

AFFORDABLE CARE ACT

AUTHORIZING LEGISLATION

SEC. 10323. MEDICARE COVERAGE FOR INDIVIDUALS EXPOSED TO ENVIRONMENTAL HEALTH HAZARDS.

(a) In General- Title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) is amended by inserting after section 1881 the following new section:

` SEC. 1881A. MEDICARE COVERAGE FOR INDIVIDUALS EXPOSED TO ENVIRONMENTAL HEALTH HAZARDS.

`(a) Deeming of Individuals as Eligible for Medicare Benefits-

`(1) IN GENERAL- For purposes of eligibility for benefits under this title, an individual determined under subsection (c) to be an environmental exposure affected individual described in subsection (e)(2) shall be deemed to meet the conditions specified in section 226(a).

`(2) DISCRETIONARY DEEMING- For purposes of eligibility for benefits under this title, the Secretary may deem an individual determined under subsection (c) to be an environmental exposure affected individual described in subsection (e)(3) to meet the conditions specified in section 226(a).

`(3) EFFECTIVE DATE OF COVERAGE- An Individual who is deemed eligible for benefits under this title under paragraph (1) or (2) shall be-

`(A) entitled to benefits under the program under Part A as of the date of such deeming; and

`(B) eligible to enroll in the program under Part B beginning with the month in which such deeming occurs.

`(b) Pilot Program for Care of Certain Individuals Residing in Emergency Declaration Areas-

`(1) PROGRAM; PURPOSE-

`(A) PRIMARY PILOT PROGRAM- The Secretary shall establish a pilot program in accordance with this subsection to provide innovative approaches to furnishing comprehensive, coordinated, and cost-effective care under this title to individuals described in paragraph (2)(A).

`(B) OPTIONAL PILOT PROGRAMS- The Secretary may establish a separate pilot program, in accordance with this subsection, with respect to each geographic area subject to an emergency declaration (other than the declaration of June 17, 2009), in order to furnish such comprehensive, coordinated and cost-effective care to individuals described in subparagraph (2)(B) who reside in each such area.

`(2) INDIVIDUAL DESCRIBED- For purposes of paragraph (1), an individual described in this paragraph is an individual who enrolls in part B, submits to the Secretary an application to participate in the applicable pilot program under this subsection, and--

`(A) is an environmental exposure affected individual described in subsection (e)(2) who resides in or around the geographic area subject to an emergency declaration made as of June 17, 2009; or

`(B) is an environmental exposure affected individual described in subsection (e)(3) who--

`(i) is deemed under subsection (a)(2); and

`(ii) meets such other criteria or conditions for participation in a pilot program under paragraph (1)(B) as the Secretary specifies.

`(3) FLEXIBLE BENEFITS AND SERVICES- A pilot program under this subsection may provide for the furnishing of benefits, items, or services not otherwise covered or authorized under this title, if the Secretary determines that furnishing such benefits, items, or services will further the purposes of such pilot program (as described in paragraph (1)).

`(4) INNOVATIVE REIMBURSEMENT METHODOLOGIES- For purposes of the pilot program under this subsection, the Secretary--

`(A) shall develop and implement appropriate methodologies to reimburse providers for furnishing benefits, items, or services for which payment is not otherwise covered or authorized under this title, if such benefits, items, or services are furnished pursuant to paragraph (3); and

`(B) may develop and implement innovative approaches to reimbursing providers for any benefits, items, or services furnished under this subsection.

`(5) LIMITATION- Consistent with section 1862(b), no payment shall be made under the pilot program under this subsection with respect to benefits, items, or services furnished to an environmental exposure affected individual (as defined in subsection (e)) to the extent that such individual is eligible to receive such benefits, items, or services through any other public or private benefits plan or legal agreement.

` (6) WAIVER AUTHORITY- The Secretary may waive such provisions of this title and title XI as are necessary to carry out pilot programs under this subsection.

` (7) FUNDING- For purposes of carrying out pilot programs under this subsection, the Secretary shall provide for the transfer, from the Federal Hospital Insurance Trust Fund under section 1817 and the Federal Supplementary Medical Insurance Trust Fund under section 1841, in such proportion as the Secretary determines appropriate, of such sums as the Secretary determines necessary, to the Centers for Medicare & Medicaid Services Program Management Account.

` (8) WAIVER OF BUDGET NEUTRALITY- The Secretary shall not require that pilot programs under this subsection be budget neutral with respect to expenditures under this title.

` (c) Determinations-

` (1) BY THE COMMISSIONER OF SOCIAL SECURITY- For purposes of this section, the Commissioner of Social Security, in consultation with the Secretary, and using the cost allocation method prescribed in section 201(g), shall determine whether individuals are environmental exposure affected individuals.

` (2) BY THE SECRETARY- The Secretary shall determine eligibility for pilot programs under subsection (b).

` (d) Emergency Declaration Defined- For purposes of this section, the term 'emergency declaration' means a declaration of a public health emergency under section 104(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980.

` (e) Environmental Exposure Affected Individual Defined-

` (1) IN GENERAL- For purposes of this section, the term 'environmental exposure affected individual' means--

` (A) an individual described in paragraph (2); and

` (B) an individual described in paragraph (3).

` (2) INDIVIDUAL DESCRIBED-

` (A) IN GENERAL- An individual described in this paragraph is any individual who--

` (i) is diagnosed with 1 or more conditions described in subparagraph (B);

` (ii) as demonstrated in such manner as the Secretary determines appropriate, has been present for an aggregate total of 6 months in the geographic area subject to an emergency declaration specified in subsection (b)(2)(A), during a period ending--

`(I) not less than 10 years prior to such diagnosis;
and

`(II) prior to the implementation of all the remedial
and removal actions specified in the Record of
Decision for Operating Unit 4 and the Record of
Decision for Operating Unit 7;

`(iii) files an application for benefits under this title (or
has an application filed on behalf of the individual),
including pursuant to this section; and

`(iv) is determined under this section to meet the criteria
in this subparagraph.

`(B) CONDITIONS DESCRIBED- For purposes of subparagraph
(A), the following conditions are described in this subparagraph:

`(i) Asbestosis, pleural thickening, or pleural plaques as
established by--

`(I) interpretation by a `B Reader' qualified
physician of a plain chest x-ray or interpretation of
a computed tomographic radiograph of the chest
by a qualified physician, as determined by the
Secretary; or

`(II) such other diagnostic standards as the
Secretary specifies,

except that this clause shall not apply to pleural
thickening or pleural plaques unless there are symptoms
or conditions requiring medical treatment as a result of
these diagnoses.

`(ii) Mesothelioma, or malignancies of the lung, colon,
rectum, larynx, stomach, esophagus, pharynx, or ovary,
as established by--

`(I) pathologic examination of biopsy tissue;

`(II) cytology from bronchioalveolar lavage; or

`(III) such other diagnostic standards as the
Secretary specifies.

`(iii) Any other diagnosis which the Secretary, in
consultation with the Commissioner of Social Security,
determines is an asbestos-related medical condition, as
established by such diagnostic standards as the Secretary
specifies.

`(3) OTHER INDIVIDUAL DESCRIBED- An individual described in this
paragraph is any individual who--

` (A) is not an individual described in paragraph (2);

` (B) is diagnosed with a medical condition caused by the exposure of the individual to a public health hazard to which an emergency declaration applies, based on such medical conditions, diagnostic standards, and other criteria as the Secretary specifies;

` (C) as demonstrated in such manner as the Secretary determines appropriate, has been present for an aggregate total of 6 months in the geographic area subject to the emergency declaration involved, during a period determined appropriate by the Secretary;

` (D) files an application for benefits under this title (or has an application filed on behalf of the individual), including pursuant to this section; and

` (E) is determined under this section to meet the criteria in this paragraph.'

(b) Program for Early Detection of Certain Medical Conditions Related to Environmental Health Hazards- Title XX of the Social Security Act (42 U.S.C. 1397 et seq.), as amended by section 5507, is amended by adding at the end the following:

` SEC. 2009. PROGRAM FOR EARLY DETECTION OF CERTAIN MEDICAL CONDITIONS RELATED TO ENVIRONMENTAL HEALTH HAZARDS.

` (a) Program Establishment- The Secretary shall establish a program in accordance with this section to make competitive grants to eligible entities specified in subsection (b) for the purpose of--

` (1) screening at-risk individuals (as defined in subsection (c)(1)) for environmental health conditions (as defined in subsection (c)(3)); and

` (2) developing and disseminating public information and education concerning--

` (A) the availability of screening under the program under this section;

` (B) the detection, prevention, and treatment of environmental health conditions; and

` (C) the availability of Medicare benefits for certain individuals diagnosed with environmental health conditions under section 1881A.

` (b) Eligible Entities-

` (1) IN GENERAL- For purposes of this section, an eligible entity is an entity described in paragraph (2) which submits an application to the Secretary in such form and manner, and containing such information and assurances, as the Secretary determines appropriate.

` (2) TYPES OF ELIGIBLE ENTITIES- The entities described in this paragraph are the following:

` (A) A hospital or community health center.

` (B) A Federally qualified health center.

` (C) A facility of the Indian Health Service.

` (D) A National Cancer Institute-designated cancer center.

` (E) An agency of any State or local government.

` (F) A nonprofit organization.

` (G) Any other entity the Secretary determines appropriate.

` (c) Definitions- In this section:

` (1) AT-RISK INDIVIDUAL- The term `at-risk individual' means an individual who--

` (A)(i) as demonstrated in such manner as the Secretary determines appropriate, has been present for an aggregate total of 6 months in the geographic area subject to an emergency declaration specified under paragraph (2), during a period ending--

` (I) not less than 10 years prior to the date of such individual's application under subparagraph (B); and

` (II) prior to the implementation of all the remedial and removal actions specified in the Record of Decision for Operating Unit 4 and the Record of Decision for Operating Unit 7; or

` (ii) meets such other criteria as the Secretary determines appropriate considering the type of environmental health condition at issue; and

` (B) has submitted an application (or has an application submitted on the individual's behalf), to an eligible entity receiving a grant under this section, for screening under the program under this section.

` (2) EMERGENCY DECLARATION- The term `emergency declaration' means a declaration of a public health emergency under section 104(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980.

`(3) ENVIRONMENTAL HEALTH CONDITION- The term `environmental health condition' means--

`(A) asbestosis, pleural thickening, or pleural plaques, as established by--

`(i) interpretation by a `B Reader' qualified physician of a plain chest x-ray or interpretation of a computed tomographic radiograph of the chest by a qualified physician, as determined by the Secretary; or

`(ii) such other diagnostic standards as the Secretary specifies;

`(B) mesothelioma, or malignancies of the lung, colon, rectum, larynx, stomach, esophagus, pharynx, or ovary, as established by--

`(i) pathologic examination of biopsy tissue;

`(ii) cytology from bronchioalveolar lavage; or

`(iii) such other diagnostic standards as the Secretary specifies; and

`(C) any other medical condition which the Secretary determines is caused by exposure to a hazardous substance or pollutant or contaminant at a Superfund site to which an emergency declaration applies, based on such criteria and as established by such diagnostic standards as the Secretary specifies.

`(4) HAZARDOUS SUBSTANCE; POLLUTANT; CONTAMINANT- The terms `hazardous substance', `pollutant', and `contaminant' have the meanings given those terms in section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601).

`(5) SUPERFUND SITE- The term `Superfund site' means a site included on the National Priorities List developed by the President in accordance with section 105(a)(8)(B) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9605(a)(8)(B)).

`(d) Health Coverage Unaffected- Nothing in this section shall be construed to affect any coverage obligation of a governmental or private health plan or program relating to an at-risk individual.

`(e) Funding-

`(1) IN GENERAL- Out of any funds in the Treasury not otherwise appropriated, there are appropriated to the Secretary, to carry out the program under this section--

` (A) \$23,000,000 for the period of fiscal years 2010 through 2014; and

` (B) \$20,000,000 for each 5-fiscal year period thereafter.

` (2) AVAILABILITY- Funds appropriated under paragraph (1) shall remain available until expended.

` (f) Nonapplication-

` (1) IN GENERAL- Except as provided in paragraph (2), the preceding sections of this title shall not apply to grants awarded under this section.

` (2) LIMITATIONS ON USE OF GRANTS- Section 2005(a) shall apply to a grant awarded under this section to the same extent and in the same manner as such section applies to payments to States under this title, except that paragraph (4) of such section shall not be construed to prohibit grantees from conducting screening for environmental health conditions as authorized under this section.'.