

112TH CONGRESS
1ST SESSION

S. 494

To amend the Public Health Service Act to establish a national screening program at the Centers for Disease Control and Prevention and to amend title XIX of the Social Security Act to provide States the option to increase screening in the United States population for the prevention, early detection, and timely treatment of colorectal cancer.

IN THE SENATE OF THE UNITED STATES

MARCH 7, 2011

Mr. LIEBERMAN (for himself and Mrs. HUTCHISON) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To amend the Public Health Service Act to establish a national screening program at the Centers for Disease Control and Prevention and to amend title XIX of the Social Security Act to provide States the option to increase screening in the United States population for the prevention, early detection, and timely treatment of colorectal 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 “Colorectal Cancer Pre-
3 vention, Early Detection, and Treatment Act”.

4 **SEC. 2. PREVENTIVE HEALTH MEASURES WITH RESPECT**
5 **TO COLORECTAL CANCER.**

6 Part B of title III of the Public Health Service Act
7 (42 U.S.C. 243 et seq.) is amended by inserting after sec-
8 tion 317T the following new section:

9 **“SEC. 317U. PREVENTIVE HEALTH MEASURES WITH RE-**
10 **SPECT TO COLORECTAL CANCER.**

11 **“(a) GRANT PROGRAM AUTHORIZATION.—**

12 **“(1) IN GENERAL.—**The Secretary, acting
13 through the Director of the Centers for Disease
14 Control and Prevention, may make grants to eligible
15 entities for the purpose of carrying out a program
16 described in subsection (b). An eligible entity that is
17 a recipient of a grant under this subsection may use
18 such grant to carry out such programs directly or
19 through grants to, or contracts with, public and not-
20 for-profit private entities.

21 **“(2) ELIGIBLE ENTITY DEFINED.—**For pur-
22 poses of this section, the term ‘eligible entity’ in-
23 cludes the following:

24 **“(A)** A State, including, in addition to the
25 several States, the District of Columbia, Guam,
26 the Commonwealth of Puerto Rico, the North-

1 ern Mariana Islands, the Virgin Islands, Amer-
2 ican Samoa, and the Trust Territory of the Pa-
3 cific Islands.

4 “(B) An Indian tribe or tribal organiza-
5 tion, as such terms are defined in section 4 of
6 the Indian Self-Determination and Education
7 Assistance Act.

8 “(b) PROGRAMS DESCRIBED.—

9 “(1) IN GENERAL.—Subject to paragraph (2), a
10 program described in this subsection shall use evi-
11 dence-based strategies and population-based public
12 health approaches, including public education and
13 outreach, professional training and development,
14 quality assurance monitoring, surveillance, and eval-
15 uation, to increase quality colorectal cancer screen-
16 ing in the population aged 50 years and older, or for
17 individuals under 50 who are at high risk. A pro-
18 gram described in this subsection is a program for
19 planning or implementing each of the following:

20 “(A) Providing evidence-based, rec-
21 ommended screenings for colorectal cancer to
22 individuals who—

23 “(i) are 50 years of age or older; or

24 “(ii)(I) are under 50 years of age; and

1 “(II) are at high risk for such cancer,
2 as determined in accordance with sub-
3 section (e)(2).

4 “(B) Providing appropriate case manage-
5 ment and referrals for medical treatment of in-
6 dividuals screened pursuant to subparagraph
7 (A).

8 “(C) Ensuring (directly or through coordi-
9 nation or an arrangement with health care pro-
10 viders or programs) the full continuum of fol-
11 low-up and cancer care for individuals so
12 screened, including appropriate follow-up for
13 abnormal tests, diagnostic services, therapeutic
14 services, and treatment of detected cancers and
15 management of unanticipated medical complica-
16 tions.

17 “(D) Carrying out activities to improve the
18 education, training, and skills of health profes-
19 sionals (including allied health professionals) to
20 ensure the use of evidence-based recommended
21 and quality screening and follow up in the pre-
22 vention, detection, and control of colorectal can-
23 cer, which activities are carried out pursuant to
24 the participation of the health professionals in
25 the program.

1 “(E) Establishing mechanisms through
2 which the eligible entity involved can monitor
3 the quality of screening and diagnostic follow-
4 up procedures for colorectal cancer, including
5 the interpretation of such procedures.

6 “(F) Evaluating the activities described in
7 this subsection through appropriate surveillance
8 and program monitoring activities.

9 “(G) Developing and disseminating find-
10 ings derived through such evaluations and the
11 collection of data on outcomes.

12 “(H) Developing and disseminating public
13 information and education programs for the
14 prevention, detection, and control of colorectal
15 cancer and promoting the benefits of receiving
16 screenings to populations recommended for
17 screening.

18 “(2) SUPPLEMENT NOT SUPPLANT.—In the
19 case of an eligible entity that implements a universal
20 colorectal screening program under which the eligi-
21 ble entity makes available funds for activities de-
22 scribed in subparagraph (A), (B), or (C) of para-
23 graph (1), such entity shall be able to receive grant
24 funds under subsection (a) only for purposes of—

1 “(A) carrying out those activities under
2 this subsection that are not so funded; or

3 “(B) supplementing (and not supplanting)
4 funds made available by the entity for such
5 funded program.

6 “(c) PRIORITY FOR LOW-INCOME, UNINSURED AND
7 UNDERINSURED INDIVIDUALS.—A grant may be made
8 under subsection (a) to an eligible entity only if the eligible
9 entity agrees that, in providing screenings under sub-
10 section (b)(1)(A), the eligible entity will give priority to
11 low-income individuals who lack adequate coverage, as de-
12 termined by the Secretary, under health insurance and
13 health plans with respect to screenings for colorectal can-
14 cer.

15 “(d) SPECIAL CONSIDERATION FOR CERTAIN APPLI-
16 CANTS.—In making grants under subsection (a) for a fis-
17 cal year, the Secretary shall give special consideration to
18 the following eligible entities:

19 “(1) In the case of services under such sub-
20 section for women, to such entities that, for such
21 year, are grantees under title XV.

22 “(2) In the case of services under such sub-
23 section for men, to such entities that, for such year,
24 are grantees under section 317D.

1 “(3) To such entities that coordinate with other
2 Federal, State, and local colorectal cancer programs.

3 “(4) To such entities with an existing program
4 to provide cancer screening to individuals.

5 “(e) USE OF CERTAIN STANDARDS UNDER MEDI-
6 CARE PROGRAM.—A grant may be made under subsection
7 (a) to an eligible entity only if the eligible entity provides,
8 as applicable, assurances as follows:

9 “(1) Screenings under subsection (b)(1)(A) will
10 be carried out as preventive health measures in ac-
11 cordance with evidence-based screening guidelines
12 and procedures and in accordance with the standard
13 of care required for purposes of title XVIII of the
14 Social Security Act to carry out colorectal screening
15 tests defined in section 1861(pp)(1) of such Act.

16 “(2) An individual will be considered high risk
17 for purposes of subsection (b)(1)(A)(ii) only if the
18 individual is high risk within the meaning of section
19 1861(pp)(2) of such Act.

20 “(3) The payment made from the grant for a
21 screening procedure under subsection (b)(1)(A) will
22 not exceed the amount that would be paid under
23 part B of title XVIII of such Act if payment were
24 made under such part for furnishing the procedure
25 to an individual enrolled under such part.

1 “(f) RELATIONSHIP TO ITEMS AND SERVICES UNDER
2 OTHER PROGRAMS.—A grant under subsection (a) may
3 be made to an eligible entity only if the eligible entity,
4 as applicable, provides assurances that the grant will not
5 be expended to make payment for any item or service to
6 the extent that payment has been made, or can reasonably
7 be expected to be made, with respect to such item or serv-
8 ice—

9 “(1) under any State compensation program,
10 under an insurance policy, or under any Federal or
11 State health benefits program; or

12 “(2) by an entity that provides health services
13 on a prepaid basis.

14 “(g) RECORDS AND AUDITS.—A grant under sub-
15 section (a) may be made to an eligible entity only if the
16 eligible entity provides assurances that the eligible entity
17 will—

18 “(1) establish such fiscal control and fund ac-
19 counting procedures as may be necessary to ensure
20 proper disbursement of, and accounting for, amounts re-
21 ceived under subsection (a); and

22 “(2) upon request, provide records maintained
23 pursuant to paragraph (1) to the Secretary or the
24 Comptroller General of the United States for pur-

1 poses of auditing the expenditures of the grant by
2 the eligible entity.

3 “(h) REQUIREMENT OF MATCHING FUNDS.—

4 “(1) IN GENERAL.—The Secretary may not
5 make a grant under subsection (a) to an eligible en-
6 tity for a fiscal year unless the eligible entity agrees,
7 with respect to the costs to be incurred by the eligi-
8 ble entity for such fiscal year in carrying out the ac-
9 tivities described in subsection (b), to make available
10 non-Federal contributions (in cash or in kind under
11 paragraph (2)) toward such costs in an amount
12 equal to not less than \$1 for each \$3 of Federal
13 funds provided in the grant for such fiscal year.
14 Such contributions may be made directly or through
15 donations from public or private entities.

16 “(2) DETERMINATION OF AMOUNT OF NON-
17 FEDERAL CONTRIBUTION.—

18 “(A) IN GENERAL.—Non-Federal contribu-
19 tions required in paragraph (1) may be in cash
20 or in kind, fairly evaluated, including equipment
21 or services (and excluding indirect or overhead
22 costs). Amounts provided by the Federal Gov-
23 ernment, or services assisted or subsidized to
24 any significant extent by the Federal Govern-

1 ment, may not be included in determining the
2 amount of such non-Federal contributions.

3 “(B) MAINTENANCE OF EFFORT.—In
4 making a determination of the amount of non-
5 Federal contributions for purposes of paragraph
6 (1), the Secretary may include only non-Federal
7 contributions in excess of the average amount
8 of non-Federal contributions made by the eligi-
9 ble entity involved toward the activities de-
10 scribed in subsection (b) for the 2-year period
11 preceding the first fiscal year for which the eli-
12 gible entity is applying to receive a grant under
13 subsection (a).

14 “(C) INCLUSION OF RELEVANT NON-FED-
15 ERAL CONTRIBUTIONS FOR MEDICAID.—In
16 making a determination of the amount of non-
17 Federal contributions for purposes of paragraph
18 (1), the Secretary shall, subject to subpara-
19 graphs (A) and (B) of this paragraph, include
20 any non-Federal amounts expended pursuant to
21 title XIX of the Social Security Act by the eligi-
22 ble entity involved toward the activities de-
23 scribed in subparagraphs (A) and (B) of sub-
24 section (b)(1).

25 “(i) ADDITIONAL REQUIREMENTS.—

1 “(1) LIMITATION ON ADMINISTRATIVE EX-
2 PENSES.—The Secretary may not make a grant to
3 an eligible entity under subsection (a) unless the eli-
4 gible entity provides assurances that not more than
5 10 percent of the grant will be expended for admin-
6 istrative expenses with respect to the activities fund-
7 ed by the grant.

8 “(2) STATEWIDE PROVISION OF SERVICES.—

9 “(A) IN GENERAL.—Subject to subpara-
10 graph (B), the Secretary may not make a grant
11 under subsection (a) to an eligible entity unless
12 the eligible entity provides assurances that any
13 program funded by such grant will be made
14 available throughout the State, including avail-
15 ability to members of an Indian tribe or tribal
16 organization (as such terms are defined in sec-
17 tion 4 of the Indian Self-Determination and
18 Education Assistance Act).

19 “(B) WAIVER.—The Secretary may waive
20 the requirement under subparagraph (A) for an
21 eligible entity if the Secretary determines that
22 compliance by the eligible entity with the re-
23 quirement would result in an inefficient alloca-
24 tion of resources with respect to carrying out
25 the purposes described in subsection (a).

1 “(j) TECHNICAL ASSISTANCE AND PROVISION OF
2 SUPPLIES AND SERVICES IN LIEU OF GRANT FUNDS.—

3 “(1) TECHNICAL ASSISTANCE.—The Secretary
4 may provide training and technical assistance with
5 respect to the planning, development, and operation
6 of any program funded by a grant under subsection
7 (a). The Secretary may provide such technical as-
8 sistance directly to eligible entities or through grants
9 to, or contracts with, public and private entities.

10 “(2) PROVISION OF SUPPLIES AND SERVICES IN
11 LIEU OF GRANT FUNDS.—

12 “(A) IN GENERAL.—Subject to subpara-
13 graph (B), upon the request of an eligible entity
14 receiving a grant under subsection (a), the Sec-
15 retary for the purpose of aiding the eligible en-
16 tity to carry out a program under subsection
17 (b)—

18 “(i) may provide supplies, equipment,
19 and services to the eligible entity; and

20 “(ii) may detail to the eligible entity
21 any officer or employee of the Department
22 of Health and Human Services.

23 “(B) CORRESPONDING REDUCTION IN PAY-
24 MENTS.—With respect to a request made by an
25 eligible entity under subparagraph (A), the Sec-

1 retary shall reduce the amount of payments
2 made under the grant under subsection (a) to
3 the eligible entity by an amount equal to the
4 fair market value of any supplies, equipment, or
5 services provided by the Secretary and the costs
6 of detailing personnel (including pay, allow-
7 ances, and travel expenses) under subparagraph
8 (A). The Secretary shall, for the payment of ex-
9 penses incurred in complying with such request,
10 expend the amounts withheld.

11 “(k) REPORTS.—A grant under subsection (a) may
12 be made only if the applicant involved agrees to submit
13 to the Secretary such reports as the Secretary may require
14 with respect to the grant.

15 “(l) AUTHORIZATION OF APPROPRIATIONS.—

16 “(1) IN GENERAL.—For the purpose of car-
17 rying out this section, there are authorized to be ap-
18 propriated \$75,000,000 for each of fiscal years 2012
19 through 2016.

20 “(2) SET-ASIDE FOR TECHNICAL ASSISTANCE
21 AND PROVISION OF SUPPLIES AND SERVICES.—Of
22 the amount appropriated under paragraph (1) for a
23 fiscal year, the Secretary shall reserve not to exceed
24 20 percent for carrying out subsection (j).”.

1 **SEC. 3. OPTIONAL MEDICAID COVERAGE OF CERTAIN PER-**
 2 **SONS SCREENED AND FOUND TO HAVE**
 3 **COLORECTAL CANCER.**

4 (a) COVERAGE AS OPTIONAL CATEGORICALLY
 5 NEEDY GROUP.—

6 (1) IN GENERAL.—Section 1902(a)(10)(A)(ii)
 7 of the Social Security Act (42 U.S.C.
 8 1396a(a)(10)(A)(ii)) is amended—

9 (A) in subclause (XXI), by striking “or” at
 10 the end;

11 (B) in subclause (XXII), by adding “or” at
 12 the end; and

13 (C) by adding at the end the following:

14 “(XXIII) who are described in
 15 subsection (ll) (relating to certain per-
 16 sons screened and found to need
 17 treatment from complications from
 18 screening or have colorectal cancer);”.

19 (2) GROUP DESCRIBED.—Section 1902 of the
 20 Social Security Act (42 U.S.C. 1396a) is amended
 21 by adding at the end the following:

22 “(ll) Individuals described in this subsection are indi-
 23 viduals who—

24 “(1) are not described in subsection
 25 (a)(10)(A)(i);

26 “(2) have not attained age 65;

1 “(3) have been screened for colorectal cancer
2 and need treatment for complications due to screen-
3 ing or colorectal cancer; and

4 “(4) are not otherwise covered under creditable
5 coverage, as defined in section 2704(c) of the Public
6 Health Service Act.”.

7 (3) LIMITATION ON BENEFITS.—Section
8 1902(a)(10) of the Social Security Act (42 U.S.C.
9 1396a(a)(10)) is amended in the matter following
10 subparagraph (G)—

11 (A) by striking “(XV)” and inserting “,
12 (XV)”;

13 (B) by striking “setting and (XVI)” and
14 inserting “setting, (XVII)”;

15 (C) by inserting “, and (XVIII) the med-
16 ical assistance made available to an individual
17 described in subsection (ll) who is eligible for
18 medical assistance only because of subpara-
19 graph (A)(10)(ii)(XXIII) shall be limited to
20 medical assistance provided during the period in
21 which such an individual requires treatment for
22 complications due to screening or colorectal
23 cancer” before the semicolon.

24 (4) CONFORMING AMENDMENTS.—Section
25 1905(a) of the Social Security Act (42 U.S.C.

1 1396d(a)) is amended in the matter preceding para-
 2 graph (1)—

3 (A) in clause (xvi), by striking “or” at the
 4 end;

5 (B) in clause (xvii), by adding “or” at the
 6 end; and

7 (C) by inserting after clause (xvii) the fol-
 8 lowing:

9 “(xviii) individuals described in sec-
 10 tion 1902(ll),”.

11 (b) PRESUMPTIVE ELIGIBILITY.—

12 (1) IN GENERAL.—Title XIX of the Social Se-
 13 curity Act (42 U.S.C. 1396 et seq.) is amended by
 14 inserting after section 1920C the following:

15 “OPTIONAL APPLICATION OF PRESUMPTIVE ELIGIBILITY
 16 PROVISIONS FOR CERTAIN PERSONS WITH
 17 COLORECTAL CANCER

18 “SEC. 1920D. A State may elect to apply the provi-
 19 sions of section 1920B to individuals described in section
 20 1902(ll) (relating to certain colorectal cancer patients) in
 21 the same manner as such section applies to individuals de-
 22 scribed in section 1902(aa) (relating to certain breast or
 23 cervical cancer patients).”.

24 (2) CONFORMING AMENDMENTS.—

25 (A) Section 1902(a)(47) of the Social Se-
 26 curity Act (42 U.S.C. 1396a(a)(47)), as amend-

1 ed by sections 2202(a) and 2303(b)(2) of Pub-
2 lic Law 111–148, is amended—

3 (i) in subparagraph (A), by inserting
4 before the semicolon at the end the fol-
5 lowing: “ and provide for making medical
6 assistance available to individuals described
7 in section 1920D during a presumptive eli-
8 gibility period in accordance with such sec-
9 tion”; and

10 (ii) effective as of January 1, 2014, in
11 subparagraph (B), by striking “or 1920C”
12 and inserting “1920C, or 1920D”.

13 (B) Section 1903(u)(1)(D)(v) of such Act
14 (42 U.S.C. 1396b(u)(1)(d)(v)) is amended by
15 inserting “, or for medical assistance provided
16 to an individual described in section 1920D
17 during a presumptive eligibility period under
18 such section” after “1920B during a presump-
19 tive eligibility period under such section”.

20 (c) ENHANCED MATCH.—The first sentence of sec-
21 tion 1905(b) of the Social Security Act (42 U.S.C.
22 1396d(b)) is amended—

23 (1) by striking “and” before “(4)”; and

24 (2) by inserting before the period at the end the
25 following: “, and (5) the Federal medical assistance

1 percentage shall be equal to the enhanced FMAP de-
2 scribed in section 2105(b) with respect to medical
3 assistance provided to individuals who are eligible
4 for such assistance only on the basis of section
5 1902(a)(10)(A)(ii)(XXIII)''.

6 (d) EFFECTIVE DATE.—The amendments made by
7 this section apply to medical assistance for items and serv-
8 ices furnished on or after October 1, 2011, without regard
9 to whether final regulations to carry out such amendments
10 have been promulgated by such date.

○