

103^D CONGRESS
2^D SESSION

S. 2283

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 SENATE OF THE UNITED STATES

JULY 14 (legislative day, JULY 11), 1994

Mr. SHELBY (for himself, Mr. THURMOND, Mr. REID, and Mr. STEVENS) 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 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Prostate Cancer Diag-
3 nosis and Treatment Act of 1994”.

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

7 (a) COVERAGE OF SCREENING SERVICES.—

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

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

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

17 (C) by adding at the end the following new
18 subparagraph:

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

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

23 (A) by redesignating the subsection (jj) in-
24 serted by section 4156(a)(2) of the Omnibus
25 Budget Reconciliation Act of 1990 as sub-
26 section (kk); and

1 (B) by inserting after such subsection the
2 following new subsection:

3 “Prostate Cancer Screening Services

4 “(ll) The term ‘prostate cancer screening services’
5 means the following procedures provided to a man for the
6 purpose of early detection of prostate cancer:

7 “(1) Digital rectal examination.

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

9 “(3) Transrectal ultrasonography.

10 “(4) Such other procedures as the Secretary
11 may designate as appropriate for early detection of
12 prostate cancer.”.

13 (3) PAYMENT AMOUNTS; LIMITATIONS ON FRE-
14 QUENCY OF COVERAGE.—Section 1834 of such Act
15 (42 U.S.C. 1395m) is amended by inserting after
16 subsection (c) the following new subsection:

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

19 “(1) IN GENERAL.—Notwithstanding any other
20 provision of this part, with respect to expenses in-
21 curred for prostate cancer screening services (as de-
22 fined in section 1861(ll))—

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

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

4 “(i) in the case of a prostate cancer
5 screening service consisting of a prostate-
6 specific antigen blood test, the fee schedule
7 amount established for the service under
8 section 1833(h) (relating to payments for
9 clinical diagnostic laboratory tests); or

10 “(ii) in the case of any other prostate
11 cancer screening service, the amount pro-
12 vided under the fee schedule established by
13 the Secretary under paragraph (3) (subject
14 to the deductible established under section
15 1833(b)).

16 “(2) FREQUENCY COVERED.—

17 “(A) IN GENERAL.—Subject to subpara-
18 graph (B) and to revision by the Secretary
19 under subparagraph (C), no payment may be
20 made under this part for a prostate cancer
21 screening service provided to an individual for
22 the purpose of early detection of prostate can-
23 cer—

24 “(i) if the individual is under 50 years
25 of age; or

1 “(ii) if the service is provided within
2 the 11 months after a previous prostate
3 cancer screening service.

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

12 “(C) REVISION BY SECRETARY.—

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

20 “(ii) REVISION OF FREQUENCY.—The
21 Secretary, taking into consideration the re-
22 view made under clause (i), may revise
23 from time to time the frequency with
24 which such services may be paid for under
25 this subsection, but no such revision shall

1 apply to services performed before January
2 1, 1998.

3 “(3) ESTABLISHMENT OF FEE SCHEDULE.—

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

13 “(B) FACTORS CONSIDERED.—In estab-
14 lishing fee schedules under subparagraph (A),
15 the Secretary shall take into consideration vari-
16 ations in the cost of furnishing such services
17 among geographic areas and among different
18 sites where services are furnished, together with
19 such other factors as may be appropriate to as-
20 sure that payment amounts are equitable.

21 “(4) LIMITING CHARGES OF NONPARTICIPATING
22 PHYSICIANS.—

23 “(A) IN GENERAL.—In the case of a pros-
24 tate cancer screening service provided to an in-
25 dividual for the purpose of early detection of

1 prostate cancer for which payment may be
2 made under this part, if a nonparticipating phy-
3 sician or supplier provides the procedure to an
4 individual enrolled under this part, the physi-
5 cian or supplier 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 (4) CONFORMING AMENDMENTS.—(A) Para-
15 graphs (1)(D) and (2)(D) of section 1833(a) of such
16 Act (42 U.S.C. 1395l(a)) are each amended by strik-
17 ing “subsection (h)(1),” and inserting “subsection
18 (h)(1) or section 1834(d)(1)(B)(i).”.

19 (B) Section 1833(a)(1) of such Act (42 U.S.C.
20 1395l(a)(1)), as amended by section 13544(b)(2) of
21 OBRA–1993, is amended—

22 (i) by striking “and (P)” and inserting
23 “(P)”; and

24 (ii) by striking the semicolon at the end
25 and inserting the following: “, and (Q) with re-

1 spect to prostate cancer screening services (as
2 defined in section 1861(ll)) (other than pros-
3 tate-specific antigen tests), the amounts paid
4 shall be the amounts described in section
5 1834(d)(1);”.

6 (C) Section 1833(a) of such Act (42 U.S.C.
7 1395l(a)) is amended—

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

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

12 (iii) by adding at the end the following new
13 paragraph:

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

18 (D) Section 1833(h)(1)(A) of such Act (42
19 U.S.C. 1395l(h)(1)(A)) is amended by striking “The
20 Secretary” and inserting “Subject to section
21 1834(d), the Secretary”.

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

1 (F) Section 1862(a) of such Act (42 U.S.C.
2 1395y(a)) is amended—

3 (i) in paragraph (1)—

4 (I) in subparagraph (E), by striking
5 “and” at the end,

6 (II) in subparagraph (F), by striking
7 the semicolon at the end and inserting “,
8 and”, and

9 (III) by adding at the end the follow-
10 ing new subparagraph:

11 “(G) in the case of prostate cancer screening
12 services (as defined in section 1861(l)) provided for
13 the purpose of early detection of prostate cancer,
14 which are performed more frequently than is covered
15 under section 1834(d)(2);”; and

16 (ii) in paragraph (7), by striking “para-
17 graph (1)(B) or under paragraph (1)(F)” and
18 inserting “subparagraphs (B), (F), or (G) of
19 paragraph (1)”.

20 (b) COVERAGE OF CERTAIN DRUG TREATMENTS.—
21 Section 1861(s)(2) of the Social Security Act (42 U.S.C.
22 1395x(s)(2)), as amended by subsection (a)(1), is further
23 amended—

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

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

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

5 “(S) an oral drug prescribed for the treatment
6 of prostate cancer, if the use of the drug for such
7 purpose is a medically accepted indication under
8 subsection (t)(2);”.

9 (c) EFFECTIVE DATE.—The amendments made by
10 this section shall apply to services provided on or after
11 January 1, 1995, without regard to whether or not the
12 Secretary has established fee schedules under section
13 1834(d)(3) of the Social Security Act (as added by sub-
14 section (a)(3)) or promulgated other regulations to carry
15 out such amendments by that date.

16 **SEC. 3. COVERAGE OF PROSTATE CANCER SCREENING AND**
17 **TREATMENT SERVICES FOR VETERANS.**

18 (a) PROSTATE CANCER SCREENING AND DIAGNOSIS
19 DEFINED AS PREVENTIVE HEALTH SERVICE.—Section
20 1701(9) of title 38, United States Code is amended—

21 (1) by redesignating subparagraphs (J) and (K)
22 as subparagraphs (K) and (L), respectively; and

23 (2) by inserting after subparagraph (I) the fol-
24 lowing new subparagraph (J):

1 “(J) screening and diagnostic tests approved
2 for prostate cancer;”.

3 (b) COVERAGE OF PROSTATE CANCER SCREENING
4 AND TREATMENT.—

5 (1) IN GENERAL.—Chapter 17 of title 38,
6 United States Code, is amended by inserting after
7 section 1724 a new section as follows:

8 **“§ 1725. Prostate cancer screening and treatment**

9 “(a) The Secretary shall include in the medical serv-
10 ices made available to veterans under this chapter appro-
11 priate prostate cancer screening, counseling, treatment,
12 and information. Based on the best available medical evi-
13 dence, the Secretary shall develop and implement an ap-
14 propriate prostate cancer screening schedule for those vet-
15 erans confined to hospitals or other institutions.

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

17 “(1) appropriate prostate cancer screening
18 means procedures provided to a man for the purpose
19 of early detection of prostate cancer, including digi-
20 tal rectal examinations, prostate-specific antigen
21 blood tests, and transrectal ultrasonography; and

22 “(2) appropriate prostate cancer treatment in-
23 cludes drugs approved by the Food and Drug Ad-
24 ministration for the treatment of prostate cancer.

1 “(c) The Secretary may carry out research and re-
2 search training in the diagnosis and treatment of prostate
3 cancer based upon the prostate cancer services provided
4 under this section and may develop guidelines outlining
5 effective treatment regimens for prostate cancer.”.

6 (2) CLERICAL AMENDMENT.—The table of sec-
7 tions at the beginning of such chapter is amended
8 by inserting after the item relating to section 1724
9 the following new item:

“1725. Prostate cancer screening and treatment.”.

10 **SEC. 4. RESEARCH AND EDUCATION REGARDING PROS-**
11 **TATE CANCER; CERTAIN PROGRAMS OF PUB-**
12 **LIC HEALTH SERVICE.**

13 (a) NATIONAL INSTITUTES OF HEALTH.—Section
14 417B(c) of the Public Health Service Act (42 U.S.C.
15 286a–8(c)) is amended in the first sentence by striking
16 “\$72,000,000” and all that follows and inserting the fol-
17 lowing: “\$72,000,000 for fiscal year 1994, \$86,000,000
18 for fiscal year 1995, \$100,000,000 for fiscal year 1996,
19 and such sums as may be necessary for each of the fiscal
20 years 1997 and 1998.”.

21 (b) AGENCY FOR HEALTH CARE POLICY AND RE-
22 SEARCH.—Section 902 of the Public Health Service Act
23 (42 U.S.C. 299a) is amended by adding at the end the
24 following subsection:

1 “(f) ACTIVITIES REGARDING PROSTATE CANCER.—
2 The Administrator shall, with respect to prostate cancer—
3 “(1) conduct and support research on the out-
4 comes, effectiveness, and appropriateness of health
5 services and procedures; and
6 “(2) in carrying out section 912(a), provide for
7 the development, periodic review, and updating of
8 clinically relevant guidelines, standards of quality,
9 performance measures, and medical review criteria.”.

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