) introduced the following bill; which was referred jointly to the Committees on Energy and Commerce, Ways and Means, and Veterans' Affairs

A BILL

To amend title XVIII of the Social Security Act to provide for coverage of prostate cancer screening and certain drug treatment services under part B of the medicare program, to amend chapter 17 of title 38, United States Code, to provide for coverage of such screening and services under the programs of the Department of Veterans Affairs, and to expand research and education programs of the National Institutes of Health and the Public Health Service relating to prostate cancer.

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 “Prostate Cancer Diag-
5 nosis and Treatment Act of 1994”.

6 **SEC. 2. MEDICARE COVERAGE OF PROSTATE CANCER**
7 **SCREENING AND CERTAIN DRUG TREAT-**
8 **MENTS.**

9 (a) COVERAGE OF SCREENING SERVICES.—

10 (1) IN GENERAL.—Section 1861(s)(2) of the
11 Social Security Act (42 U.S.C. 1395x(s)(2)), as
12 amended by section 13553(a) of the Omnibus Budg-
13 et Reconciliation Act of 1993 (hereafter in this Act
14 referred to as “OBRA-1993”), is amended—

15 (A) by striking “and” at the end of sub-
16 paragraph (P);

17 (B) by adding “and” at the end of sub-
18 paragraph (Q); and

19 (C) by adding at the end the following new
20 subparagraph:

21 “(R) prostate cancer screening services (as de-
22 fined in subsection (ll));”.

23 (2) SERVICES DESCRIBED.—Section 1861 of
24 such Act (42 U.S.C. 1395x) is amended—

1 (A) by redesignating the subsection (jj) in-
2 serted by section 4156(a)(2) of the Omnibus
3 Budget Reconciliation Act of 1990 as sub-
4 section (kk); and

5 (B) by inserting after such subsection the
6 following new subsection:

7 “Prostate Cancer Screening Services
8 “(l) The term ‘prostate cancer screening services’
9 means the following procedures provided to a man for the
10 purpose of early detection of prostate cancer:

11 “(1) Digital rectal examination.

12 “(2) Prostate-specific antigen blood test.

13 “(3) Transrectal ultrasonography.

14 “(4) Such other procedures as the Secretary
15 may designate as appropriate for early detection of
16 prostate cancer.”.

17 (3) PAYMENT AMOUNTS; LIMITATIONS ON FRE-
18 QUENCY OF COVERAGE.—Section 1834 of such Act
19 (42 U.S.C. 1395m) is amended by inserting after
20 subsection (c) the following new subsection:

21 “(d) PAYMENT AMOUNTS AND FREQUENCY LIMITS
22 FOR PROSTATE CANCER SCREENING SERVICES.—

23 “(1) IN GENERAL.—Notwithstanding any other
24 provision of this part, with respect to expenses in-

1 curred for prostate cancer screening services (as de-
2 fined in section 1861(ll))—

3 “(A) payment may be made only for serv-
4 ices provided consistent with the frequency per-
5 mitted under paragraph (2); and

6 “(B) the amount of the payment under
7 this part shall be equal to 80 percent of the
8 lesser of the actual charge for the service or—

9 “(i) in the case of a prostate cancer
10 screening service consisting of a prostate-
11 specific antigen blood test, the fee schedule
12 amount established for the service under
13 section 1833(h) (relating to payments for
14 clinical diagnostic laboratory tests); or

15 “(ii) in the case of any other prostate
16 cancer screening service, the amount pro-
17 vided under the fee schedule established by
18 the Secretary under paragraph (3) (subject
19 to the deductible established under section
20 1833(b)).

21 “(2) FREQUENCY COVERED.—

22 “(A) IN GENERAL.—Subject to subpara-
23 graph (B) and to revision by the Secretary
24 under subparagraph (C), no payment may be
25 made under this part for a prostate cancer

1 screening service provided to an individual for
2 the purpose of early detection of prostate can-
3 cer—

4 “(i) if the individual is under 50 years
5 of age; or

6 “(ii) if the service is provided within
7 the 11 months after a previous prostate
8 cancer screening service.

9 “(B) EXCEPTION FOR HIGH RISK INDIVID-
10 UALS.—Payment may be made under this part
11 for a prostate cancer screening service provided
12 to an individual more frequently than the limit
13 established under subparagraph (A)(ii) if the
14 individual is at a high risk of developing pros-
15 tate cancer (as determined pursuant to factors
16 identified by the Secretary).

17 “(C) REVISION BY SECRETARY.—

18 “(i) REVIEW.—The Secretary, in con-
19 sultation with the Director of the National
20 Cancer Institute, shall review periodically
21 the appropriate frequency for performing
22 prostate cancer screening services based on
23 age and such other factors as the Sec-
24 retary believes to be pertinent.

1 “(ii) REVISION OF FREQUENCY.—The
2 Secretary, taking into consideration the re-
3 view made under clause (i), may revise
4 from time to time the frequency with
5 which such services may be paid for under
6 this subsection, but no such revision shall
7 apply to services performed before January
8 1, 1998.

9 “(3) ESTABLISHMENT OF FEE SCHEDULE.—

10 “(A) IN GENERAL.—The Secretary shall
11 establish fee schedules (on such geographic
12 basis as the Secretary considers appropriate)
13 for payment for prostate cancer screening serv-
14 ices under this part (other than prostate-spe-
15 cific antigen blood tests), effective for services
16 furnished after the expiration of the 90-day pe-
17 riod beginning on the date the Secretary estab-
18 lishes the fee schedules.

19 “(B) FACTORS CONSIDERED.—In estab-
20 lishing fee schedules under subparagraph (A),
21 the Secretary shall take into consideration vari-
22 ations in the cost of furnishing such services
23 among geographic areas and among different
24 sites where services are furnished, together with

1 such other factors as may be appropriate to as-
2 sure that payment amounts are equitable.

3 “(4) LIMITING CHARGES OF NONPARTICIPATING
4 PHYSICIANS.—

5 “(A) IN GENERAL.—In the case of a pros-
6 tate cancer screening service provided to an in-
7 dividual for the purpose of early detection of
8 prostate cancer for which payment may be
9 made under this part, if a nonparticipating phy-
10 sician or supplier provides the procedure to an
11 individual enrolled under this part, the physi-
12 cian or supplier may not charge the individual
13 more than the limiting charge (as defined in
14 section 1848(g)(2)).

15 “(B) ENFORCEMENT.—If a physician or
16 supplier knowing and willfully imposes a charge
17 in violation of subparagraph (A), the Secretary
18 may apply sanctions against such physician or
19 supplier in accordance with section
20 1842(j)(2).”.

21 (4) CONFORMING AMENDMENTS.—(A) Para-
22 graphs (1)(D) and (2)(D) of section 1833(a) of such
23 Act (42 U.S.C. 1395l(a)) are each amended by strik-
24 ing “subsection (h)(1),” and inserting “subsection
25 (h)(1) or section 1834(d)(1)(B)(i),”.

1 (B) Section 1833(a)(1) of such Act (42 U.S.C.
2 1395l(a)(1)), as amended by section 13544(b)(2) of
3 OBRA-1993, is amended—

4 (i) by striking “and (P)” and inserting
5 “(P)”; and

6 (ii) by striking the semicolon at the end
7 and inserting the following: “, and (Q) with re-
8 spect to prostate cancer screening services (as
9 defined in section 1861(ll)) (other than pros-
10 tate-specific antigen tests), the amounts paid
11 shall be the amounts described in section
12 1834(d)(1);”.

13 (C) Section 1833(a) of such Act (42 U.S.C.
14 1395l(a)) is amended—

15 (i) by striking “and” at the end of para-
16 graph (6);

17 (ii) by striking the period at the end of
18 paragraph (7) and inserting “; and”; and

19 (iii) by adding at the end the following new
20 paragraph:

21 “(8) in the case of prostate cancer screening
22 services (as defined in section 1861(ll)) (other than
23 prostate-specific antigen tests), the amounts de-
24 scribed in section 1834(d)(1).”.

1 (D) Section 1833(h)(1)(A) of such Act (42
2 U.S.C. 1395l(h)(1)(A)) is amended by striking “The
3 Secretary” and inserting “Subject to section
4 1834(d), the Secretary”.

5 (E) Section 1861(s)(2)(O) of such Act (42
6 U.S.C. 1395x(s)(2)(O)) is amended by striking
7 “(jj)” and inserting “(kk)”.

8 (F) Section 1862(a) of such Act (42 U.S.C.
9 1395y(a)) is amended—

10 (i) in paragraph (1)—

11 (I) in subparagraph (E), by striking
12 “and” at the end,

13 (II) in subparagraph (F), by striking
14 the semicolon at the end and inserting “,
15 and”, and

16 (III) by adding at the end the follow-
17 ing new subparagraph:

18 “(G) in the case of prostate cancer screening
19 services (as defined in section 1861(ll)) provided for
20 the purpose of early detection of prostate cancer,
21 which are performed more frequently than is covered
22 under section 1834(d)(2);”; and

23 (ii) in paragraph (7), by striking “para-
24 graph (1)(B) or under paragraph (1)(F)” and

1 inserting “subparagraphs (B), (F), or (G) of
2 paragraph (1)”.

3 (b) COVERAGE OF CERTAIN DRUG TREATMENTS.—
4 Section 1861(s)(2) of the Social Security Act (42 U.S.C.
5 1395x(s)(2)), as amended by subsection (a)(1), is further
6 amended—

7 (1) by striking “and” at the end of subpara-
8 graph (Q);

9 (2) by adding “and” at the end of subpara-
10 graph (R); and

11 (3) by adding at the end the following new sub-
12 paragraph:

13 “(S) an oral drug prescribed for the treatment
14 of prostate cancer, if the use of the drug for such
15 purpose is a medically accepted indication under
16 subsection (t)(2);”.

17 (c) EFFECTIVE DATE.—The amendments made by
18 this section shall apply to services provided on or after
19 January 1, 1995, without regard to whether or not the
20 Secretary has established fee schedules under section
21 1834(d)(3) of the Social Security Act (as added by sub-
22 section (a)(3)) or promulgated other regulations to carry
23 out such amendments by that date.

1 **SEC. 3. COVERAGE OF PROSTATE CANCER SCREENING AND**
2 **TREATMENT SERVICES FOR VETERANS.**

3 (a) PROSTATE CANCER SCREENING AND DIAGNOSIS
4 DEFINED AS PREVENTIVE HEALTH SERVICE.—Section
5 1701(9) of title 38, United States Code is amended—

6 (1) by redesignating subparagraphs (J) and (K)
7 as subparagraphs (K) and (L), respectively; and

8 (2) by inserting after subparagraph (I) the fol-
9 lowing new subparagraph (J):

10 “(J) screening and diagnostic tests approved
11 for prostate cancer;”.

12 (b) COVERAGE OF PROSTATE CANCER SCREENING
13 AND TREATMENT.—

14 (1) IN GENERAL.—Chapter 17 of title 38, Unit-
15 ed States Code, is amended by inserting after sec-
16 tion 1724 a new section as follows:

17 **“§ 1725. Prostate cancer screening and treatment**

18 “(a) The Secretary shall include in the medical serv-
19 ices made available to veterans under this chapter appro-
20 priate prostate cancer screening, counseling, treatment,
21 and information. Based on the best available medical evi-
22 dence, the Secretary shall develop and implement an ap-
23 propriate prostate cancer screening schedule for those vet-
24 erans confined to hospitals or other institutions.

25 “(b) For the purposes of this section—

1 “(1) appropriate prostate cancer screening
 2 means procedures provided to a man for the purpose
 3 of early detection of prostate cancer, including digi-
 4 tal rectal examinations, prostate-specific antigen
 5 blood tests, and transrectal ultrasonography; and

6 “(2) appropriate prostate cancer treatment in-
 7 cludes drugs approved by the Food and Drug Ad-
 8 ministration for the treatment of prostate cancer.

9 “(c) The Secretary may carry out research and re-
 10 search training in the diagnosis and treatment of prostate
 11 cancer based upon the prostate cancer services provided
 12 under this section and may develop guidelines outlining
 13 effective treatment regimens for prostate cancer.”.

14 (2) CLERICAL AMENDMENT.—The table of sec-
 15 tions at the beginning of such chapter is amended
 16 by inserting after the item relating to section 1724
 17 the following new item:

“1725. Prostate cancer screening and treatment.”.

18 **SEC. 4. RESEARCH AND EDUCATION REGARDING PROS-**
 19 **TATE CANCER; CERTAIN PROGRAMS OF PUB-**
 20 **LIC HEALTH SERVICE.**

21 (a) NATIONAL INSTITUTES OF HEALTH.—Section
 22 417B(c) of the Public Health Service Act (42 U.S.C.
 23 286a–8(c)) is amended in the first sentence by striking
 24 “\$72,000,000” and all that follows and inserting the fol-
 25 lowing: “\$72,000,000 for fiscal year 1994, \$86,000,000

1 for fiscal year 1995, \$100,000,000 for fiscal year 1996,
2 and such sums as may be necessary for each of the fiscal
3 years 1997 and 1998.”.

4 (b) AGENCY FOR HEALTH CARE POLICY AND RE-
5 SEARCH.—Section 902 of the Public Health Service Act
6 (42 U.S.C. 299a) is amended by adding at the end the
7 following subsection:

8 “(f) ACTIVITIES REGARDING PROSTATE CANCER.—
9 The Administrator shall, with respect to prostate cancer—

10 “(1) conduct and support research on the out-
11 comes, effectiveness, and appropriateness of health
12 services and procedures; and

13 “(2) in carrying out section 912(a), provide for
14 the development, periodic review, and updating of
15 clinically relevant guidelines, standards of quality,
16 performance measures, and medical review criteria.”.

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