

114TH CONGRESS  
1ST SESSION

**S.** \_\_\_\_\_

To amend title XVIII of the Social Security Act to reduce the incidence of diabetes among Medicare beneficiaries, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

Mr. FRANKEN introduced the following bill; which was read twice and referred to the Committee on \_\_\_\_\_

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**A BILL**

To amend title XVIII of the Social Security Act to reduce the incidence of diabetes among Medicare beneficiaries, and for other purposes.

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 “Medicare Diabetes  
5 Prevention Act of 2015”.

6 **SEC. 2. DIABETES PREVENTION UNDER THE MEDICARE**  
7 **PROGRAM.**

8 (a) COVERAGE OF DIABETES PREVENTION PROGRAM  
9 SERVICES.—

10 (1) COVERAGE OF SERVICES.—

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

4 (i) in subparagraph (EE), by striking  
5 “and” after the semicolon at the end;

6 (ii) in subparagraph (FF), by insert-  
7 ing “and” after the semicolon at the end;  
8 and

9 (iii) by adding at the end the fol-  
10 lowing new subparagraph:

11 “(GG) items and services furnished under a di-  
12 abetes prevention program (as defined in subsection  
13 (iii)(1)) to an eligible diabetes prevention program  
14 individual (as defined in subsection (iii)(2));”.

15 (B) DEFINITIONS.—Section 1861 of the  
16 Social Security Act (42 U.S.C. 1395x) is  
17 amended by adding at the end the following  
18 new subsection:

19 “Diabetes Prevention Program; Eligible Diabetes Preven-  
20 tion Program Individual; Qualified Diabetes Preven-  
21 tion Program Provider

22 “(iii)(1)(A) The term ‘diabetes prevention program’  
23 means a program that—

24 “(i) meets the criteria described in subpara-  
25 graph (B); and

1           “(ii) is furnished by a qualified diabetes preven-  
2           tion program provider (as defined in paragraph  
3           (3)(A)).

4           “(B) The Secretary shall establish the criteria for a  
5           diabetes prevention program. Such criteria shall be in ac-  
6           cordance with the standards under the National Diabetes  
7           Prevention Program, as established by the Centers for  
8           Disease Control and Prevention, and shall require that the  
9           program complies with the Federal regulations (con-  
10          cerning the privacy of individually identifiable health in-  
11          formation) promulgated under section 264(c) of the  
12          Health Insurance Portability and Accountability Act of  
13          1996. In establishing such criteria, the Secretary may also  
14          consider clinical evidence or other factors, such as the re-  
15          sults of ongoing translational studies, as the Secretary de-  
16          termines appropriate.

17          “(C) Items and services furnished under a diabetes  
18          prevention program may, as determined appropriate by  
19          the Secretary, be furnished—

20                 “(i) in-person in a community setting;

21                 “(ii) virtually; or

22                 “(iii) via one or more proven distance-learning  
23          modalities.

24          “(D)(i) The Secretary shall establish procedures  
25          under which a qualified diabetes prevention program pro-

1 vider may contract with a diabetes prevention program de-  
2 livery partner to furnish the items and services under a  
3 diabetes prevention program. Such items and services may  
4 be furnished in one or some combination of the settings  
5 described in clauses (i) through (iii) of subparagraph (C).

6 “(ii) For purposes of this subsection, the term ‘diabe-  
7 tes prevention program delivery partner’ means an entity,  
8 including non-profit organizations, public and private hos-  
9 pitals, State and local departments of public health, Fed-  
10 erally qualified health centers, and any other entity the  
11 Secretary determines appropriate, that meets criteria es-  
12 tablished by the Secretary. Such criteria shall be in ac-  
13 cordance with the standards under the National Diabetes  
14 Prevention Program, as established by the Centers for  
15 Disease Control and Prevention. In establishing such cri-  
16 teria, the Secretary may also consider other factors or clin-  
17 ical evidence as the Secretary determines appropriate.

18 “(2)(A) The term ‘eligible diabetes prevention pro-  
19 gram individual’ means an individual at risk for diabetes  
20 (as defined in subsection (yy)(2)) who would benefit from  
21 items and services under a diabetes prevention program,  
22 as determined based on criteria established by the Sec-  
23 retary.

24 “(B) The criteria established under subparagraph  
25 (A) shall be in accordance with the standards under the

1 National Diabetes Prevention Program, as established by  
2 the Centers for Disease Control and Prevention. In estab-  
3 lishing such criteria, the Secretary may also consider other  
4 factors or clinical evidence as the Secretary determines ap-  
5 propriate.

6 “(3)(A)(i) The term ‘qualified diabetes prevention  
7 program provider’ means any entity, including a Federally  
8 qualified health center, that the Secretary determines—

9 “(I) is appropriate to furnish items and services  
10 under a diabetes prevention program; and

11 “(II) meets criteria established by the Sec-  
12 retary, in consultation with the Centers for Disease  
13 Control and Prevention.

14 “(ii) A qualified diabetes prevention program pro-  
15 vider may be, as determined appropriate by the Secretary,  
16 a supplier (as defined in subsection (d)), a provider of  
17 services (as defined in subsection (u)), a health insurance  
18 or services company, a community-based organization, or  
19 any other appropriate entity.

20 “(B) A qualified diabetes prevention program pro-  
21 vider shall—

22 “(i) furnish the items and services under the di-  
23 abetes prevention program through a delivery part-  
24 ner (pursuant to paragraph (1)(D)) unless no such  
25 delivery partner is available;

1           “(ii) manage, track, and verify the outcomes of  
2           a diabetes prevention program (including attendance  
3           and observed weight loss of participating individuals)  
4           through defined systems which do not rely on data  
5           self-reported by participating individuals, including  
6           outcomes of programs furnished under contract with  
7           a diabetes prevention program delivery partner;

8           “(iii) implement business processes to manage  
9           program workflow, such as eligibility, reporting,  
10          claims billing, class scheduling, and enrollment;

11          “(iv) manage and verify billing accuracy and  
12          beneficiary eligibility (as described in paragraph  
13          (2));

14          “(v) comply with applicable laws and regula-  
15          tions and ensure such compliance by a diabetes pre-  
16          vention program delivery partner;

17          “(vi) perform various forms of engagement  
18          with, and outreach to, eligible diabetes prevention  
19          program individuals, including those participating in  
20          programs furnished under contract with a diabetes  
21          prevention program delivery partner;

22          “(vii) comply with all program integrity require-  
23          ments as established by the Secretary; and

24          “(viii) perform such other functions as estab-  
25          lished by the Secretary.”.

1           (2) AMOUNT OF PAYMENT.—Section 1833(a)(1)  
2 of the Social Security Act (42 U.S.C. 1395l(a)(1))  
3 is amended—

4           (A) by striking “and (Z)” and inserting  
5 “(Z)”; and

6           (B) by inserting before the semicolon at  
7 the end the following: “, and (AA) with respect  
8 to items and services furnished under a diabetes  
9 prevention program (as defined in section  
10 1861(iii)(1)), the amount paid shall be 100 per-  
11 cent of (i) except as provided in clause (ii), the  
12 lesser of the actual charge for the items and  
13 services or the amount determined under the  
14 fee schedule that applies to such items and  
15 services under this part, as determined by the  
16 Secretary, and (ii) in the case of such items and  
17 services that are covered OPD services (as de-  
18 fined in subsection (t)(1)(B)), the amount de-  
19 termined under subsection (t)”.

20           (3) WAIVER OF APPLICATION OF DEDUCT-  
21 IBLE.—The first sentence of section 1833(b) of the  
22 Social Security Act (42 U.S.C. 1395l(b)) is amend-  
23 ed—

24           (A) by striking “and” before “(10)”; and

1 (B) by inserting before the period the fol-  
2 lowing: “, and (11) such deductible shall not  
3 apply with respect to items and services under  
4 a diabetes prevention program (as defined in  
5 section 1861(iii)(1))”.

6 (4) ASSIGNMENT OF CLAIMS.—Section  
7 1842(b)(18)(C) of the Social Security Act (42  
8 U.S.C. 1395u(b)(18)(C)) is amended by adding at  
9 the end the following new clause:

10 “(vii) A qualified diabetes prevention program  
11 provider (as defined in section 1861(iii)(3)(A)).”.

12 (5) EXCLUSION OF ITEMS AND SERVICES  
13 UNDER A DIABETES PREVENTION PROGRAM FROM  
14 SKILLED NURSING FACILITY PROSPECTIVE PAYMENT  
15 SYSTEM.—Section 1888(e)(2)(A)(ii) of the Social Se-  
16 curity Act (42 U.S.C. 1395yy(e)(2)(A)(ii)) is amend-  
17 ed by inserting “items and services under a diabetes  
18 prevention program (as defined in section  
19 1861(iii)(1)),” after “qualified psychologist serv-  
20 ices,”.

21 (6) INCLUSION IN FEDERALLY QUALIFIED  
22 HEALTH CENTER SERVICES.—Section 1861(aa)(3) of  
23 the Social Security Act (42 U.S.C. 1395x(aa)(3)) is  
24 amended—

1 (A) in subparagraph (A), by striking  
2 “and” at the end;

3 (B) in subparagraph (B), by striking the  
4 comma at the end and inserting “; and”; and

5 (C) by adding after subparagraph (B) the  
6 following new subparagraph:

7 “(C) items and services under a diabetes pre-  
8 vention program (as defined in section  
9 1861(iii)(1)),”.

10 (7) SPECIAL CONSIDERATION FOR THE DUAL  
11 ELIGIBLE POPULATION.—In implementing the  
12 amendments made by this subsection, the Secretary  
13 of Health and Human Services shall give special  
14 consideration to the needs of individuals who are du-  
15 ally eligible for benefits under the Medicare and  
16 Medicaid programs.

17 (8) EVALUATION AND REPORT TO CONGRESS.—

18 (A) EVALUATION.—The Secretary of  
19 Health and Human Services shall conduct an  
20 evaluation on the coverage of items and services  
21 under a diabetes prevention program under the  
22 Medicare program, as added by the amend-  
23 ments made by this subsection. Such evaluation  
24 shall include an analysis of—

1 (i) the impact of the provision of such  
2 coverage on Medicare beneficiaries, includ-  
3 ing the impact on various populations,  
4 such as individuals who are dually eligible  
5 for benefits under the Medicare and Med-  
6 icaid programs and individuals living in  
7 rural or medically underserved areas, and  
8 the impact of the provision of such cov-  
9 erage on health disparities;

10 (ii) the rate at which physicians refer  
11 eligible diabetes prevention program indi-  
12 viduals to diabetes prevention programs  
13 under the Medicare program;

14 (iii) Medicare beneficiary participation  
15 levels in diabetes prevention programs  
16 under the Medicare program, including  
17 program completion rates, and the aware-  
18 ness of Medicare beneficiaries of the ben-  
19 efit;

20 (iv) the health outcomes resulting  
21 from completion of a diabetes prevention  
22 program under the Medicare program, in-  
23 cluding any measurable variations in out-  
24 come between the program settings de-  
25 scribed in clauses (i) through (iii) of sec-

1                   tion 1861(iii)(1)(C) of the Social Security  
2                   Act, as added by paragraph (1);

3                   (v) program integrity protections im-  
4                   portant to diabetes prevention programs  
5                   under the Medicare program; and

6                   (vi) other areas determined appro-  
7                   priate by the Secretary.

8                   (B) REPORT.—Not later than January 1,  
9                   2021, the Secretary of Health and Human  
10                  Services shall submit to Congress a report on  
11                  the evaluation conducted under subparagraph  
12                  (A), together with recommendations for such  
13                  legislation and administrative actions as the  
14                  Secretary determines appropriate.

15                  (9) EFFECTIVE DATE.—The amendments made  
16                  by paragraphs (1) through (6) shall apply with re-  
17                  spect to services furnished on or after January 1,  
18                  2017.

19                  (b) INCLUSION OF REFERRAL RATES TO DIABETES  
20                  PREVENTION PROGRAMS IN MEDICARE QUALITY RE-  
21                  PORTING REQUIREMENTS.—Section 1848(k)(2)(C)(i) of  
22                  the Social Security Act (42 U.S.C. 1395w–4(k)(2)(C)(i))  
23                  is amended by adding at the end the following new sen-  
24                  tence: “For purposes of reporting data on quality meas-  
25                  ures for covered professional services furnished during

1 2020 and each subsequent year, the quality measures  
2 specified under this paragraph shall include a measure  
3 with respect to referrals of eligible diabetes prevention  
4 program individuals (as defined in paragraph (2) of sec-  
5 tion 1861(iii)) to diabetes prevention programs (as defined  
6 in paragraph (1) of such section).”.

7 (c) INCLUSION OF DIABETES RISK ASSESSMENT IN  
8 MEDICARE PERSONALIZED PREVENTION PLAN.—

9 (1) IN GENERAL.—Section 1861(hhh)(2)(C) of  
10 the Social Security Act (42 U.S.C.  
11 1395x(hhh)(2)(C)) is amended by inserting before  
12 the period at the end the following: “, and an assess-  
13 ment of whether the individual is an individual at  
14 risk for diabetes (as defined in subsection (yy)(2))”.

15 (2) EFFECTIVE DATE.—The amendments made  
16 by this subsection shall apply to personalized preven-  
17 tion plans created or updated on or after January  
18 1, 2017.

19 **SEC. 3. FINDINGS; SENSE OF THE SENATE REGARDING DIA-**  
20 **BETES PREVENTION UNDER THE MEDICAID**  
21 **PROGRAM.**

22 (a) FINDINGS.—Congress makes the following find-  
23 ings:

24 (1) The prevalence and cost of diabetes is a sig-  
25 nificant concern for State Medicaid programs. By

1       2021, the Medicaid program is expected to cover  
2       13,000,000 people with diabetes and about  
3       9,000,000 people who may have pre-diabetes. By  
4       2021, States will spend an estimated  
5       \$83,000,000,000 on individuals with diabetes or pre-  
6       diabetes.

7               (2) The National Diabetes Prevention Program,  
8       as established by the Centers for Disease Control  
9       and Prevention, has been proven to reduce the onset  
10      of diabetes in at-risk adults by 58 percent, using a  
11      cost-effective, community-based intervention.

12      (b) SENSE OF THE SENATE.—It is the sense of the  
13      Senate that the National Diabetes Prevention Program  
14      presents an opportunity for States to reduce the incidence  
15      of diabetes among individuals enrolled in their Medicaid  
16      programs.