

109<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# S. 2340

To amend title XVIII of the Social Security Act to preserve access to community cancer care by Medicare beneficiaries.

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IN THE SENATE OF THE UNITED STATES

FEBRUARY 28, 2006

Mr. SPECTER (for himself, Mr. COLEMAN, and Mr. ISAKSON) introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To amend title XVIII of the Social Security Act to preserve access to community cancer care by Medicare beneficiaries.

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; TABLE OF CONTENTS.**

4       (a) **SHORT TITLE.**—This Act may be cited as the  
5 “Community Cancer Care Preservation Act of 2006”.

6       (b) **TABLE OF CONTENTS.**—The table of contents of  
7 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Use of average sales price methodology.
- Sec. 3. Improved payment for oncologist services.
- Sec. 4. Quality measures for cancer care.
- Sec. 5. Improved patient participation in clinical trials.
- Sec. 6. CBO report.

1 **SEC. 2. USE OF AVERAGE SALES PRICE METHODOLOGY.**

2 (a) FINDINGS.—Congress finds that—

3 (1) in 2005, Medicare reimbursement for cer-  
4 tain outpatient cancer drugs was changed to reflect  
5 average sales price rather than average wholesale  
6 price; and

7 (2) the average sales price methodology does  
8 not timely reflect changes in manufacturer’s prices  
9 for drugs.

10 (b) ADJUSTMENT TO AVERAGE SALES PRICE CAL-  
11 CULATION.—Section 1847A of the Social Security Act (42  
12 U.S.C. 1395w–3a) is amended—

13 (1) in subsection (b), by adding at the end the  
14 following new paragraph:

15 “(6) RECONCILIATION.—Payments made pursu-  
16 ant to this subsection are subject to reconciliation to  
17 assure that such payments do not exceed or fall  
18 short of the actual average sales price during any  
19 preceding period. Such reconciliation shall be con-  
20 ducted on a quarterly basis and the Secretary shall  
21 review all payments made to physicians under this  
22 subsection in the preceding quarter and compare  
23 such payment to the verified average sales price re-  
24 ported by the manufacturer under subsection (c) for  
25 such quarter.”; and

26 (2) in subsection (c)(3)—

1 (A) in the first sentence, by striking  
2 “prompt pay discounts,”; and

3 (B) in the second sentence, by inserting  
4 “other than prompt pay discounts,” after  
5 “other price concessions,”.

6 **SEC. 3. IMPROVED PAYMENT FOR ONCOLOGIST SERVICES.**

7 (a) FINDINGS.—Congress finds that—

8 (1) in 2005, the Centers for Medicare & Med-  
9 icaid Services implemented a \$300 million dem-  
10 onstration project to identify and assess certain on-  
11 cology services in an office-based oncology practice  
12 that positively affect cancer outcomes in the Medi-  
13 care population; and

14 (2) oncologists and cancer patients benefited  
15 from the demonstration project.

16 (b) CONTINUATION OF CURRENT DEMONSTRATION  
17 PROJECT TO IDENTIFY AND ASSESS ONCOLOGY SERVICES  
18 THAT POSITIVELY AFFECT CANCER OUTCOMES.—

19 (1) IN GENERAL.—The existing demonstration  
20 project, developed by the Secretary of Health and  
21 Human Services pursuant to the Secretary’s author-  
22 ity under sections 402(a)(1)(B) and 402(a)(2) of the  
23 Social Security Amendments of 1967 and imple-  
24 mented in the Federal Register, “Revisions to Pay-  
25 ment Policies Under the Physician Fee Schedule for

1       Calendar Year 2005,” 69 Fed. Reg. 66,236 (Novem-  
2       ber 15, 2004), for purposes of identifying and as-  
3       sessing certain oncology services that positively af-  
4       fect outcomes in the Medicare population, shall be  
5       extended until December 31, 2006.

6               (2) IMPLEMENTATION.—The Secretary shall  
7       continue to operate such project in the same manner  
8       as originally implemented.

9               (3) FUNDING.—Under the demonstration  
10       project over the duration of the project, the Sec-  
11       retary shall apply the methodology and funding con-  
12       sistent with that established for the existing project.

13              (4) REPORT.—Not later than July 1, 2007, the  
14       Secretary shall submit to Congress a report on the  
15       project, together with recommendations for such leg-  
16       islation and administrative action as the Secretary  
17       determines to be appropriate.

18              (c) ADJUSTMENT TO PHYSICIAN FEE SCHEDULE.—  
19       Section 1848(c)(2) of the Social Security Act (42 U.S.C.  
20       1395w–4(c)(2)) is amended—

21                      (1) in subparagraph (B)(iv)—

22                              (A) in subclause (II), by striking “and”;

23                              (B) in subclause (III), by striking the pe-  
24       riod and inserting “; and”; and

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

3 “(IV) subparagraph (K) insofar  
4 as it relates to a physician fee sched-  
5 ule for 2006 shall not be taken into  
6 account in applying clause (ii)(II) for  
7 drug administration services under  
8 the fee schedule for such year.”; and

9 (2) by adding at the end the following new sub-  
10 paragraph:

11 “(K) ADJUSTMENT IN PAYMENT RATES  
12 FOR OVERHEAD COSTS.—In establishing the  
13 physician fee schedule under subsection (b) with  
14 respect to payments for drug administration  
15 services furnished on or after January 1, 2006,  
16 and in order to take into account overhead and  
17 related expenses, the Secretary shall provide for  
18 an additional payment in an amount equal to 2  
19 percent of the amount determined under section  
20 1847A for the drug administered.”.

21 **SEC. 4. QUALITY MEASURES FOR CANCER CARE.**

22 (a) FINDINGS.—Congress finds that—

23 (1) existing quality indicators relating to the  
24 quality of care furnished to cancer patients in physi-  
25 cian offices are inconsistent across practice settings

1 and are not based on uniform, evidence-based and  
2 consistently applied standards; and

3 (2) physician reimbursement should reflect im-  
4 provements in the quality of care provided.

5 (b) DEVELOPMENT OF QUALITY INDICATORS.—In  
6 collaboration with practicing physicians, the Secretary of  
7 Health and Human Services shall develop indicators for  
8 the evaluation of the quality of oncology services provided  
9 in the physician office setting. Such indicators shall not  
10 be implemented for any purpose unless the Secretary has  
11 provided for an assessment of the proposed indicators by  
12 the physician community.

13 (c) PILOT AND DEMONSTRATION PROJECTS.—The  
14 Secretary may conduct pilot projects and demonstration  
15 projects to test such indicators as appropriate.

16 **SEC. 5. IMPROVED PATIENT PARTICIPATION IN CLINICAL**  
17 **TRIALS.**

18 (a) FINDINGS.—Congress finds that—

19 (1) the current report of the President’s Cancer  
20 Panel has documented the increasing incidence and  
21 costs of cancer to the United States; and

22 (2) the current report of the President’s Cancer  
23 Panel has identified problems in translating research  
24 into effective cancer care.

1 (b) STRATEGIC PLAN FOR IMPROVED PATIENT PAR-  
2 TICIPATION.—

3 (1) IN GENERAL.—In collaboration with prac-  
4 ticing physicians, the Director of the National Can-  
5 cer Institute shall develop a strategic plan to in-  
6 crease the number of cancer patients who enroll in  
7 clinical trials.

8 (2) COMPONENTS OF PLAN.—Such plan shall  
9 include components designed to—

10 (A) improve patient education regarding  
11 clinical trials;

12 (B) facilitate the clinical trial process; and

13 (C) ensure the viability of conducting clin-  
14 ical research in all settings where treatment is  
15 provided.

16 (c) REPORT.—Not later than January 1, 2007, the  
17 Secretary of Health and Human Services shall submit to  
18 Congress a report on the strategic plan under subsection  
19 (b) together with recommendations for such legislation  
20 and administrative action as the Secretary determines to  
21 be appropriate.

22 **SEC. 6. CBO REPORT.**

23 Not later than one year after the date of the enact-  
24 ment of this Act, the Director of the Congressional Budget  
25 Office shall submit to Congress a report that describes the

1 impact of the provisions of the Medicare Prescription  
2 Drug, Improvement, and Modernization Act of 2003 (Pub-  
3 lic Law 108–173) as implemented on oncologists and  
4 other physicians who provide cancer care and a compari-  
5 son of such impact with the impact of such law estimated  
6 by such Office before its enactment.

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