

119TH CONGRESS
1ST SESSION

S. _____

To amend title XI of the Social Security Act to establish a pilot program for testing the use of a predictive risk-scoring algorithm to provide oversight of payments for durable medical equipment and clinical diagnostic laboratory tests under the Medicare program.

IN THE SENATE OF THE UNITED STATES

Mr. SHEEHY introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To amend title XI of the Social Security Act to establish a pilot program for testing the use of a predictive risk-scoring algorithm to provide oversight of payments for durable medical equipment and clinical diagnostic laboratory tests under the Medicare program.

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 Transaction
5 Fraud Prevention Act”.

1 **SEC. 2. PILOT PROGRAM TESTING USE OF PREDICTIVE**
2 **RISK-SCORING ALGORITHM TO PROVIDE**
3 **OVERSIGHT OF PAYMENTS FOR DURABLE**
4 **MEDICAL EQUIPMENT AND CLINICAL DIAG-**
5 **NOSTIC LABORATORY TESTS UNDER THE**
6 **MEDICARE PROGRAM.**

7 Section 1128K of the Social Security Act (42 U.S.C.
8 1320a–7n) is amended—

9 (1) in the section heading by inserting “;
10 **PILOT PROGRAM TESTING USE OF PREDICTIVE**
11 **RISK-SCORING ALGORITHM TO PROVIDE OVER-**
12 **SIGHT OF PAYMENTS FOR DURABLE MEDICAL**
13 **EQUIPMENT AND CLINICAL DIAGNOSTIC LAB-**
14 **ORATORY TESTS UNDER THE MEDICARE PRO-**
15 **GRAM**” after “**ABUSE**”; and

16 (2) by adding at the end the following new sub-
17 section:

18 “(d) PILOT PROGRAM TESTING USE OF PREDICTIVE
19 RISK-SCORING ALGORITHM TO PROVIDE OVERSIGHT OF
20 PAYMENTS FOR DURABLE MEDICAL EQUIPMENT AND
21 CLINICAL DIAGNOSTIC LABORATORY TESTS UNDER THE
22 MEDICARE PROGRAM.—

23 “(1) IN GENERAL.—The Secretary shall estab-
24 lish a pilot program to test the use of predictive
25 risk-scoring algorithms to provide oversight of rel-
26 evant transactions (as defined in paragraph (8)(B)).

1 “(2) DURATION.—The pilot program shall be
2 conducted for a period of 2 years, beginning not
3 later than January 1, 2026.

4 “(3) SCOPE.—

5 “(A) IN GENERAL.—The Secretary shall
6 limit the implementation of the pilot program to
7 relevant transactions involving applicable items
8 or services furnished to applicable beneficiaries
9 (as defined in subparagraph (B)).

10 “(B) APPLICABLE BENEFICIARY DE-
11 FINED.—In this subsection, the term ‘applicable
12 beneficiary’ means an individual who has opted
13 in to—

14 “(i) receive electronic Medicare Sum-
15 mary Notices; and

16 “(ii) participate in the pilot program
17 in accordance with subparagraph (C).

18 “(C) VOLUNTARY PARTICIPATION.—An ap-
19 plicable beneficiary may participate in the pilot
20 program on a voluntary basis and may termi-
21 nate participation at any time.

22 “(4) CONSIDERATIONS.—The Secretary may,
23 for purposes of identifying and calculating the risks
24 of relevant transactions under the pilot program,
25 consider the following factors:

1 “(A) The absence of a prior relationship
2 between the beneficiary and a provider of serv-
3 ices (as defined in section 1861(u)) or supplier
4 (as defined in section 1861(d)).

5 “(B) Aberrant billing patterns for a pro-
6 vider of services or supplier with regards to vol-
7 ume of claims in one particular area.

8 “(C) Electronic fund transfer (EFT)
9 changes.

10 “(D) Changes in ownership of a provider
11 of services or supplier.

12 “(5) COLLABORATION.—The Secretary shall
13 work with industry representatives (including sup-
14 pliers of durable medical equipment) on the develop-
15 ment and implementation of the pilot program.

16 “(6) REQUIREMENTS.—Under the pilot pro-
17 gram, the Secretary shall—

18 “(A) adopt a predictive risk-scoring algo-
19 rithm that would learn from beneficiary data to
20 score relevant transactions from 1 (least risky)
21 to 99 (most risky);

22 “(B) prior to implementation of any pre-
23 dictive risk-scoring algorithm adopted under
24 subparagraph (A) under the pilot program—

1 “(i) require sufficient testing, evalua-
2 tion, and review of such algorithm, taking
3 into consideration Executive Order 14179
4 (90 Fed. Reg. 8741; relating to removing
5 barriers to American leadership in artificial
6 intelligence);

7 “(ii) establish methods for notifying
8 applicable beneficiaries and providers of
9 services and suppliers impacted by the use
10 of the algorithm regarding such usage (in-
11 cluding information regarding how bene-
12 ficiary data is collected and processed
13 under the pilot program to produce a risk
14 score for relevant transactions and the pos-
15 sible implications associated with the use
16 of the algorithm); and

17 “(iii) establish methods of commu-
18 nication with the Office of the Inspector
19 General of the Department of Health and
20 Human Service, and the ability to waive or
21 forgo notice to an applicable beneficiary or
22 a provider of services or supplier if appro-
23 priate;

24 “(C) for any relevant transaction involving
25 an item or service furnished to an applicable

beneficiary identified by a predictive risk-scoring algorithm adopted under subparagraph (A) and implemented under subparagraph (B) as having a risk score that exceeds a level of risk specified by the Secretary—

“(i) review the relevant transaction to determine whether it should be suspended pending the applicable beneficiary’s response under clause (ii);

“(ii) provide the applicable beneficiary the opportunity, by email or phone call response—

“(I) to cure a high-risk score or suspended transaction that the beneficiary believes is based on inaccurate underlying data; and

“(II) confirm the relevant transaction;

“(iii) if, based on the results of the review, the relevant transaction is suspended—

“(I) trigger an automatic alert to the applicable beneficiary by electronically sending a Medicare Summary

1 Notice that includes the relevant
2 transaction;

3 “(II) require that all subsequent
4 Medicare Summary Notices involving
5 the relevant transaction be sent elec-
6 tronically and in two week intervals
7 for 3 months after the first alert is
8 sent under subclause (I); and

9 “(III) include on such Medicare
10 Summary Notices, as determined ap-
11 propriate by the Secretary, informa-
12 tion explaining how the beneficiary
13 may report suspected fraud to rel-
14 evant law enforcement agencies; and

15 “(D) have the authority to determine when
16 a Medicare card must be terminated or a new
17 card issued to prevent fraud and abuse.

18 “(7) CLARIFICATION.—Any suspension of an
19 account or transaction under the pilot program shall
20 be based on a human review process, informed
21 through the implementation of the predictive risk-
22 scoring algorithm.

23 “(8) DEFINITIONS.—In this subsection:

24 “(A) APPLICABLE ITEM OR SERVICE.—The
25 term ‘applicable item or service’ means—

1 “(i) an item of durable medical equip-
2 ment (as defined in section 1861(n)); and

3 “(ii) a clinical diagnostic laboratory
4 test.

5 “(B) RELEVANT TRANSACTION.—The term
6 ‘relevant transaction’ means a claim for pay-
7 ment for an applicable item or service furnished
8 to an applicable beneficiary, as determined by
9 the Secretary.”.