

109<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 4098

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 HOUSE OF REPRESENTATIVES

OCTOBER 20, 2005

Mr. RAMSTAD introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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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 2005”.

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-

1 ported by the manufacturer under subsection (c) for  
2 such quarter.”; and

3 (2) in subsection (c)(3)—

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

6 (B) in the second sentence, by inserting  
7 “other than prompt pay discounts,” after  
8 “other price concessions,”.

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

10 (a) FINDINGS.—Congress finds that—

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

17 (2) oncologists and cancer patients benefited  
18 from the demonstration project.

19 (b) CONTINUATION OF CURRENT DEMONSTRATION  
20 PROJECT TO IDENTIFY AND ASSESS ONCOLOGY SERVICES  
21 THAT POSITIVELY AFFECT CANCER OUTCOMES.—

22 (1) IN GENERAL.—The existing demonstration  
23 project, developed by the Secretary of Health and  
24 Human Services pursuant to the Secretary’s author-  
25 ity under sections 402(a)(1)(B) and 402(a)(2) of the

1 Social Security Amendments of 1967 and imple-  
2 mented in the Federal Register, “Revisions to Pay-  
3 ment Policies Under the Physician Fee Schedule for  
4 Calendar Year 2005,” 69 Fed. Reg. 66,236 (Novem-  
5 ber 15, 2004), for purposes of identifying and as-  
6 sessing certain oncology services that positively af-  
7 fect outcomes in the Medicare population, shall be  
8 extended until December 31, 2006.

9 (2) IMPLEMENTATION.—The Secretary shall  
10 continue to operate such project in the same manner  
11 as originally implemented.

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

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

21 (c) ADJUSTMENT TO PHYSICIAN FEE SCHEDULE.—  
22 Section 1848(c)(2) of the Social Security Act (42 U.S.C.  
23 1395w-4(c)(2)) is amended—

24 (1) in subparagraph (B)(iv)—

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

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

3 (C) by adding at the end the following new  
4 subclause:

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

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

13 “(K) ADJUSTMENT IN PAYMENT RATES  
14 FOR OVERHEAD COSTS.—In establishing the  
15 physician fee schedule under subsection (b) with  
16 respect to payments for drug administration  
17 services furnished on or after January 1, 2006,  
18 and in order to take into account overhead and  
19 related expenses, the Secretary shall provide for  
20 an additional payment in an amount equal to 2  
21 percent of the amount determined under section  
22 1847A for the drug administered.”.

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

24 (a) FINDINGS.—Congress finds that—



1           (2) the current report of the President's Cancer  
2 Panel has identified problems in translating research  
3 into effective cancer care.

4           (b) STRATEGIC PLAN FOR IMPROVED PATIENT PAR-  
5 TICIPATION.—

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

11           (2) COMPONENTS OF PLAN.—Such plan shall  
12 include components designed to—

13                   (A) improve patient education regarding  
14 clinical trials;

15                   (B) facilitate the clinical trial process; and

16                   (C) ensure the viability of conducting clin-  
17 ical research in all settings where treatment is  
18 provided.

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

1 **SEC. 6. CBO REPORT.**

2       Not later than one year after the date of the enact-  
3 ment of this Act, the Director of the Congressional Budget  
4 Office shall submit to Congress a report that describes the  
5 impact of the provisions of the Medicare Prescription  
6 Drug, Improvement, and Modernization Act of 2003 (Pub-  
7 lic Law 108–173) as implemented on oncologists and  
8 other physicians who provide cancer care and a compari-  
9 son of such impact with the impact of such law estimated  
10 by such Office before its enactment.

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