

111<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 3559

To amend titles XVIII and XIX of the Social Security Act to improve awareness and access to colorectal cancer screening tests under the Medicare and Medicaid programs, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 14, 2009

Mr. NEAL of Massachusetts introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, 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

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## A BILL

To amend titles XVIII and XIX of the Social Security Act to improve awareness and access to colorectal cancer screening tests under the Medicare and Medicaid programs, 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 “Supporting ColoRectal  
5 Examination and Education Now (SCREEN) Act of  
6 2009”.

1 **SEC. 2. FINDINGS AND SENSE OF CONGRESS.**

2 (a) FINDINGS.—Congress makes the following find-  
3 ings:

4 (1) A majority of the deaths and costs associ-  
5 ated with colorectal cancer, the second leading cause  
6 of cancer deaths in the United States, are avoidable  
7 through timely preventive screening, including  
8 colonoscopy.

9 (2) The United States Preventive Services Task  
10 Force provides its only grade “A” recommendation  
11 of cancer screenings for colorectal interventions.

12 (3) Colorectal cancer screening test rates are  
13 far too low, with only 50 percent of recommended  
14 populations receiving colorectal cancer screening  
15 tests, and rates of such screening tests among mi-  
16 norities and those without insurance lag consider-  
17 ably.

18 (4) The colorectal cancer screening benefit  
19 under the Medicare program under title XVIII of  
20 the Social Security Act is severely underutilized.

21 (5) Numerous barriers for patients, commu-  
22 nities, and health care providers detrimentally affect  
23 the utilization of colorectal cancer screening tests.  
24 Such barriers include patient knowledge, coinsurance  
25 burdens, restrictions on Medicare coverage for an of-

1        fice visit prior to a screening colonoscopy, and reduc-  
2        tions in Medicare reimbursement.

3        (b) SENSE OF CONGRESS.—It is the sense of Con-  
4        gress that—

5            (1) if legislation to provide health insurance  
6        coverage, public or private, to persons under the age  
7        of 65, is enacted, coverage of colorectal cancer  
8        screening tests and the provisions of this Act should  
9        be included as part of any basic benefit package re-  
10       required under such legislation; and

11           (2) Congress, Federal agencies, State and local  
12       governments, health care providers, and patient  
13       groups should make a concerted and sustained effort  
14       to increase the rate of colorectal cancer screening  
15       tests.

16       **SEC. 3. COMMUNITY AND PATIENT INTERVENTIONS.**

17        (a) GRANT PROGRAM TO INCREASE COLORECTAL  
18        CANCER AWARENESS, SCREENING, AND TREATMENT.—

19            (1) DEFINITIONS.—In this subsection:

20            (A) COLORECTAL CANCER SCREENING  
21        TESTS.—The term “colorectal cancer screening  
22        test” has the meaning given such term in sec-  
23        tion 1861(pp)(1) of the Social Security Act (42  
24        U.S.C. 1395x(pp)(1)).

1 (B) INDIAN TRIBE.—The term “Indian  
2 tribe” has the meaning given such term in sec-  
3 tion 4 of the Indian Self-Determination and  
4 Education Assistance Act (25 U.S.C. 450b).

5 (C) SECRETARY.—The term “Secretary”  
6 means the Secretary of Health and Human  
7 Services, acting through the Director of the  
8 Centers for Disease Control and Prevention.

9 (D) STATE.—The term “State” means—  
10 (i) a State; and  
11 (ii) the District of Columbia.

12 (2) GRANTS AUTHORIZED.—The Secretary is  
13 authorized to make grants to States and Indian  
14 tribes for colorectal health programs. Such a pro-  
15 gram may include the following:

16 (A) The provision of colorectal cancer  
17 screening tests, including colonoscopy, to indi-  
18 viduals who are over 50 years of age or who are  
19 determined to be at high risk for such cancer.

20 (B) The provision of case management and  
21 referrals for medical treatment for individuals  
22 who are provided colorectal cancer screening  
23 tests under the program.

24 (C) Programs to ensure that individuals  
25 who are provided colorectal cancer screening

1 tests under the program receive the full con-  
2 tinuum of follow-up and cancer care, as appro-  
3 priate.

4 (D) Activities to improve the education,  
5 training, and skills of health professionals in  
6 the detection and treatment of colorectal can-  
7 cer.

8 (E) The development and dissemination of  
9 public information and education programs—

10 (i) for the detection and treatment of  
11 colorectal cancer; and

12 (ii) promoting the benefits of receiving  
13 colorectal cancer screening tests through  
14 the program.

15 (3) PRIORITY.—In making grants under para-  
16 graph (2), the Secretary shall give priority to States  
17 and Indian tribes that will use grant funds to pro-  
18 vide colorectal cancer screening tests to low-income  
19 individuals who lack adequate health insurance cov-  
20 erage with respect to such screening.

21 (4) EXISTING FUNDING AUTHORITY.—The Sec-  
22 retary shall make a grant under this section under  
23 an existing funding authority.

24 (b) BENEFICIARY REMINDERS FOR INCREASING  
25 COLORECTAL CANCER SCREENING TESTS.—

1 (1) DEFINITIONS.—In this subsection:

2 (A) COLORECTAL CANCER SCREENING  
3 TESTS.—The term “colorectal cancer screening  
4 test” has the meaning given such term in sec-  
5 tion 1861(pp)(1) of the Social Security Act (42  
6 U.S.C. 1395x(pp)(1)).

7 (B) MEDICARE BENEFICIARY.—The term  
8 “Medicare beneficiary” means an individual en-  
9 titled to, or enrolled for, benefits under part A  
10 of title XVIII of the Social Security Act and en-  
11 rolled for benefits under part B of such title.

12 (C) SECRETARY.—The term “Secretary”  
13 means the Secretary of Health and Human  
14 Services.

15 (2) ANNUAL NOTIFICATION UNDER THE MEDI-  
16 CARE PROGRAM.—The Secretary shall establish a  
17 program under which all Medicare beneficiaries are  
18 notified annually about the coverage of colorectal  
19 cancer screening tests under the Medicare program  
20 under title XVIII of the Social Security Act. Under  
21 the program, such notification—

22 (A) may be provided through direct mail or  
23 direct electronic communications; and

24 (B) may accompany other information cur-  
25 rently provided to such beneficiaries, including

1 marketing materials or information provided to  
2 enrollees by Medicare Advantage organizations  
3 under section 1852(c)(1) of the Social Security  
4 Act (42 U.S.C. 1395w-22) and information  
5 provided by PDP sponsors under section  
6 1860D-4(a)(1) of such Act (42 U.S.C. 1395w-  
7 104(a)(1)).

8 (3) STATE PLAN AMENDMENT UNDER MED-  
9 ICAID.—

10 (A) IN GENERAL.—Section 1902(a) of the  
11 Social Security Act (42 U.S.C. 1396a(a)), as  
12 amended by section 5006(e)(2)(A) of division B  
13 of the American Recovery and Reinvestment  
14 Act of 2009 (Public Law 111-5), is amended—

15 (i) in paragraph (72), by striking  
16 “and” at the end;

17 (ii) in paragraph (73)(B), by striking  
18 the period at the end and inserting “;  
19 and”; and

20 (iii) by inserting after paragraph (73),  
21 the following new paragraph:

22 “(74) if the State has elected to provide medical  
23 assistance described in section 1905(a)(13) and such  
24 assistance includes colorectal cancer screening tests,  
25 provide for the establishment of a program under

1 which individuals at risk for colon cancer, including  
2 minorities who are identified as at high-risk for  
3 colon cancer, who are over an age that the Secretary  
4 determines appropriate (based on the recommenda-  
5 tions of appropriate entities, including the United  
6 States Preventive Services Task Force and appro-  
7 priate medical specialty societies) are provided a no-  
8 tification of the availability of medical assistance for  
9 colorectal cancer screening tests and a reminder re-  
10 garding the benefits of such tests.”.

11 (B) EFFECTIVE DATE.—

12 (i) IN GENERAL.—Except as provided  
13 in clause (ii), the amendments made by  
14 this paragraph take effect on January 1,  
15 2011.

16 (ii) EXTENSION OF EFFECTIVE DATE  
17 FOR STATE LAW AMENDMENT.—In the  
18 case of a State plan under title XIX of the  
19 Social Security Act (42 U.S.C. 1396 et  
20 seq.) which the Secretary of Health and  
21 Human Services determines requires State  
22 legislation in order for the plan to meet the  
23 additional requirements imposed by the  
24 amendments made by this paragraph, the  
25 State plan shall not be regarded as failing



1 to comply with the requirements of such  
2 title solely on the basis of its failure to  
3 meet these additional requirements before  
4 the first day of the first calendar quarter  
5 beginning after the close of the first reg-  
6 ular session of the State legislature that  
7 begins after the date of enactment of this  
8 Act. For purposes of the previous sentence,  
9 in the case of a State that has a 2-year  
10 legislative session, each year of the session  
11 is considered to be a separate regular ses-  
12 sion of the State legislature.

13 **SEC. 4. ELIMINATION OF COINSURANCE FOR COLORECTAL**  
14 **CANCER SCREENING TESTS.**

15 (a) IN GENERAL.—Section 1833(a)(1) of the Social  
16 Security Act (42 U.S.C. 1395l(a)(1)) is amended—

17 (1) by striking “and” before “(W)”;

18 (2) by inserting before the semicolon at the end  
19 the following: “, and (X) with respect to colorectal  
20 cancer screening tests (as defined in subsection  
21 (pp)), the amount paid shall be 100 percent of the  
22 lesser of the actual charge for the services or the  
23 amount determined under the fee schedule that ap-  
24 plies to such tests under this part”.

25 (b) CONFORMING AMENDMENTS.—

1           (1)   SCREENING   SIGMOIDOSCOPIES   AND  
2 COLONOSCOPIES.—Section 1834(d) of the Social Se-  
3 curity Act (42 U.S.C. 1395m(d)) is amended—

4           (A) in paragraph (2)—

5           (i) in subparagraph (A), by inserting  
6 “, except that payment for such tests  
7 under such section shall be 100 percent of  
8 the payment determined under such sec-  
9 tion for such tests” before the period at  
10 the end; and

11          (ii) in subparagraph (C)—

12           (I) by striking clause (ii); and

13           (II) in clause (i)—

14           (aa) by striking “(i) IN GEN-  
15 ERAL.—Notwithstanding” and  
16 inserting “Notwithstanding”;

17           (bb) by redesignating sub-  
18 clauses (I) and (II) as clauses (i)  
19 and (ii), respectively, and moving  
20 such clauses and the flush matter  
21 following such clauses 2 ems to  
22 the left; and

23           (cc) in the flush matter fol-  
24 lowing clause (ii), as so redesign-

1 nated, by inserting “100 percent  
2 of” after “based on”; and

3 (B) in paragraph (3)—

4 (i) in subparagraph (A), by inserting  
5 “, except that payment for such tests  
6 under such section shall be 100 percent of  
7 the payment determined under such sec-  
8 tion for such tests” before the period at  
9 the end; and

10 (ii) in subparagraph (C)—

11 (I) by striking clause (ii); and

12 (II) in clause (i)—

13 (aa) by striking “(i) IN GEN-  
14 ERAL.—Notwithstanding” and  
15 inserting “Notwithstanding”; and

16 (bb) by inserting “100 per-  
17 cent of” after “based on”.

18 (2) OUTPATIENT HOSPITAL SETTINGS.—Section  
19 1833(t) of the Social Security Act (42 U.S.C.  
20 1395l(t)) is amended—

21 (A) in paragraph (4)(C), by striking  
22 “paragraph (8)(C)” and inserting “subpara-  
23 graphs (C) and (F) of paragraph (8)”; and

24 (B) in paragraph (8), by adding at the end  
25 the following new subparagraph:

1           “(F) NO COPAYMENT FOR COLORECTAL  
2           CANCER SCREENING TESTS.—The copayment  
3           amount that would otherwise apply under this  
4           subsection to colorectal cancer screening tests  
5           (as defined in section 1861(pp)) shall be re-  
6           duced to zero.”.

7           (c) EFFECTIVE DATE.—The amendments made by  
8           this section shall apply to items and services furnished on  
9           or after January 1, 2010.

10 **SEC. 5. MEDICARE ADVANTAGE REPORTING REQUIRE-**  
11 **MENTS.**

12           (a) IN GENERAL.—Section 1857(e) of the Social Se-  
13           curity Act (42 U.S.C. 1395w-27(e)) is amended by adding  
14           at the end the following new paragraph:

15           “(4) ANNUAL REPORTING REGARDING  
16           COLORECTAL CANCER SCREENING TESTS.—

17           “(A) IN GENERAL.—Not later than 6  
18           months after the date of enactment of this  
19           paragraph and annually thereafter, a contract  
20           under this section with an MA organization  
21           shall require the organization to submit to the  
22           Secretary an annual report on the following:

23           “(i) The coverage of colorectal cancer  
24           screening tests (as defined in section  
25           1861(pp)) under each MA plan offered by

1 the organization, including the level of any  
2 coinsurance or copayments applicable for  
3 enrollees under the plan.

4 “(ii) Any educational outreach the or-  
5 ganization provides to enrollees, providers  
6 of services, and suppliers with respect to  
7 such tests.

8 “(iii) Any pay-for-performance incen-  
9 tives under MA plans offered by the orga-  
10 nization for providers of services and sup-  
11 pliers with respect to such tests, or any  
12 other financial-sharing program with pro-  
13 viders of services and suppliers with re-  
14 spect to such tests.

15 “(iv) The total number of enrollees  
16 furnished such tests during the preceding  
17 year, listed according to the specific test  
18 furnished, the type of facility in which the  
19 test was furnished, and the gender and  
20 race of the enrollees to whom such tests  
21 were furnished.

22 “(B) REPORT TO CONGRESS AND PUBLIC  
23 AVAILABILITY.—

24 “(i) REPORT.—The Secretary shall  
25 submit to Congress an annual report con-

1           taining information submitted in the cor-  
2           responding annual report under subpara-  
3           graph (A).

4           “(ii) PUBLIC AVAILABILITY.—The  
5           Secretary shall make such information  
6           available to the public, including by posting  
7           such information on the Internet website of  
8           the Centers for Medicare & Medicaid Serv-  
9           ices.”.

10          (b) EFFECTIVE DATE.—The amendment made by  
11 this section shall apply to contracts entered into on or  
12 after January 1, 2011.

13 **SEC. 6. PROVIDER INTERVENTIONS.**

14          (a) IN GENERAL.—Section 1834(d) of the Social Se-  
15 curity Act (42 U.S.C. 1395m(d)) is amended by adding  
16 at the end the following new paragraph:

17                 “(4) PREVENTIVE SERVICE PAYMENT MODIFIED  
18                 FOR CERTAIN COLORECTAL CANCER SCREENING  
19                 TESTS.—

20                         “(A) NATIONAL MINIMUM STANDARDS.—  
21                         The Secretary, in consultation with the Insti-  
22                         tute of Medicine, shall establish a national min-  
23                         imum standard for basic knowledge, training,  
24                         continuing education, and documentation for  
25                         suppliers who furnish colorectal cancer screen-

1 ing tests (as defined in subsection (pp)). For  
2 purposes of this paragraph, a supplier shall be  
3 deemed to meet such national minimum stand-  
4 ards if the supplier is certified in gastro-  
5 enterology by the American Board of Internal  
6 Medicine.

7 “(B) PREVENTIVE SERVICE PAYMENT  
8 MODIFIER.—

9 “(i) DETERMINATION OF RATE  
10 GOALS.—The Secretary, in consultation  
11 with the United States Preventive Services  
12 Task Force, the Institute of Medicine  
13 Colorectal Cancer Working Group, and  
14 other clinical advisors as determined ap-  
15 propriate by the Secretary, shall determine  
16 age-based goal rates for colorectal cancer  
17 screening tests (as so defined) to be met or  
18 exceeded for beneficiaries under this part  
19 not later than July 1, 2010. Such age-  
20 based goal rates shall be consistent with  
21 the rates of screening for beneficiaries with  
22 respect to other cancer screening tests  
23 (such as screening mammography and cer-  
24 vical cancer screening).

1           “(ii) ESTABLISHMENT OF PREVEN-  
2           TIVE SERVICE MODIFIER FOR QUALIFIED  
3           COLORECTAL        CANCER        SCREENING  
4           TESTS.—

5                       “(I) IN GENERAL.—The Sec-  
6           retary shall establish an upward pre-  
7           ventive service payment modifier for  
8           qualifying colorectal cancer screening  
9           tests furnished on or after January 1,  
10          2010, which reflects the annual deter-  
11          mination by the Secretary of the ap-  
12          propriate amount of additional pay-  
13          ment (not less than 10 percent of the  
14          amount of payment otherwise pro-  
15          vided) sufficient to increase the rate  
16          of colorectal cancer screening tests  
17          furnished under this part to the goal  
18          rates determined under clause (i). The  
19          Secretary shall update such modifier  
20          on an annual basis, taking into con-  
21          sideration the rate of colorectal cancer  
22          screening tests furnished under this  
23          part during the preceding year and  
24          such goal rates.



1                   “(II) QUALIFYING COLORECTAL  
2                   CANCER SCREENING TESTS.—For  
3                   purposes of subclause (I), the term  
4                   ‘qualifying colorectal cancer screening  
5                   tests’ means a colorectal cancer  
6                   screening test furnished by a supplier  
7                   who meets the national minimum  
8                   standards established under subpara-  
9                   graph (A) (as determined by the Sec-  
10                  retary).”.

11           (b) OUTPATIENT SETTINGS.—Section 1833(t) of the  
12 Social Security Act (42 U.S.C. 1395l(t)) is amended by  
13 adding at the end the following new paragraph:

14                   “(18) IN GENERAL.—

15                   “(A) NATIONAL MINIMUM STANDARDS.—  
16                   The Secretary, in consultation with the Insti-  
17                   tute of Medicine, shall establish a national min-  
18                   imum standard for basic knowledge, training,  
19                   continuing education, and documentation for  
20                   hospitals in outpatient settings which furnish  
21                   colorectal cancer screening tests (as defined in  
22                   subsection (pp)). For purposes of this para-  
23                   graph, a hospital shall be deemed to meet such  
24                   national minimum standards if the hospital is  
25                   certified by the Joint Commission on the Ac-

1 accreditation of Healthcare Organizations, the Ac-  
2 creditation Association for Ambulatory Health  
3 Care, or other accreditation body designated by  
4 the Secretary.

5 “(B) PREVENTIVE SERVICE PAYMENT  
6 MODIFIER.—

7 “(i) DETERMINATION OF RATE  
8 GOALS.—The Secretary, in consultation  
9 with the United States Preventive Services  
10 Task Force, the Institute of Medicine  
11 Colorectal Cancer Working Group, and  
12 other clinical advisors as determined ap-  
13 propriate by the Secretary, shall determine  
14 age-based goal rates for colorectal cancer  
15 screening tests (as so defined) to be met or  
16 exceeded for beneficiaries under this part  
17 not later than July 1, 2010. Such age-  
18 based goal rates shall be consistent with  
19 the rates of screening for beneficiaries with  
20 respect to other cancer screening tests  
21 (such as screening mammography and cer-  
22 vical cancer screening).

23 “(ii) ESTABLISHMENT OF PREVEN-  
24 TIVE SERVICE MODIFIER FOR QUALIFIED

1                   COLORECTAL           CANCER           SCREENING  
2                   TESTS.—

3                   “(I) IN GENERAL.—The Sec-  
4                   retary shall establish an upward pre-  
5                   ventive service payment modifier for  
6                   qualifying colorectal cancer screening  
7                   tests furnished on or after January 1,  
8                   2010, which reflects the annual deter-  
9                   mination by the Secretary of the ap-  
10                  propriate amount of additional pay-  
11                  ment (not less than 10 percent of the  
12                  amount of payment otherwise pro-  
13                  vided) sufficient to increase the rate  
14                  of colorectal cancer screening tests  
15                  furnished under this part to the goal  
16                  rates determined under clause (i). The  
17                  Secretary shall update such modifier  
18                  on an annual basis, taking into con-  
19                  sideration the rate of colorectal cancer  
20                  screening tests furnished under this  
21                  part during the preceding year and  
22                  such goal rates.

23                  “(II) QUALIFYING COLORECTAL  
24                  CANCER SCREENING TESTS.—For  
25                  purposes of subclause (I), the term

1                   ‘qualifying colorectal cancer screening  
2                   tests’ means a colorectal cancer  
3                   screening test furnished by a hospital  
4                   in an outpatient setting which meets  
5                   the national minimum standards es-  
6                   tablished under subparagraph (A) (as  
7                   determined by the Secretary).”.

8           (c) EFFECTIVE DATE.—The amendments made by  
9 this section shall apply to items and services furnished on  
10 or after January 1, 2010.

11 **SEC. 7. COVERAGE FOR AN OFFICE VISIT OR CONSULTA-**  
12 **TION PRIOR TO A QUALIFYING SCREENING**  
13 **COLONOSCOPY.**

14           (a) COVERAGE.—Section 1861(s)(2) of the Social Se-  
15 curity Act (42 U.S.C. 1395x(s)(2)) is amended—

16                   (1) in subparagraph (DD), by striking “and” at  
17 the end;

18                   (2) in subparagraph (EE), by inserting “and”  
19 at the end; and

20                   (3) by adding at the end the following new sub-  
21 paragraph:

22                   “(FF) an outpatient office visit or consultation  
23 for the purpose of beneficiary education, assuring se-  
24 lection of the proper screening test, and securing in-  
25 formation relating to the procedure and sedation of

1 the beneficiary, prior to a colorectal cancer screening  
2 test consisting of a screening colonoscopy or in con-  
3 junction with the beneficiary’s decision to obtain  
4 such a screening, regardless of whether such screen-  
5 ing is medically indicated with respect to the bene-  
6 ficiary;”.

7 (b) PAYMENT.—

8 (1) IN GENERAL.—Section 1833(a)(1) of the  
9 Social Security Act (42 U.S.C. 1395l(a)(1)), as  
10 amended by section 4, is amended—

11 (A) by striking “and” before “(W)”; and

12 (B) by inserting before the semicolon at  
13 the end the following: “, and (Y) with respect  
14 to an outpatient office visit or consultation  
15 under section 1861(s)(2)(BB), the amounts  
16 paid shall be 80 percent of the lesser of the ac-  
17 tual charge or the amount established under  
18 section 1848”.

19 (2) PAYMENT UNDER PHYSICIAN FEE SCHED-  
20 ULE.—Section 1848(j)(3) of the Social Security Act  
21 (42 U.S.C. 1395w-4(j)(3)) is amended by inserting  
22 “(2)(FF),” after “(2)(EE),”.

23 (3) REQUIREMENT FOR ESTABLISHMENT OF  
24 PAYMENT AMOUNT UNDER PHYSICIAN FEE SCHED-  
25 ULE.—Section 1834(d) of the Social Security Act

1 (42 U.S.C. 1395m(d)), as amended by section 6, is  
2 amended by adding at the end the following new  
3 paragraph:

4 “(5) PAYMENT FOR OUTPATIENT OFFICE VISIT  
5 OR CONSULTATION PRIOR TO SCREENING  
6 COLONOSCOPY.—With respect to an outpatient office  
7 visit or consultation under section 1861(s)(2)(BB),  
8 payment under section 1848 shall be consistent with  
9 the payment amounts for CPT codes 99203 and  
10 99243.”.

11 (c) EFFECTIVE DATE.—The amendments made by  
12 this section shall apply to items and services furnished on  
13 or after January 1, 2010.

○