II

112TH CONGRESS
1ST SESSION

S. 274

To amend title XVIII of the Social Security Act to expand access to medication therapy management services under the Medicare prescription drug program.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 3, 2011

Mrs. HAGAN (for herself, Mr. FRANKEN, Mr. BROWN of Ohio, and Mr. JOHNSON of South Dakota) 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 expand access to medication therapy management services under the Medicare prescription drug 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 ''Medication Therapy
5 Management Empowerment Act of 2011''.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

8 (1) Medications are important to the manage-
9 ment of chronic diseases that require long-term or

1 lifelong therapy. Pharmacists are uniquely qualified
2 as medication experts to work with patients to man-
3 age their medications and chronic conditions and
4 play a key role in helping patients take their medica-
5 tions as prescribed.

6 (2) Nonadherence with medications is a signifi-
7 cant problem. According to a report by the World
8 Health Organization, in developed countries, only 50
9 percent of patients with chronic diseases adhere to
10 medication therapies. For example, in the United
11 States only 51 percent of patients taking blood pres-
12 sure medications and only 40 to 70 percent of pa-
13 tients taking antidepressant medications adhere to
14 prescribed therapies.

15 (3) Failure to take medications as prescribed
16 costs over $290,000,000,000 annually. The problem
17 of nonadherence is particularly important for pa-
18 tients with chronic diseases that require use of medi-
19 cations. Poor adherence leads to unnecessary disease
20 progression, reduced functional status, lower quality
21 of life, and premature death.

22 (4) When patients adhere to or comply with
23 prescribed medication therapy it is possible to reduce
24 higher-cost medical attention, such as emergency de-
25 partment visits and catastrophic care, and avoid the

1 preventable human costs that impact patients and
2 the individuals who care for them.
3 (5) Studies have clearly demonstrated that com-
4 munity-based medication therapy management serv-
5 ices provided by pharmacists improve health care
6 outcomes and reduce spending.
7 (6) The Asheville Project, a diabetes program
8 designed for city employees in Asheville, North Caro-
9 lina, that is delivered by community pharmacists, re-
10 sulted over a 5-year period in a decrease in total di-
11 rect medical costs ranging from $1,622 to $3,356
12 per patient per year, a 50 percent decrease in the
13 use of sick days, and an increase in productivity ac-
14 counting for an estimated savings of $18,000 annu-
15 ally.
16 (7) Another project involving care provided by
17 pharmacists to patients with high cholesterol in-
18 creased compliance with medication to 90 percent
19 from a national average of 40 percent.
20 (8) In North Carolina, the ChecKmeds NC pro-
21 gram, which offers eligible seniors one-on-one medi-
22 cation therapy management consultations with phar-
23 macists, has saved an estimated $34,000,000 in
24 healthcare costs and avoided numerous health prob-

1 lems since implementation in 2007 for the more
2 than 31,000 seniors receiving such consultations.
3 (9) Results similar to those found under such
4 projects and programs have been achieved in several
5 other demonstrations using community pharmacists.

6 **SEC. 3. IMPROVEMENT IN PART D MEDICATION THERAPY**
7 **MANAGEMENT PROGRAMS.**

8 (a) INCREASED AVAILABILITY AND COMMUNITY
9 PHARMACY INVOLVEMENT IN THE PROVISION OF MEDI-
10 CATION THERAPY MANAGEMENT SERVICES.—
11 (1) INCREASED BENEFICIARY ACCESS TO MEDI-
12 CATION THERAPY MANAGEMENT SERVICES.—Section
13 1860D–4(c)(2) of the Social Security Act (42 U.S.C.
14 1395w–104(c)(2)), as amended by section 10328 of
15 the Patient Protection and Affordable Care Act
16 (Public Law 111–148), is amended—
17 (A) in subparagraph (A)—
18 (i) in clause (ii)(I), by inserting "or
19 any chronic disease that accounts for high
20 spending in the program under this title,
21 including diabetes, hypertension, heart fail-
22 ure, dyslipidemia, respiratory disease (such
23 as asthma, chronic obstructive pulmonary
24 disease, or chronic lung disorders), bone
25 disease-arthritis (such as osteoporosis and

1 osteoarthritis), rheumatoid arthritis, and
2 mental health (such as depression, schizo-
3 phrenia, or bipolar disorder)'' before the
4 semicolon at the end; and
5 (ii) by adding at the end the following
6 new clause:
7 ''(iii) IDENTIFICATION OF INDIVID-
8 UALS WHO MAY BENEFIT FROM MEDICA-
9 TION THERAPY MANAGEMENT.—The PDP
10 sponsor shall, subject to the approval of
11 the Secretary, establish a process for iden-
12 tifying individuals who—
13 ''(I) are not targeted bene-
14 ficiaries described in clause (ii);
15 ''(II) are not otherwise offered
16 medication therapy management serv-
17 ices; and
18 ''(III) a pharmacist or other
19 qualified provider determines may
20 benefit from medication therapy man-
21 agement services.
22 For purposes of this paragraph, any indi-
23 vidual identified under this clause shall be
24 treated as a targeted beneficiary described
25 in clause (ii).'';

1 (B) by redesignating—
2 (i) subparagraphs (E), (F), and (G),
3 as redesignated by paragraph (1) of such
4 section 10328, as subparagraphs (G), (H),
5 and (I), respectively; and
6 (ii) subparagraph (E), as added by
7 paragraph (2) of such section 10328, as
8 subparagraph (F); and
9 (C) by inserting after subparagraph (D)
10 the following new subparagraph:
11 "(E) MEDICATION REVIEWS FOR DUAL
12 ELIGIBLES AND ENROLLEES IN TRANSITION OF
13 CARE.—Without regard to whether an enrollee
14 is a targeted beneficiary described in subpara-
15 graph (A)(ii), the medication therapy manage-
16 ment program under this paragraph shall offer
17 the following:
18 "(i) In the case of an enrollee who is
19 a full-benefit dual eligible individual (as
20 defined in section 1935(c)(6)), a com-
21 prehensive medication review described in
22 subparagraph (C)(i). The review under the
23 preceding sentence shall be offered at the
24 time of the initial enrollment of such indi-
25 vidual in the prescription drug plan.

1 "(ii) In the case of any enrollee who
2 is experiencing a transition in care (such
3 as being discharged from a hospital or
4 other institutional setting), a targeted
5 medication review described in subpara-
6 graph (C)(ii) of any new medications that
7 have been introduced to the enrollee's ther-
8 apy. The review under the preceding sen-
9 tence shall be offered at the time of such
10 transition.".

11 (2) ACCESS TO MEDICATION MANAGEMENT
12 THERAPY.—Section 1840D–4(c)(2) of such Act (42
13 U.S.C. 1395w–104(c)(2)) is further amended—

14 (A) by redesignating—

15 (i) subparagraphs (G), (H), and (I),
16 as redesignated by paragraph (1)(B)(i), as
17 subparagraphs (H), (I), and (J), respec-
18 tively; and

19 (ii) subparagraph (F), as redesignated
20 by paragraph (1)(B)(ii), as subparagraph
21 (G); and

22 (B) by inserting after subparagraph (E),
23 as inserted by paragraph (1)(C), the following
24 new subparagraph:

1 "(F) ACCESS REQUIREMENTS.—In order
2 to assure that enrollees have the option of ob-
3 taining medication therapy management serv-
4 ices under this paragraph, a PDP sponsor shall
5 offer any willing pharmacy in its network and
6 any other qualified health care provider the op-
7 portunity to provide such services.".
8 (3) APPROPRIATE REIMBURSEMENT FOR THE
9 PROVISION OF MEDICATION THERAPY MANAGEMENT
10 SERVICES.—Section 1860D–4(c)(2)(J) of such Act
11 (42 U.S.C. 1395w–104(c)(2)(I)), as redesignated by
12 paragraph (2), is amended—
13 (A) in the heading, by striking "CONSID-
14 ERATIONS IN PHARMACY FEES" and inserting
15 "REIMBURSEMENT";
16 (B) by striking the first sentence and in-
17 serting the following: "The PDP sponsor shall
18 reimburse any willing pharmacy in its network
19 and other qualified health care provider fur-
20 nishing medication therapy management serv-
21 ices under this paragraph based on the re-
22 sources used and the time required to provide
23 such services."; and

1 (C) in the second sentence, by striking
2 "any such management or dispensing fees" and
3 inserting "any such reimbursement".
4 (4) EFFECTIVE DATE.—The amendments made
5 by this subsection shall apply to plan years begin-
6 ning after the date of enactment of this Act.
7 (b) INCENTIVES BASED ON PERFORMANCE.—
8 (1) EVALUATION OF PERFORMANCE FOR PAY-
9 MENT INCENTIVES.—Section 1860D–4(c)(2) of the
10 Social Security Act (42 U.S.C. 1395w–104(c)(2)), as
11 amended by subsection (a), is further amended by
12 adding at the end the following new subparagraph:
13 "(K) EVALUATION OF PERFORMANCE.—
14 "(i) DATA COLLECTION AND PER-
15 FORMANCE MEASURES.—
16 "(I) IN GENERAL.—For plan
17 years beginning after the date of en-
18 actment of the Medication Therapy
19 Management Empowerment Act of
20 2011, the Secretary shall establish
21 measures and standards for data col-
22 lection by PDP sponsors to evaluate
23 the performance of pharmacies and
24 other entities in furnishing medication

therapy management services under this paragraph.

"(II) MEASURES.—Measures established under subclause (I) shall be designed to help assess and improve the overall quality of care, including a reduction in adverse medication reactions, improvements in adherence and persistence in chronic medication use, and a reduction in drug spending, where appropriate.

"(III) INCLUSION OF CERTAIN MEASURES WITH RESPECT TO PHARMACIST.—In the case of pharmacists who furnish medication therapy management services, the measures established under subclause (I) shall include measures developed by the Pharmacy Quality Alliance.

"(IV) ENCOURAGING PARTICIPATION OF ENTITIES THAT ACHIEVE BETTER OUTCOMES.—The Secretary shall compare the outcomes of medication therapy management services based on the type of entity offering

1 such services and shall develop appro-
2 priate incentives to ensure broader
3 participation in the program offered
4 by the plan sponsor under this para-
5 graph of entities that achieve better
6 outcomes (as defined by the Sec-
7 retary) with respect to such services.

8 "(ii) CONTINUAL DEVELOPMENT AND
9 INCORPORATION OF MEDICATION THERAPY
10 MANAGEMENT MEASURES IN BROADER
11 HEALTH CARE OUTCOMES MEASURES.—
12 The Secretary shall support the continual
13 development and refinement of perform-
14 ance measures established under clause
15 (i)(I), including the incorporation of medi-
16 cation use measures as part of broader
17 health care outcomes measures. The Sec-
18 retary shall work with State plans under
19 title XIX to incorporate similar perform-
20 ance-based measures into drug use review
21 programs under section 1927(g).

22 "(iii) INCENTIVE PAYMENTS.—For
23 plan years beginning on or after January
24 1, 2012, pharmacies and other entities
25 that furnish medication therapy manage-

1 ment services under this paragraph shall
2 be provided (in a form and manner speci-
3 fied by the Secretary) additional incentive
4 payments based on the performance of
5 such pharmacies and entities in meeting
6 the performance measures established
7 under clause (i). Such payments shall be
8 made from the Medicare Prescription Drug
9 Account under section 1860D–16, except
10 that such payments may be made from the
11 Federal Hospital Insurance Trust Fund
12 under section 1817 or the Federal Supple-
13 mentary Medical Insurance Trust Fund
14 under section 1841 if the Secretary deter-
15 mines, based on data under this part and
16 parts A and B, that such services have re-
17 sulted in a reduction in expenditures under
18 part A or part B, respectively.''.

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