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II

116TH CONGRESS
1ST SESSION

S. 595

To amend title XVIII of the Social Security Act to provide for the coordination of programs to prevent and treat obesity, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 28, 2019

Mr. CASSIDY (for himself, Mr. CARPER, Mrs. CAPITO, Mr. COONS, Mrs. BLACKBURN, Mr. HEINRICH, Ms. MURKOWSKI, and Ms. KLOBUCHAR) 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 provide for the coordination of programs to prevent and treat obesity, 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 ‘‘Treat and Reduce Obe-
5 sity Act of 2019’’.

6 **SEC. 2. FINDINGS.**

7 Congress makes the following findings:
8 (1) According to the Centers for Disease Con-
9 trol and Prevention, about 41 percent of adults aged

1 60 and over had obesity in the period of 2015
2 through 2016, representing more than 27 million
3 people.

4 (2) The National Institutes of Health has re-
5 ported that obesity and overweight are now the sec-
6 ond leading cause of death nationally, with an esti-
7 mated 300,000 deaths a year attributed to the epi-
8 demic.

9 (3) Obesity increases the risk for chronic dis-
10 eases and conditions, including high blood pressure,
11 heart disease, certain cancers, arthritis, mental ill-
12 ness, lipid disorders, sleep apnea, and type 2 diabe-
13 tes.

14 (4) More than half of Medicare beneficiaries are
15 treated for 5 or more chronic conditions per year.
16 The rate of obesity among Medicare beneficiaries
17 doubled from 1987 to 2002 and nearly doubled
18 again by 2016, with Medicare spending on individ-
19 uals with obesity during that time rising proportion-
20 ately to reach $50 billion in 2014.

21 (5) Men and women with obesity at age 65 have
22 decreased life expectancy of 1.6 years for men and
23 1.4 years for women.

24 (6) The direct and indirect cost of obesity was
25 more than $427.8 billion in 2014 and is growing.

(7) On average, a Medicare beneficiary with obesity costs $2,018 (in 2019 dollars) more than a healthy-weight beneficiary.

(8) The prevalence of obesity among older individuals in the United States is growing at a linear rate and, if nothing changes, nearly one in two (47 percent) Medicare beneficiaries aged 65 and over will have obesity in 2030, up from slightly more than one in four (28 percent) in 2010.

SEC. 3. AUTHORITY TO EXPAND HEALTH CARE PROVIDERS QUALIFIED TO FURNISH INTENSIVE BEHAVIORAL THERAPY.

Section 1861(ddd) of the Social Security Act (42 U.S.C. 1395x(ddd)) is amended by adding at the end the following new paragraph:

"(4)(A) Subject to subparagraph (B), the Secretary may, in addition to qualified primary care physicians and other primary care practitioners, cover intensive behavioral therapy for obesity furnished by any of the following:

"(i) A physician (as defined in subsection (r)(1)) who is not a qualified primary care physician.

"(ii) Any other appropriate health care provider (including a physician assistant, nurse

1 practitioner, or clinical nurse specialist (as
2 those terms are defined in subsection (aa)(5)),
3 a clinical psychologist, a registered dietitian or
4 nutrition professional (as defined in subsection
5 (vv))).

6 ''(iii) An evidence-based, community-based
7 lifestyle counseling program approved by the
8 Secretary.

9 ''(B) In the case of intensive behavioral therapy
10 for obesity furnished by a provider described in
11 clause (ii) or (iii) of subparagraph (A), the Secretary
12 may only cover such therapy if such therapy is fur-
13 nished—

14 ''(i) upon referral from, and in coordina-
15 tion with, a physician or primary care practi-
16 tioner operating in a primary care setting or
17 any other setting specified by the Secretary;
18 and

19 ''(ii) in an office setting, a hospital out-
20 patient department, a community-based site
21 that complies with the Federal regulations con-
22 cerning the privacy of individually identifiable
23 health information promulgated under section
24 264(c) of the Health Insurance Portability and

1 Accountability Act of 1996, or another setting
2 specified by the Secretary.
3 ''(C) In order to ensure a collaborative effort,
4 the coordination described in subparagraph (B)(i)
5 shall include the health care provider or lifestyle
6 counseling program communicating to the referring
7 physician or primary care practitioner any rec-
8 ommendations or treatment plans made regarding
9 the therapy.''.

10 **SEC. 4. MEDICARE PART D COVERAGE OF OBESITY MEDI-**
11 **CATION.**

12 (a) IN GENERAL.—Section 1860D–2(e)(2)(A) of the
13 Social Security Act (42 U.S.C. 1395w–102(e)(2)(A)) is
14 amended, in the first sentence—
15 (1) by striking ''and other than'' and inserting
16 ''other than''; and
17 (2) by inserting after ''benzodiazepines),'' the
18 following: ''and other than subparagraph (A) of such
19 section if the drug is used for the treatment of obe-
20 sity (as defined in section 1861(yy)(2)(C)) or for
21 weight loss management for an individual who is
22 overweight (as defined in section 1861(yy)(2)(F)(i))
23 and has one or more related comorbidities,''.
24 (b) EFFECTIVE DATE.—The amendments made by
25 subsection (a) shall apply to plan years beginning on or

1 after the date that is 2 years after the date of the enact-
2 ment of this Act.

3 **SEC. 5. REPORT TO CONGRESS.**

4 Not later than the date that is 1 year after the date
5 of the enactment of this Act, and every 2 years thereafter,
6 the Secretary of Health and Human Services shall submit
7 a report to Congress describing the steps the Secretary
8 has taken to implement the provisions of, and amend-
9 ments made by, this Act. Such report shall also include
10 recommendations for better coordination and leveraging of
11 programs within the Department of Health and Human
12 Services and other Federal agencies that relate in any way
13 to supporting appropriate research and clinical care (such
14 as any interactions between physicians and other health
15 care providers and their patients) to treat, reduce, and
16 prevent obesity in the adult population.

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