

105TH CONGRESS
1ST SESSION

S. 690

To amend title XVIII of the Social Security Act to improve preventive benefits under the Medicare program.

IN THE SENATE OF THE UNITED STATES

MAY 1, 1997

Mr. BREAUX (for himself, Mr. COCHRAN, Mr. CONRAD, Mr. DORGAN, Ms. MOSELEY-BRAUN, Mr. REID, Mr. ROCKEFELLER, Mr. DASCHLE, and Mr. ROBB) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend title XVIII of the Social Security Act to improve preventive benefits under the Medicare program.

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 “Colorectal Cancer
5 Screening Act of 1997”.

6 **SEC. 2. MEDICARE COVERAGE OF COLORECTAL SCREEN-**
7 **ING SERVICES.**

8 (a) COVERAGE.—

1 (1) IN GENERAL.—Section 1861 of the Social
2 Security Act (42 U.S.C. 1395x) is amended—

3 (A) in subsection (s)(2)—

4 (i) by striking “and” at the end of
5 subparagraphs (N) and (O); and

6 (ii) by inserting after subparagraph
7 (O) the following:

8 “(P) colorectal cancer screening tests (as de-
9 fined in subsection (oo)); and”; and

10 (B) by adding at the end the following:

11 “Colorectal Cancer Screening Tests

12 “(oo)(1) The term ‘colorectal cancer screening test’
13 means, unless determined otherwise pursuant to section
14 2(a)(2) of the Colorectal Cancer Screening Act of 1997,
15 any of the following procedures furnished to an individual
16 for the purpose of early detection of colorectal cancer:

17 “(A) Screening fecal-occult blood test.

18 “(B) Screening flexible sigmoidoscopy.

19 “(C) Screening barium enema.

20 “(D) In the case of an individual at high risk
21 for colorectal cancer, screening colonoscopy or
22 screening barium enema.

23 “(E) For years beginning after 2002, such
24 other procedures as the Secretary finds appropriate
25 for the purpose of early detection of colorectal can-

1 cer, taking into account changes in technology and
2 standards of medical practice, availability, effective-
3 ness, costs, the particular screening needs of racial
4 and ethnic minorities in the United States and such
5 other factors as the Secretary considers appropriate.

6 “(2) In paragraph (1)(D), an ‘individual at high risk
7 for colorectal cancer’ is an individual who, because of fam-
8 ily history, prior experience of cancer or precursor neo-
9 plastic polyps, a history of chronic digestive disease condi-
10 tion (including inflammatory bowel disease, Crohn’s Dis-
11 ease, or ulcerative colitis), the presence of any appropriate
12 recognized gene markers for colorectal cancer, or other
13 predisposing factors, faces a high risk for colorectal can-
14 cer.”.

15 (2) REVIEW OF COVERAGE OF COLORECTAL
16 CANCER SCREENING TESTS.—

17 (A) IN GENERAL.—Not later than 2 years
18 after the date of enactment of this Act (and pe-
19 riodically thereafter), the Secretary of Health
20 and Human Services (in this paragraph re-
21 ferred to as the “Secretary”) shall review—

22 (i) the standards of medical practice
23 with regard to colorectal cancer screening
24 tests (as defined in section 1861(oo) of the
25 Social Security Act (42 U.S.C. 1395x(oo)))

1 (as added by paragraph (1) of this sec-
2 tion);

3 (ii) the availability, effectiveness,
4 costs, and cost-effectiveness of colorectal
5 cancer screening tests covered under the
6 medicare program under title XVIII of the
7 Social Security Act (42 U.S.C. 1395 et
8 seq.) at the time of such review;

9 (iii) the particular screening needs of
10 racial and ethnic minorities in the United
11 States; and

12 (iv) such other factors as the Sec-
13 retary considers appropriate with regard to
14 the coverage of colorectal cancer screening
15 tests under the medicare program.

16 (B) DETERMINATION.—If the Secretary
17 determines it appropriate based on the review
18 conducted pursuant to subparagraph (A), the
19 Secretary shall issue and publish a determina-
20 tion that one or more colorectal cancer screen-
21 ing tests described in section 1861(oo) of the
22 Social Security Act (42 U.S.C. 1395x(oo)) (as
23 added by paragraph (1) of this section) shall no
24 longer be covered under that section.

25 (b) FREQUENCY AND PAYMENT LIMITS.—

1 (1) IN GENERAL.—Section 1834 of the Social
2 Security Act (42 U.S.C. 1395m) is amended by in-
3 serting after subsection (c) the following:

4 “(d) FREQUENCY AND PAYMENT LIMITS FOR
5 COLORECTAL CANCER SCREENING TESTS.—

6 “(1) SCREENING FECAL-OCCULT BLOOD
7 TESTS.—

8 “(A) PAYMENT LIMIT.—In establishing fee
9 schedules under section 1833(h) with respect to
10 colorectal cancer screening tests consisting of
11 screening fecal-occult blood tests, except as pro-
12 vided by the Secretary under paragraph (5)(A),
13 the payment amount established for tests per-
14 formed—

15 “(i) in 1998 shall not exceed \$5; and

16 “(ii) in a subsequent year, shall not
17 exceed the limit on the payment amount
18 established under this subsection for such
19 tests for the preceding year, adjusted by
20 the applicable adjustment under section
21 1833(h) for tests performed in such year.

22 “(B) FREQUENCY LIMIT.—Subject to revi-
23 sion by the Secretary under paragraph (5)(B),
24 no payment may be made under this part for

1 colorectal cancer screening test consisting of a
2 screening fecal-occult blood test—

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

5 “(ii) if the test is performed within
6 the 11 months after a previous screening
7 fecal-occult blood test.

8 “(2) SCREENING FOR INDIVIDUALS NOT AT
9 HIGH RISK.—Subject to revision by the Secretary
10 under paragraph (5)(B), no payment may be made
11 under this part for a colorectal cancer screening test
12 consisting of a screening flexible sigmoidoscopy or
13 screening barium enema—

14 “(i) if the individual is under 50 years
15 of age; or

16 “(ii) if the procedure is performed
17 within the 47 months after a previous
18 screening flexible sigmoidoscopy or screen-
19 ing barium enema.

20 “(3) SCREENING FOR INDIVIDUALS AT HIGH
21 RISK FOR COLORECTAL CANCER.—Subject to revi-
22 sion by the Secretary under paragraph (5)(B), no
23 payment may be made under this part for a
24 colorectal cancer screening test consisting of a
25 screening colonoscopy or screening barium enema for

1 individuals at high risk for colorectal cancer if the
2 procedure is performed within the 23 months after
3 a previous screening colonoscopy or screening bar-
4 ium enema.

5 “(4) PAYMENT AMOUNTS FOR CERTAIN
6 COLORECTAL CANCER SCREENING TESTS.—The Sec-
7 retary shall establish payment amounts under sec-
8 tion 1848 with respect each colorectal cancer screen-
9 ing tests described in subparagraphs (B), (C), and
10 (D) of section 1861(oo)(1) that are consistent with
11 payment amounts under such section for similar or
12 related services, except that such payment amount
13 shall be established without regard to section
14 1848(a)(2)(A).

15 “(5) REDUCTIONS IN PAYMENT LIMIT AND RE-
16 VISION OF FREQUENCY.—

17 “(A) REDUCTIONS IN PAYMENT LIMIT FOR
18 SCREENING FECAL-OCCULT BLOOD TESTS.—
19 The Secretary shall review from time to time
20 the appropriateness of the amount of the pay-
21 ment limit established for screening fecal-occult
22 blood tests under paragraph (1)(A). The Sec-
23 retary may, with respect to tests performed in
24 a year after 2000, reduce the amount of such
25 limit as it applies nationally or in any area to

1 the amount that the Secretary estimates is re-
2 quired to assure that such tests of an appro-
3 priate quality are readily and conveniently
4 available during the year.

5 “(B) REVISION OF FREQUENCY.—

6 “(i) REVIEW.—The Secretary shall re-
7 view periodically the appropriate frequency
8 for performing colorectal cancer screening
9 tests based on age and such other factors
10 as the Secretary believes to be pertinent.

11 “(ii) REVISION OF FREQUENCY.—The
12 Secretary, taking into consideration the re-
13 view made under clause (i), may revise
14 from time to time the frequency with
15 which such tests may be paid for under
16 this subsection, but no such revision shall
17 apply to tests performed before January 1,
18 2001.

19 “(6) LIMITING CHARGES OF NONPARTICIPATING
20 PHYSICIANS.—

21 “(A) IN GENERAL.—In the case of a
22 colorectal cancer screening test consisting of a
23 screening flexible sigmoidoscopy or screening
24 barium enema, or a screening colonoscopy or
25 screening barium enema provided to an individ-

1 ual at high risk for colorectal cancer for which
2 payment may be made under this part, if a
3 nonparticipating physician provides the proce-
4 dure to an individual enrolled under this part,
5 the physician may not charge the individual
6 more than the limiting charge (as defined in
7 section 1848(g)(2)).

8 “(B) ENFORCEMENT.—If a physician or
9 supplier knowingly and willfully imposes a
10 charge in violation of subparagraph (A), the
11 Secretary may apply sanctions against such
12 physician or supplier in accordance with section
13 1842(j)(2).”.

14 (c) CONFORMING AMENDMENTS.—

15 (1) Paragraphs (1)(D) and (2)(D) of section
16 1833(a) of the Social Security Act (42 U.S.C.
17 1395l(a)) are each amended by inserting “or section
18 1834(d)(1)” after “subsection (h)(1)”.

19 (2) Section 1833(h)(1)(A) of the Social Secu-
20 rity Act (42 U.S.C. 1395l(h)(1)(A)) is amended by
21 striking “The Secretary” and inserting “Subject to
22 paragraphs (1) and (5)(A) of section 1834(d), the
23 Secretary”.

24 (3) Clauses (i) and (ii) of section 1848(a)(2)(A)
25 of the Social Security Act (42 U.S.C. 1395w-

1 4(a)(2)(A)) are each amended by inserting after “a
2 service” the following: “(other than a colorectal can-
3 cer screening test consisting of a screening
4 colonoscopy or screening barium enema provided to
5 an individual at high risk for colorectal cancer or a
6 screening flexible sigmoidoscopy or screening barium
7 enema)”.

8 (4) Section 1862(a) of the Social Security Act
9 (42 U.S.C. 1395y(a)) is amended—

10 (A) 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:

18 “(G) in the case of colorectal cancer screening
19 tests, which are performed more frequently than is
20 covered under section 1834(d);”; and

21 (B) in paragraph (7), by striking “para-
22 graph (1)(B) or under paragraph (1)(F)” and
23 inserting “subparagraph (B), (F), or (G) of
24 paragraph (1)”.

1 **SEC. 3. EFFECTIVE DATE.**

2 The amendments made by section 2 shall apply to
3 items and services furnished on or after January 1, 1998.

○