

110TH CONGRESS
1ST SESSION

S. 1519

To amend title XVIII of the Social Security Act to provide for a transition to a new voluntary quality reporting program for physicians and other health professionals.

IN THE SENATE OF THE UNITED STATES

MAY 24, 2007

Mr. CARDIN (for himself and Mr. SPECTER) introduced the following bill;
which was read twice and referred to the Committee on Finance

A BILL

To amend title XVIII of the Social Security Act to provide for a transition to a new voluntary quality reporting program for physicians and other health professionals.

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 “Voluntary Medicare
5 Quality Reporting Act of 2007”.

6 **SEC. 2. FINDINGS.**

7 (a) FINDINGS.—Congress makes the following find-
8 ings:

1 (1) The health care system of the United States
2 is the world’s most advanced health care system and
3 delivers health care according to the highest quality
4 standards. Physicians and other health professionals
5 are committed to providing the highest quality of
6 health care to beneficiaries under the Medicare pro-
7 gram.

8 (2) Physicians have been actively engaged with
9 the American Medical Association’s Physician Con-
10 sortium for Performance Improvement in the devel-
11 opment of evidence-based and clinically valid meas-
12 ures in order to improve the quality of health care
13 and have also worked closely with the Centers for
14 Medicare & Medicaid Services (“CMS”) in assuring
15 the successful implementation of the Physician Vol-
16 untary Reporting Program (“PVRP”) developed to
17 measure and evaluate quality of health care.

18 (3) Physicians are actively collaborating with
19 consensus organizations in their efforts to—

20 (A) improve the quality of health care
21 through the specification of quality measures
22 for services; and

23 (B) develop a rational system for col-
24 lecting, aggregating, and reporting data across

1 numerous public and private insurance pro-
2 grams in the least burdensome way.

3 (4) Quality measures for covered professional
4 services (as defined in section 1848(k)(3)(A) of the
5 Social Security Act (42 U.S.C. 1395w-4(k)(3)(A))
6 must be—

7 (A) evidence-based and clinically valid;

8 (B) regularly updated to reflect current
9 medical practice;

10 (C) specialty specific; and

11 (D) developed by relevant medical and
12 other health professional specialty societies with
13 expertise in the area of health care involved.

14 (5) All quality measures for covered profes-
15 sional services (as so defined) should be pilot-tested
16 in a variety of practice settings and across all rel-
17 evant medical and other health professional special-
18 ties before they are included in a value-based pur-
19 chasing system for such services.

20 (6) Physicians must be actively engaged in all
21 aspects of the development and implementation of
22 an effective quality reporting and value-based pur-
23 chasing system for covered professional services (as
24 so defined). The development process for such sys-

1 tem must be transparent to all physicians and ad-
2 here to a consistent set of rules.

3 (7) Any effective quality reporting system for
4 covered professional services (as so defined) must
5 recognize the actual health information technology
6 and administrative costs physicians and other health
7 professionals incur for participating in the system.

8 (8) Any quality reporting program for covered
9 professional services (as so defined) should focus on
10 meaningful improvements in patient care rather
11 than requiring physicians to report for the sake of
12 reporting.

13 (9) Most physicians and other health profes-
14 sionals have not had any experience in quality re-
15 porting and lack the necessary health information
16 technology and administrative infrastructures to par-
17 ticipate in a value-based purchasing system for phy-
18 sicians' services.

19 (10) The 6-month program under section
20 1848(k) of the Social Security Act (42 U.S.C.
21 1395w-4(k)), as added by section 101(b) of division
22 B of the Tax Relief and Health Care Act of 2006
23 (Public Law 109-432; 120 Stat. 2975), the 2007
24 Physician Quality Reporting Initiative ("PQRI"),
25 does not provide a sufficient amount of time to test

1 and evaluate the appropriateness and effectiveness
2 of this new reporting system. Therefore, it is pre-
3 mature to implement a permanent Medicare quality
4 reporting system for physicians in 2008.

5 **SEC. 3. TRANSITION TO NEW VOLUNTARY MEDICARE QUAL-**
6 **ITY REPORTING PROGRAM.**

7 (a) **EVALUATING THE TRANSITIONAL QUALITY RE-**
8 **PORTING SYSTEM ESTABLISHED FOR 2007.—**

9 (1) **EVALUATION.**—The Secretary of Health
10 and Human Services shall evaluate the quality re-
11 porting system under paragraph (1) of section
12 1848(k) of the Social Security Act (42 U.S.C.
13 1395w–4(k)) (as added by section 101(b) of division
14 B of the Tax Relief and Health Care Act of 2006
15 (Public Law 109–432)), as applied for 2007 using
16 the quality measures described in paragraph (2)(A)
17 of such section to determine the following:

18 (A) The extent to which such quality meas-
19 ures were valid, clinically relevant, practicable,
20 and not overly burdensome.

21 (B) The percentage of eligible professionals
22 (as defined in paragraph (3)(B) of such section)
23 in each category of eligible professionals de-
24 scribed in such paragraph that had such quality
25 measures to report for such year.

1 (C) The rate of participation in such qual-
2 ity reporting system of eligible professionals de-
3 scribed in subparagraph (B) in each such cat-
4 egory.

5 (D) The average administrative costs of
6 medical practices of such eligible professionals
7 for reporting such quality measures, as it re-
8 lates to the size of such practices.

9 (2) REPORT.—Not later than June 1, 2008, the
10 Secretary of Health and Human Services shall sub-
11 mit to Congress a report containing the findings of
12 the evaluation under paragraph (1).

13 (b) DEMONSTRATION PROJECTS ON DATA REG-
14 ISTRIES.—Beginning January 1, 2008, the Secretary of
15 Health and Human Services shall enter into contracts for
16 conducting demonstrations for defining appropriate mech-
17 anisms whereby eligible professionals (as defined in sec-
18 tion 1848(k)(3)(B) of the Social Security Act (42 U.S.C.
19 1395w–4(k)(3)(B)) may provide data on quality measures
20 to the Secretary through an appropriate medical registry.
21 The Secretary shall require that all mechanisms developed
22 under this subsection be for purposes of reporting data
23 to the Secretary only. The Secretary shall consider such
24 data as confidential and not make such data available to
25 other parties or persons.

1 (c) TRANSITIONAL QUALITY REPORTING AFTER DE-
2 CEMBER 31, 2007, AND BEFORE IMPLEMENTATION OF
3 NEW VOLUNTARY MEDICARE QUALITY REPORTING PRO-
4 GRAM.—

5 (1) IN GENERAL.—Section 1848(k)(2)(B) of
6 the Social Security Act (42 U.S.C. 1395w-
7 4(k)(3)(B)) is amended to read as follows:

8 “(B) FOR 2008 AND 2009.—Eligible profes-
9 sionals may continue to report to the Secretary
10 quality measures specified under subparagraph
11 (A) after December 31, 2007, and before De-
12 cember 31, 2009, in order for the Secretary to
13 refine systems for reporting quality measures.”.

14 (2) PROHIBITING USE OF PHYSICIAN ASSIST-
15 ANCE AND QUALITY INITIATIVE FUND FOR QUALITY
16 REPORTING BONUS PAYMENTS IN 2008.—Section
17 1848(l)(2)(B) of the Social Security Act (42 U.S.C.
18 1395w-4(l)(2)(B)), as added by section 101(d) of di-
19 vision B of the Tax Relief and Health Care Act of
20 2006 (Public Law 109-432), is amended by adding
21 at the end the following new sentence: “The Sec-
22 retary shall not expend from the Fund any amounts
23 for bonus incentive payments for quality reporting of
24 data on quality measures with respect to services
25 furnished during 2008.”.

1 **SEC. 4. THE VOLUNTARY MEDICARE QUALITY REPORTING**
2 **PROGRAM.**

3 (a) IN GENERAL.—Section 1848(k)(2) of the Social
4 Security Act (42 U.S.C. 1395w-4(k)(2)) as added by sec-
5 tion 101(b) of Division B of the Tax Relief and Health
6 Care Act of 2006 (Public Law 109-432; 120 Stat. 2975),
7 is amended by adding at the end the following new sub-
8 paragraph:

9 “(C) FOR 2010 AND SUCCEEDING YEARS.—

10 “(i) IN GENERAL.—For purposes of
11 reporting data on quality measures for cov-
12 ered professional services furnished during
13 2010 and during succeeding years, the
14 quality measures specified under this para-
15 graph for covered professional services are
16 quality measures the Secretary has se-
17 lected in accordance with this subpara-
18 graph as part of the rulemaking process
19 for payments under this section for 2010
20 and succeeding years, respectively.

21 “(ii) CHARACTERISTICS OF MEAS-
22 URES.—The quality measures selected
23 under clause (i) shall—

24 “(I) include a mixture of struc-
25 tural measures, process measures, and

1 outcomes measures (as such terms are
2 defined in clause (v));

3 “(II) be evidence-based and clini-
4 cally valid;

5 “(III) be relevant to physicians,
6 other eligible professionals, and indi-
7 viduals entitled to benefits under part
8 A or enrolled under this part; and

9 “(IV) include measures that cap-
10 ture patients’ assessments of clinical
11 care provided.

12 “(iii) FAIRNESS.—The selection of
13 quality measures under this subparagraph
14 shall be conducted (and such quality meas-
15 ures shall be applied) in a manner that—

16 “(I) takes into account dif-
17 ferences in individual health status;

18 “(II) takes into account an indi-
19 vidual’s compliance with health care
20 orders;

21 “(III) does not directly or indi-
22 rectly encourage patient selection or
23 deselection;

24 “(IV) does not penalize eligible
25 professionals who furnish services to

1 individuals entitled to benefits under
2 part A or enrolled under this part who
3 are frail, low-income, of racial or eth-
4 nic minority groups, or of limited
5 English language proficiency;

6 “(V) reduces health disparities
7 across groups and areas;

8 “(VI) uses appropriate statistical
9 techniques to ensure valid results; and

10 “(VII) assures that the Secretary
11 is able to process data for the quality
12 measures as written by the individual
13 or organization that developed the
14 measure.

15 “(iv) SELECTION PROCESS FOR MEAS-
16 URES TO BE REPORTED.—The measures
17 selected under clause (i) for 2010 (and
18 each succeeding year) shall be measures
19 that have been published by the Secretary
20 in the Federal Register not later than No-
21 vember 1 before the year as endorsed qual-
22 ity measures that are applicable to covered
23 professional services during the year. For
24 purposes of this subparagraph, the Sec-
25 retary may publish quality measures for

1 2010 (or a succeeding year) in the Federal
2 Register only if such measures are selected
3 and endorsed as follows:

4 “(I) RECOMMENDATIONS FOR
5 CLINICAL AREAS.—Not later than Oc-
6 tober 1, 2008 (and each succeeding
7 October 1), the Secretary shall re-
8 quest, through notice in the Federal
9 Register (without comment period),
10 each physician specialty organization,
11 each other eligible professional organi-
12 zation, and each quality improvement
13 organization to submit to the Physi-
14 cian Consortium for Performance Im-
15 provement of the American Medical
16 Association (referred to in this sub-
17 paragraph as the ‘Consortium’) by not
18 later than December 31, 2008 (and
19 each succeeding December 31), rec-
20 ommendations of clinical areas for the
21 development of quality measures for
22 purposes of this subparagraph. Not
23 later than December 31, 2008 (and
24 each succeeding December 31), the
25 Secretary shall also submit to the

1 Consortium recommendations of clin-
2 ical areas for the development of such
3 quality measures.

4 “(II) SELECTION OF CLINICAL
5 AREAS.—Not later than March 31,
6 2009 (and each subsequent March
7 31), the Consortium is requested to
8 submit to the Secretary the rec-
9 ommendations described in subclause
10 (I).

11 “(III) DEVELOPMENT OF PRO-
12 POSED QUALITY MEASURES.—Not
13 later than June 1 of each year (begin-
14 ning with 2009), the Consortium, in
15 collaboration with physician specialty
16 organizations and other eligible pro-
17 fessional organizations, is requested to
18 develop proposed quality measures for
19 each clinical area identified under
20 subclause (I). Such measures shall
21 meet the requirements of clauses (ii)
22 and (iii).

23 “(IV) ENDORSEMENT OF QUAL-
24 ITY MEASURES.—Not later than June
25 15 of each year (beginning with

1 2009), the Consortium is requested to
2 submit the proposed quality measures
3 developed under subclause (III) to a
4 consensus organization for endorse-
5 ment. Not later than September 30 of
6 each year (beginning with 2009), the
7 consensus organization is requested to
8 submit to the Secretary the quality
9 measures that have been endorsed by
10 the consensus organization.

11 “(v) DEFINITIONS.—In this subpara-
12 graph:

13 “(I) STRUCTURAL MEASURE.—
14 The term ‘structural measure’ means
15 a measure that reflects the organiza-
16 tional, technological, and human re-
17 sources infrastructure of a system
18 necessary for the delivery of quality
19 health care (such as the use of health
20 information technology for submission
21 of measures).

22 “(II) PROCESS MEASURE.—The
23 term ‘process measure’ means a meas-
24 ure associated with the practice of

1 health care or the furnishing of a
2 service that is known to be effective.

3 “(III) OUTCOME MEASURE.—The
4 term ‘outcome measure’ means a
5 measure that provides information on
6 how health care affects patients.

7 “(IV) CONSENSUS ORGANIZA-
8 TION.—The term ‘consensus organiza-
9 tion’ means an organization, such as
10 the National Quality Forum, that the
11 Secretary identifies as—

12 “(aa) having experience in
13 using a process for reaching a
14 group consensus with respect to
15 quality measures relating to the
16 performance of those providing
17 health care services; and

18 “(bb) including in such proc-
19 ess practicing physicians, practi-
20 tioners with experience in the
21 care of the frail elderly and indi-
22 viduals with multiple complex
23 chronic conditions, organizations
24 and individuals representative of
25 the specialty involved, individuals

1 entitled to benefits under part A
2 or enrolled under this part, ex-
3 perts in health care quality, indi-
4 viduals with experience in the de-
5 livery of health care in urban,
6 rural, and frontier areas and to
7 underserved populations, and
8 representatives of the Sec-
9 retary.”.

10 (b) TAKING INTO ACCOUNT RESULTS OF DEM-
11 ONSTRATION PROJECTS.—Section 1848(k) of the Social
12 Security Act (42 U.S.C. 1395w–4(k)) as added by section
13 101(b) of Division B of the Tax Relief and Health Care
14 Act of 2006 (Public Law 109–432; 120 Stat. 2975) is
15 amended—

16 (1) by striking paragraph (4) (relating to reg-
17 istry based reporting); and

18 (2) by inserting after paragraph (3) the fol-
19 lowing new paragraph:

20 “(4) TAKING INTO ACCOUNT RESULTS OF DEM-
21 ONSTRATION PROJECTS.—In administering this sub-
22 section, the Secretary shall take into account the rel-
23 evant findings and results from demonstration
24 projects undertaken by the Secretary for reporting

- 1 quality measures applicable to covered professional
- 2 services.”.

