

105TH CONGRESS
1ST SESSION

H. R. 301

To amend title XVIII of the Social Security Act to provide for coverage of early detection of prostate cancer and certain drug treatment services under part B of the Medicare program and to amend chapter 17 of title 38, United States Code, to provide for coverage of such early detection and treatment services under the programs of the Department of Veterans Affairs.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 7, 1997

Mr. SHAYS (for himself and Mr. GEJDENSON) introduced the following bill; which was referred to the Committee on Commerce, and in addition to the Committees on Ways and Means and Veterans' Affairs, 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.

A BILL

To amend title XVIII of the Social Security Act to provide for coverage of early detection of prostate cancer and certain drug treatment services under part B of the Medicare program and to amend chapter 17 of title 38, United States Code, to provide for coverage of such early detection and treatment services under the programs of the Department of Veterans Affairs.

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 1997”.

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)) is
10 amended—

11 (A) by striking “and” at the end of sub-
12 paragraph (N);

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

15 (C) by inserting after subparagraph (O)
16 the following new subparagraph:

17 “(P) services for the early detection of prostate
18 cancer (as defined in subsection (oo)); and”.

19 (2) SERVICES DESCRIBED.—Section 1861 of
20 such Act (42 U.S.C. 1395x) is amended by adding
21 at the end the following new subsection:

22 “Services for the Early Detection of Prostate Cancer

23 “(oo) The term ‘services for the early detection of
24 prostate cancer’ means the following procedures provided
25 to a man for the purpose of early detection of prostate
26 cancer:

1 “(1) Digital rectal examination.

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

3 “(3) Transrectal ultrasonography.

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

7 (3) PAYMENT AMOUNTS; LIMITATIONS ON FRE-
8 QUENCY OF COVERAGE.—Section 1834 of such Act
9 (42 U.S.C. 1395m) is amended by inserting after
10 subsection (c) the following new subsection:

11 “(d) PAYMENT AMOUNTS AND FREQUENCY LIMITS
12 FOR SERVICES FOR THE EARLY DETECTION OF PROS-
13 TATE CANCER.—

14 “(1) IN GENERAL.—Notwithstanding any other
15 provision of this part, with respect to expenses in-
16 curred for services for the early detection of prostate
17 cancer (as defined in section 1861(o))—

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

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

1 “(i) in the case of a service for the
2 early detection of prostate cancer consist-
3 ing of a prostate-specific antigen blood
4 test, the fee schedule amount established
5 for the service under section 1833(h) (re-
6 lating to payments for clinical diagnostic
7 laboratory tests); or

8 “(ii) in the case of any other service
9 for the early detection of prostate cancer,
10 the amount provided under the fee sched-
11 ule established by the Secretary under
12 paragraph (3) (subject to the deductible
13 established under section 1833(b)).

14 “(2) FREQUENCY COVERED.—

15 “(A) IN GENERAL.—Subject to subpara-
16 graph (B) and to revision by the Secretary
17 under subparagraph (C), no payment may be
18 made under this part for a service for the early
19 detection of prostate cancer provided to an indi-
20 vidual—

21 “(i) if the individual is under 50 years
22 of age; or

23 “(ii) if the service is provided within
24 the 11 months after a previous service for
25 the early detection of prostate cancer.

1 “(B) EXCEPTION FOR HIGH RISK INDIVID-
2 UALS.—Payment may be made under this part
3 for a service for the early detection of prostate
4 cancer provided to an individual more fre-
5 quently than the limit established under sub-
6 paragraph (A)(ii) if the individual is at a high
7 risk of developing prostate cancer (as deter-
8 mined pursuant to factors identified by the Sec-
9 retary).

10 “(C) REVISION BY SECRETARY.—

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

18 “(ii) REVISION OF FREQUENCY.—The
19 Secretary, taking into consideration the re-
20 view made under clause (i), may revise
21 from time to time the frequency with
22 which such services may be paid for under
23 this subsection, but no such revision shall
24 apply to services performed before January
25 1, 2000.

1 “(3) ESTABLISHMENT OF FEE SCHEDULE.—

2 “(A) IN GENERAL.—The Secretary shall
3 establish fee schedules (on such geographic
4 basis as the Secretary considers appropriate)
5 for payment for services for the early detection
6 of prostate cancer under this part (other than
7 prostate-specific antigen blood tests), effective
8 for services furnished after the expiration of the
9 90-day period beginning on the date the Sec-
10 retary establishes the fee schedules.

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

19 “(4) LIMITING CHARGES OF NONPARTICIPATING
20 PHYSICIANS.—In the case of a service for the early
21 detection of prostate cancer for which payment may
22 be made under this part, if a nonparticipating physi-
23 cian or nonparticipating supplier or other person (as
24 defined in section 1842(i)(2)) who does not accept
25 payment on an assignment-related basis provides the

1 service to an individual enrolled under this part, sec-
2 tion 1848(g)(1) shall apply to the service in the
3 same manner as such section applies to a physician's
4 service.”.

5 (4) CONFORMING AMENDMENTS.—(A) Para-
6 graphs (1)(D) and (2)(D) of section 1833(a) of such
7 Act (42 U.S.C. 1395l(a)) are each amended by strik-
8 ing “subsection (h)(1),” and inserting “subsection
9 (h)(1) or section 1834(d)(1)(B)(i),”.

10 (B) Section 1833(a)(1) of such Act (42 U.S.C.
11 1395l(a)(1)) is amended—

12 (i) by striking “and (P)” and inserting
13 “(P)”; and

14 (ii) by striking the semicolon at the end
15 and inserting the following: “, and (Q) with re-
16 spect to services for the early detection of pros-
17 tate cancer (as defined in section 1861(o))
18 (other than prostate-specific antigen tests), the
19 amounts paid shall be the amounts described in
20 section 1834(d)(1);”.

21 (C) Section 1833(a) of such Act (42 U.S.C.
22 1395l(a)) is amended—

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

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

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

5 “(8) in the case of services for the early detec-
6 tion of prostate cancer (as defined in section
7 1861(oo)) (other than prostate-specific antigen
8 tests), the amounts described in section
9 1834(d)(1).”.

10 (D) Section 1833(h)(1)(A) of such Act (42
11 U.S.C. 1395l(h)(1)(A)) is amended by striking “The
12 Secretary” and inserting “Subject to section
13 1834(d), the Secretary”.

14 (E) Section 1862(a) of such Act (42 U.S.C.
15 1395y(a)) is amended—

16 (i) in paragraph (1)—

17 (I) in subparagraph (E), by striking
18 “and” at the end,

19 (II) in subparagraph (F), by striking
20 the semicolon at the end and inserting “,
21 and”, and

22 (III) by adding at the end the follow-
23 ing new subparagraph:

24 “(G) in the case of services for the early detec-
25 tion of prostate cancer (as defined in section

1 1861(o)), which are performed more frequently
2 than is covered under section 1834(d)(2);” and

3 (ii) in paragraph (7), by striking “para-
4 graph (1)(B) or under paragraph (1)(F)” and
5 inserting “subparagraphs (B), (F), or (G) of
6 paragraph (1)”.

7 (b) COVERAGE OF CERTAIN DRUG TREATMENTS.—
8 Section 1861(s)(2) of the Social Security Act (42 U.S.C.
9 1395x(s)(2)), as amended by subsection (a)(1), is further
10 amended—

11 (1) by striking “and” at the end of subpara-
12 graph (P);

13 (2) by adding “and” at the end of subpara-
14 graph (Q); and

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

17 “(R) an oral drug prescribed for the treatment
18 of prostate cancer, if the use of the drug for such
19 purpose is a medically accepted indication under
20 subsection (t)(2);”.

21 (c) EFFECTIVE DATE.—The amendments made by
22 this section shall apply to services provided on or after
23 January 1, 1998, without regard to whether or not the
24 Secretary has established fee schedules under section

1 1834(d)(3) of the Social Security Act (as added by sub-
 2 section (a)(3)) or promulgated other regulations to carry
 3 out such amendments by that date.

4 **SEC. 3. EARLY DETECTION AND TREATMENT OF PROSTATE**
 5 **CANCER IN VETERANS.**

6 (a) PREVENTIVE HEALTH SERVICES.—Section
 7 1701(9) of title 38, United States Code is amended—

8 (1) by redesignating subparagraphs (J) and (K)
 9 as subparagraphs (K) and (L), respectively; and

10 (2) by inserting after subparagraph (I) the fol-
 11 lowing new subparagraph (J):

12 “(J) tests for the early detection and diagnosis
 13 of prostate cancer;”.

14 (b) COVERAGE OF SERVICES FOR EARLY DETECTION
 15 AND TREATMENT OF PROSTATE CANCER.—

16 (1) IN GENERAL.—Chapter 17 of such title is
 17 amended by inserting after section 1724 the follow-
 18 ing new section:

19 **“§ 1725. Prostate cancer detection and treatment**

20 “(a) The Secretary shall include in the medical serv-
 21 ices furnished to veterans under this chapter—

22 “(1) services for the early detection and treat-
 23 ment of prostate cancer;

24 “(2) information on the early detection and
 25 treatment of prostate cancer; and

1 “(3) counseling regarding prostate cancer.

2 “(b) Based on the best available medical evidence, the
3 Secretary shall implement a schedule for early detection
4 of prostate cancer for veterans confined to hospitals or
5 other institutions.

6 “(c) For the purposes of this section—

7 “(1) services for the early detection of prostate
8 cancer are procedures provided to a male for the
9 purpose of the early detection of prostate cancer, in-
10 cluding digital rectal examinations, prostate-specific
11 antigen blood tests, and transrectal ultrasonography;
12 and

13 “(2) services for treatment of prostate cancer
14 may include the furnishing of drugs approved by the
15 Food and Drug Administration for the treatment of
16 prostate cancer.

17 “(d) The Secretary may carry out research and re-
18 search training in the diagnosis and treatment of prostate
19 cancer based upon the prostate cancer services provided
20 under this section and may develop guidelines outlining
21 effective treatment regimens for prostate cancer.”.

22 (2) CLERICAL AMENDMENT.—The table of sec-
23 tions at the beginning of such chapter is amended

- 1 by inserting after the item relating to section 1724
- 2 the following new item:

“1725. Prostate cancer detection and treatment.”.

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