

112TH CONGRESS
2D SESSION

S. 2243

To establish a program to provide incentive payments to participating Medicare beneficiaries who voluntarily establish and maintain better health.

IN THE SENATE OF THE UNITED STATES

MARCH 28, 2012

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

A BILL

To establish a program to provide incentive payments to participating Medicare beneficiaries who voluntarily establish and maintain better health.

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 “Medicare Better
5 Health Rewards Program Act of 2012”.

6 **SEC. 2. MEDICARE BETTER HEALTH REWARDS PROGRAM.**

7 (a) IN GENERAL.—Part B of title XVIII of the Social
8 Security Act (42 U.S.C. 1395j et seq.) is amended by add-
9 ing at the end the following new section:

1 “MEDICARE BETTER HEALTH REWARDS PROGRAM

2 “SEC. 1849. (a) IN GENERAL.—The Secretary shall
3 establish a Better Health Rewards Program (in this sec-
4 tion referred to as the ‘Program’) under which incentives
5 are provided to Medicare beneficiaries who voluntarily
6 agree to participate in the Program.

7 “(b) ENROLLMENT.—A health professional partici-
8 pating in the Program shall provide their patients who are
9 Medicare beneficiaries with a description of and an oppor-
10 tunity to enroll in the Program on a voluntary basis. If
11 a Medicare beneficiary elects to enroll in the Program, the
12 health professional shall inform the Secretary of the indi-
13 vidual’s enrollment through a process established by the
14 Secretary, which does not impose additional administra-
15 tive requirements on the participating health professional.

16 “(c) ESTABLISHMENT OF BETTER HEALTH TARGET
17 STANDARDS.—

18 “(1) IN GENERAL.—

19 “(A) ESTABLISHMENT.—The Secretary
20 shall establish standards for measuring better
21 health targets and points for achieving such
22 standards for participating Medicare bene-
23 ficiaries, including such standards and points
24 with respect to the following:

25 “(i) Annual wellness visit.

1 “(ii) Tobacco cessation.

2 “(iii) Body Mass Index (BMI).

3 “(iv) Diabetes screening test.

4 “(v) Cardiovascular disease screening.

5 “(vi) Cholesterol level screening.

6 “(vii) Screening tests and specified
7 vaccinations.

8 “(B) CONSULTATION.—In establishing
9 standards and points for achieving such stand-
10 ards under this subsection, the Secretary—

11 “(i) shall consult with 1 or more na-
12 tionally recognized health care quality or-
13 ganizations, as determined appropriate by
14 the Secretary; and

15 “(ii) may consult with physicians and
16 other professionals experienced with well-
17 ness programs.

18 “(C) POINTS.—The number of points
19 awarded for a year for achieving standards with
20 respect to each of the targets described in
21 clauses (i) through (vii) of subparagraph (A)
22 shall not exceed 5. Such points may be awarded
23 on a sliding scale, based on standards estab-
24 lished under this subsection, as determined ap-
25 propriate by the Secretary.

1 “(2) MODIFICATION OF BETTER HEALTH TAR-
2 GET STANDARDS AND ASSIGNED POINTS.—

3 “(A) IN GENERAL.—The Secretary may
4 modify standards for measuring better health
5 targets and, subject to paragraph (1)(C), points
6 for achieving such standards for participating
7 Medicare beneficiaries under this subsection.

8 “(B) CONSULTATION.—In modifying
9 standards and points for achieving such stand-
10 ards under this paragraph, the Secretary—

11 “(i) shall consult with 1 or more na-
12 tionally recognized health care quality or-
13 ganizations, as determined appropriate by
14 the Secretary; and

15 “(ii) may consult with physicians and
16 other professionals experienced with well-
17 ness programs.

18 “(d) CONDUCT OF PROGRAM.—

19 “(1) DURATION.—

20 “(A) IN GENERAL.—Subject to subpara-
21 graph (B), the Program shall be conducted for
22 not less than a 3-year period.

23 “(B) EXPANSION.—The Secretary shall ex-
24 pand the duration and scope of the Program, to

1 the extent determined appropriate by the Sec-
2 retary, if—

3 “(i) the Secretary determines that
4 such expansion is expected to—

5 “(I) reduce spending under this
6 title without reducing the quality of
7 care; or

8 “(II) improve the quality of care
9 and reduce spending;

10 “(ii) the Chief Actuary of the Centers
11 for Medicare & Medicaid Services certifies
12 that such expansion would reduce program
13 spending under this title; and

14 “(iii) the Secretary determines that
15 such expansion would not deny or limit the
16 coverage or provision of benefits under this
17 title for individuals.

18 “(2) COLLECTION AND USE OF BASELINE
19 DATA.—During the first year of the Program, a
20 health professional shall establish and report to the
21 Secretary baseline information for each participating
22 Medicare beneficiary who is a patient of the health
23 professional as part of that beneficiary’s first year
24 assessment under paragraph (3)(A). The health pro-
25 fessional shall use such data to aid in the determina-

1 tion of whether and to what extent the participating
2 Medicare beneficiary is meeting the target standards
3 under subsection (c) in each of years 2 and 3 of the
4 Program.

5 “(3) REQUIRED ASSESSMENTS FOR PARTICI-
6 PATING MEDICARE BENEFICIARIES.—

7 “(A) FIRST YEAR.—During year 1 of the
8 Program, a health professional shall furnish to
9 each participating Medicare beneficiary that is
10 a patient of the health professional either an
11 annual wellness visit or an initial preventive
12 physical examination.

13 “(B) SECOND AND THIRD YEARS.—During
14 each of years 2 and 3 of the Program, a health
15 professional shall furnish to each participating
16 Medicare beneficiary that is a patient of the
17 health professional an annual wellness visit to
18 determine whether and to what extent the par-
19 ticipating Medicare beneficiary has met the tar-
20 get standards under subsection (c).

21 “(e) DETERMINATION OF POINTS AND PAYMENT OF
22 INCENTIVES.—

23 “(1) DETERMINATION OF POINTS.—During
24 each of years 2 and 3 of the Program, a health pro-
25 fessional shall—

1 “(A) evaluate and report to the Secretary
2 whether each participating Medicare beneficiary
3 that is a patient of the health professional has
4 achieved the target standards under subsection
5 (c); and

6 “(B) determine the total amount of points
7 that each such participating Medicare bene-
8 ficiary has achieved for the year based on the
9 points assigned for achieving such standards
10 under subsection (c).

11 “(2) INCENTIVE PAYMENT.—

12 “(A) IN GENERAL.—The Secretary shall
13 pay to each participating Medicare beneficiary
14 who achieves at least 20 points under para-
15 graph (1)(B) for the year an incentive payment
16 as follows:

“Points	Year 2 Payment Amount	Year 3 or a Subsequent Year Payment Amount
20–24 points	\$100	\$200
25 or more points	\$200	\$400.

17 “(B) INFLATION ADJUSTMENT.—The dol-
18 lar amounts specified in this paragraph shall be
19 increased, beginning with 2016, from year to
20 year based on the percentage increase in the
21 consumer price index for all urban consumers

1 (all items; United States city average), rounded
2 to the nearest \$1.

3 “(3) FINAL DETERMINATION OF STANDARDS
4 ACHIEVEMENT MADE BY PARTICIPATING HEALTH
5 PROFESSIONAL.—Under the Program, a partici-
6 pating health professional shall make the final deter-
7 mination as to whether or not a participating Medi-
8 care beneficiary has met the target standards under
9 subsection (c) and what screening tests and specified
10 vaccinations, or other services, are necessary for
11 purposes of making such determination.

12 “(f) SPENDING BENCHMARKS.—

13 “(1) IN GENERAL.—The Secretary shall collect
14 relevant data, including data on claims paid under
15 this title for services furnished to participating
16 Medicare beneficiaries during the Program, for pur-
17 poses of determining the aggregate estimated sav-
18 ings achieved under this title for participating Medi-
19 care beneficiaries during each of years 2 and 3 of
20 the Program in accordance with paragraph (2) (and
21 for a subsequent year if the Program is expanded
22 under subsection (d)(1)(B)).

23 “(2) DETERMINATION OF AGGREGATE ESTI-
24 MATED SAVINGS.—

1 “(A) IN GENERAL.—The amount of the
2 aggregate estimated savings under this title for
3 participating Medicare beneficiaries under para-
4 graph (1), with respect to a year, shall be equal
5 to—

6 “(i) the estimated savings determined
7 under subparagraph (B) for the year;
8 minus

9 “(ii) the aggregate incentive payments
10 made under the Program during the year.

11 “(B) DETERMINATION OF ESTIMATED SAV-
12 INGS.—For purposes of subparagraph (A)(i),
13 the estimated savings determined under this
14 subparagraph for a year shall be equal to—

15 “(i) the estimated aggregate expendi-
16 tures under this title (as projected under
17 subparagraph (C)) for the year; minus

18 “(ii) the actual aggregate expendi-
19 tures under this title (as determined by the
20 Secretary and taking into account any re-
21 duction in specific health risks of the par-
22 ticipating Medicare beneficiaries) for the
23 year.

24 “(C) PROJECTION OF ESTIMATED AGGRE-
25 GATE CLAIMS COST.—

1 “(i) BENCHMARK BASE YEAR.—The
2 Secretary shall establish a benchmark base
3 year amount of expenditures under this
4 title for participating Medicare bene-
5 ficiaries during year 1 of the Program.

6 “(ii) PROJECTION.—The Secretary
7 shall use the benchmark base year amount
8 established under clause (i) to project the
9 estimated aggregate expenditures for all
10 participating Medicare beneficiaries during
11 each of years 2 and 3 of the Program as
12 if the beneficiaries were not participating
13 in the Program. In making such projec-
14 tion, the Secretary may include adjust-
15 ments for health status or other specific
16 risk factors and geographic variation for
17 the participating Medicare beneficiaries.

18 “(D) PUBLIC REPORT OF DETERMINATION
19 AND OTHER PROGRAM INFORMATION.—Not
20 later than 90 days after determining the aggre-
21 gate estimated savings (if any) under subpara-
22 graph (A) with respect to a year, the Secretary
23 shall make available to the public a report con-
24 taining a description of the amount of the sav-
25 ings determined, including the methodology and

1 any other calculations or determinations in-
2 volved in the determination of such amount.

3 Such report shall include—

4 “(i) a description of any reduction in
5 specific health risks of participating Medi-
6 care beneficiaries identified by the Sec-
7 retary;

8 “(ii) a description of—

9 “(I) standards for measuring bet-
10 ter health targets under subsection
11 (c); and

12 “(II) the points available for
13 achieving each such standard under
14 that subsection; and

15 “(iii) recommendations for such legis-
16 lation and administrative action as the
17 Secretary determines appropriate

18 “(3) ADDITIONAL FUNDING IF AGGREGATE IN-
19 CENTIVE PAYMENTS EXCEED ESTIMATED SAV-
20 INGS.—If, for a year during the Program, the aggre-
21 gate incentive payments made during the year ex-
22 ceed the estimated savings determined under para-
23 graph (2)(B) for the year, the Secretary shall pro-
24 vide for the transfer, from the Prevention and Public
25 Health Fund established under section 4002 of the

1 Patient Protection and Affordable Care Act, of an
2 amount equal to the amount of such excess, to the
3 Federal Supplementary Medical Insurance Trust
4 Fund under section 1841.

5 “(g) WAIVER AUTHORITY.—The Secretary may
6 waive such requirements of titles XI and XVIII as may
7 be necessary to carry out the purposes of the Program
8 established under this section.

9 “(h) DEFINITIONS.—In this section:

10 “(1) ANNUAL WELLNESS VISIT.—The term ‘an-
11 nual wellness visit’ includes personalized prevention
12 plan services (as defined in section 1861(hhh)(1)).

13 “(2) HEALTH PROFESSIONAL.—The term
14 ‘health professional’ includes a physician (as defined
15 in section 1861(r)(1)) and a practitioner described
16 in clause (i) of section 1842(b)(18)(C).

17 “(3) INITIAL PREVENTIVE PHYSICAL EXAMINA-
18 TION.—The term ‘initial preventive physical exam-
19 ination’ has the meaning given that term in section
20 1861(ww)(1).

21 “(4) MEDICARE BENEFICIARY.—The term
22 ‘Medicare beneficiary’ means an individual enrolled
23 in part B.

24 “(5) PARTICIPATING MEDICARE BENE-
25 FICIARY.—The term ‘participating Medicare bene-

1 ficiary’ means a Medicare beneficiary who enrolls in
2 the Program under subsection (b).

3 “(6) SCREENING TESTS.—The term ‘screening
4 tests’ means any of the following that are deter-
5 mined by a health professional to be appropriate for
6 a participating Medicare beneficiary:

7 “(A) Colorectal cancer screening tests (as
8 defined in section 1861(pp)).

9 “(B) Screening mammography (as de-
10 scribed in section 1861(jj)).

11 “(C) Screening pap smear and screening
12 pelvic exam (as defined in section 1861(nn)).

13 “(D) Screening for glaucoma (as defined
14 in section 1861(uu)).

15 “(E) Bone mass measurement (as defined
16 in section 1861(rr)) for qualified individuals de-
17 scribed in paragraph (2)(A) of such section.

18 “(F) HIV screening for high-risk groups
19 (as identified by the Secretary).

20 “(7) SPECIFIED VACCINATIONS.—The term
21 ‘specified vaccinations’ means the vaccinations de-
22 scribed in section 1861(ww)(1) that are determined
23 by a health professional to be appropriate for a par-
24 ticipating Medicare beneficiary.”.

1 (b) CONFORMING AMENDMENT.—Section 4002(c) of
2 the Patient Protection and Affordable Care Act (Public
3 Law 111–148) is amended by inserting “and shall transfer
4 amounts in the Fund to the Federal Supplementary Med-
5 ical Insurance Trust Fund under section 1841 of the So-
6 cial Security Act in accordance with section 1849(f)(3) of
7 such Act” before the period at the end.

8 **SEC. 3. PARTICIPATION BY MEDICARE ADVANTAGE PLANS.**

9 Section 1859 of the Social Security Act (42 U.S.C.
10 1395w–28) is amended by adding at the end the following
11 new subsection:

12 “(h) PROVIDING INCENTIVES FOR VOLUNTARY PAR-
13 TICIPATION IN A BETTER HEALTH REWARDS PRO-
14 GRAM.—

15 “(1) IN GENERAL.—Effective for plan years be-
16 ginning on or after the date of enactment of the
17 Medicare Better Health Rewards Program Act of
18 2012, a Medicare Advantage organization may pro-
19 vide to individuals enrolled in an MA plan offered by
20 the organization incentive payments, including cash,
21 cash-equivalent, or other types of incentives, for vol-
22 untary participation in a Better Health Rewards
23 Program (in this subsection referred to as the ‘Pro-
24 gram’) that rewards individuals for meeting certain
25 health targets established by the Secretary.

1 “(2) LIMITATION.—In no case shall the month-
2 ly bid amount submitted by a Medicare Advantage
3 organization under section 1834(a)(6) (or the
4 monthly premium charged by the organization under
5 section 1854(b)) with respect to an MA plan offered
6 by the organization take into account any incentive
7 payments made to enrollees under the Program.

8 “(3) IMPLEMENTATION.—The Program under
9 this subsection shall be conducted in a similar man-
10 ner to the manner in which the program under sec-
11 tion 1849 is conducted, in accordance with stand-
12 ards established by the Secretary.

13 “(4) NOTIFICATION AND PROVISION OF INFOR-
14 MATION.—A Medicare Advantage organization seek-
15 ing to participate in the Program shall—

16 “(A) notify the Secretary of the organiza-
17 tion’s intent to participate in the Program; and

18 “(B) agree to provide to the Secretary—

19 “(i) information regarding—

20 “(I) which enrollees participate
21 in the Program;

22 “(II) the scores of those enrollees
23 with respect to applicable health tar-
24 gets under the Program; and

1 “(III) the incentives enrollees re-
 2 ceive for meeting such health targets;
 3 and

4 “(ii) any other information specified
 5 by the Secretary for purposes of this sub-
 6 section.

7 “(5) WAIVER AUTHORITY.—The Secretary may
 8 waive such requirements of titles XI and XVIII as
 9 may be necessary to carry out the purposes of the
 10 Program established under this subsection.”.

11 **SEC. 4. PARTICIPATION OF SECTION 1876 COST PLANS.**

12 Section 1876 of the Social Security Act (42 U.S.C.
 13 1395mm) is amended by inserting at the end the fol-
 14 lowing:

15 “(1) PROVIDING INCENTIVES FOR VOLUNTARY PAR-
 16 TICIPATION IN A BETTER HEALTH REWARDS PRO-
 17 GRAM.—

18 “(1) IN GENERAL.—Effective for contract peri-
 19 ods beginning on or after the date of enactment of
 20 the Medicare Better Health Rewards Program Act
 21 of 2012, an eligible organization may provide to
 22 members enrolled under this section with the organi-
 23 zation incentive payments, including cash, cash-
 24 equivalent, or other types of incentives, for voluntary
 25 participation in a Better Health Rewards Program

1 (in this subsection referred to as the ‘Program’) that
2 rewards members for meeting certain health targets
3 established by the Secretary.

4 “(2) LIMITATION.—In no case shall the pay-
5 ment to an eligible organization under this section
6 (or the premium rate charged by the organization
7 under this section) with respect to members enrolled
8 with the organization take into account any incentive
9 payments made to members under the Program.

10 “(3) IMPLEMENTATION.—The Program under
11 this subsection shall be conducted in a similar man-
12 ner to the manner in which the program under sec-
13 tion 1849 is conducted, in accordance with stand-
14 ards established by the Secretary.

15 “(4) NOTIFICATION AND PROVISION OF INFOR-
16 MATION.—An eligible organization seeking to partici-
17 pate in the Program shall—

18 “(A) notify the Secretary of the organiza-
19 tion’s intent to participate in the Program; and

20 “(B) agree to provide to the Secretary—

21 “(i) information regarding—

22 “(I) which members participate
23 in the Program;

1 “(II) the scores of those members
2 with respect to applicable health tar-
3 gets under the Program; and

4 “(III) the incentives members re-
5 ceive for meeting such health targets;
6 and

7 “(ii) any other information specified
8 by the Secretary for purposes of this sub-
9 section.

10 “(5) WAIVER AUTHORITY.—The Secretary may
11 waive such requirements of titles XI and XVIII as
12 may be necessary to carry out the purposes of the
13 Program established under this subsection.”.

14 **SEC. 5. PARTICIPATION OF PROGRAMS OF ALL-INCLUSIVE**
15 **CARE FOR THE ELDERLY (PACE).**

16 (a) MEDICARE.—Section 1894 of the Social Security
17 Act (42 U.S.C. 1395eee) is amended by inserting at the
18 end the following:

19 “(j) PROVIDING INCENTIVES FOR VOLUNTARY PAR-
20 TICIPATION IN A BETTER HEALTH REWARDS PRO-
21 GRAM.—

22 “(1) IN GENERAL.—Effective for PACE pro-
23 gram agreements entered into on or after the date
24 of enactment of the Medicare Better Health Re-
25 wards Program Act of 2012, a PACE provider may

1 provide to PACE program eligible individuals en-
2 rolled under this section with the PACE provider in-
3 centive payments, including cash, cash-equivalent, or
4 other types of incentives, for voluntary participation
5 in a Better Health Rewards Program (in this sub-
6 section referred to as the ‘Program’) that rewards
7 enrollees for meeting certain health targets estab-
8 lished by the Secretary.

9 “(2) LIMITATION.—In no case shall the pay-
10 ment to a PACE provider under this section (or any
11 premium charged by the provider under this section)
12 with respect to PACE program eligible individuals
13 enrolled with the PACE provider take into account
14 any incentive payments made to individuals under
15 the Program.

16 “(3) IMPLEMENTATION.—The Program under
17 this subsection shall be conducted in a similar man-
18 ner to the manner in which the program under sec-
19 tion 1849 is conducted, in accordance with stand-
20 ards established by the Secretary.

21 “(4) NOTIFICATION AND PROVISION OF INFOR-
22 MATION.—A PACE provider seeking to participate
23 in the Program shall—

1 “(A) notify the Secretary of the PACE
2 provider’s intent to participate in the Program;
3 and

4 “(B) agree to provide to the Secretary—

5 “(i) information regarding—

6 “(I) which PACE program eligi-
7 ble individuals enrolled with the
8 PACE provider participate in the Pro-
9 gram;

10 “(II) the scores of those individ-
11 uals with respect to applicable health
12 targets under the Program; and

13 “(III) the incentives individuals
14 receive for meeting such health tar-
15 gets; and

16 “(ii) any other information specified
17 by the Secretary for purposes of this sub-
18 section.

19 “(5) WAIVER AUTHORITY.—The Secretary may
20 waive such requirements of titles XI, XVIII, and
21 XIX as may be necessary to carry out the purposes
22 of the Program established under this subsection.”.

23 (b) MEDICAID.—Section 1934 of the Social Security
24 Act (42 U.S.C. 1396u–4) is amended by adding at the
25 end the following new subsection:

1 “(k) PROVIDING INCENTIVES FOR VOLUNTARY PAR-
2 PARTICIPATION IN A BETTER HEALTH REWARDS PRO-
3 GRAM.—

4 “(1) IN GENERAL.—Effective for PACE pro-
5 gram agreements entered into on or after the date
6 of enactment of the Medicare Better Health Re-
7 wards Program Act of 2012, a PACE provider may
8 provide to PACE program eligible individuals en-
9 rolled under this section with the PACE provider in-
10 centive payments, including cash, cash-equivalent, or
11 other types of incentives, for voluntary participation
12 in a Better Health Rewards Program (in this sub-
13 section referred to as the ‘Program’) that rewards
14 enrollees for meeting certain health targets estab-
15 lished by the Secretary.

16 “(2) LIMITATION.—In no case shall the pay-
17 ment to a PACE provider under this section (or any
18 premium charged by the provider under this section)
19 with respect to PACE program eligible individuals
20 enrolled with the PACE provider take into account
21 any incentive payments made to individuals under
22 the Program.

23 “(3) IMPLEMENTATION.—The Program under
24 this subsection shall be conducted in a similar man-
25 ner to the manner in which the program under sec-

1 tion 1849 is conducted, in accordance with stand-
2 ards established by the Secretary.

3 “(4) NOTIFICATION AND PROVISION OF INFOR-
4 MATION.—A PACE provider seeking to participate
5 in the Program shall—

6 “(A) notify the Secretary of the PACE
7 provider’s intent to participate in the Program;
8 and

9 “(B) agree to provide to the Secretary—

10 “(i) information regarding—

11 “(I) which PACE program eligi-
12 ble individuals enrolled with the
13 PACE provider participate in the Pro-
14 gram;

15 “(II) the scores of those individ-
16 uals with respect to applicable health
17 targets under the Program; and

18 “(III) the incentives individuals
19 receive for meeting such health tar-
20 gets; and

21 “(ii) any other information specified
22 by the Secretary for purposes of this sub-
23 section.

24 “(5) WAIVER AUTHORITY.—The Secretary may
25 waive such requirements of titles XI, XVIII, and

1 XIX as may be necessary to carry out the purposes
2 of the Program established under this subsection.”.

3 **SEC. 6. EXCLUSION OF INCENTIVE PAYMENTS.**

4 (a) IN GENERAL.—Part III of subchapter B of chap-
5 ter 1 of the Internal Revenue Code of 1986 is amended
6 by inserting after section 139D the following new section:

7 **“SEC. 139E. MEDICARE BETTER HEALTH REWARDS PAY-**
8 **MENTS.**

9 “Gross income shall not include any payment made
10 under the following programs:

11 “(1) The Medicare Better Health Rewards Pro-
12 gram established under section 1849 of the Social
13 Security Act.

14 “(2) A Better Health Rewards Program estab-
15 lished pursuant to section 1859(h), 1876(l), 1894(j),
16 or 1934(k) of the Social Security Act.”.

17 (b) CLERICAL AMENDMENT.—The table of sections
18 for part III of subchapter B of chapter 1 of such Code
19 is amended by inserting after the item relating to section
20 139D the following new item:

“Sec. 139E. Medicare Better Health Rewards payments.”.

○