

110TH CONGRESS  
1ST SESSION

# S. 1947

To amend title XI of the Social Security Act to improve the quality improvement organization (QIO) program.

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IN THE SENATE OF THE UNITED STATES

AUGUST 2, 2007

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

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## A BILL

To amend title XI of the Social Security Act to improve the quality improvement organization (QIO) 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; TABLE OF CONTENTS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the  
5 “Continuing the Advancement of Quality Improvement  
6 Act of 2007”.

7 (b) **TABLE OF CONTENTS.**—The table of contents of  
8 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Responsibilities of utilization and quality control peer review organizations.
- Sec. 3. Priorities for selection of providers to provide technical assistance.
- Sec. 4. Data processing.

Sec. 5. Qualifications for utilization and quality control peer review organizations.

Sec. 6. Funding.

Sec. 7. Improvements to annual reports.

1 **SEC. 2. RESPONSIBILITIES OF UTILIZATION AND QUALITY**  
 2 **CONTROL PEER REVIEW ORGANIZATIONS.**

3 (a) RESPONSIBILITIES.—

4 (1) IN GENERAL.—Section 1154 of the Social  
 5 Security Act (42 U.S.C. 1320c–3) is amended by  
 6 adding at the end the following new subsection:

7 “(g) Notwithstanding the preceding provisions of this  
 8 section, beginning on August 1, 2009, any utilization and  
 9 quality control peer review organization entering into a  
 10 contract with the Secretary under this part shall only per-  
 11 form the function of providing technical assistance for  
 12 quality improvement and performance measurement to  
 13 providers, practitioners, and Medicare Advantage organi-  
 14 zations offering Medicare Advantage plans under part C  
 15 of title XVIII, including the following:

16 “(1) Instruction on how to collect, aggregate,  
 17 and interpret data on measures that may be used for  
 18 internal quality improvement, public reporting, and  
 19 payment.

20 “(2) Instruction on how to conduct root-cause  
 21 analyses and deep case studies of sentinel events and  
 22 other problems.

1           “(3) Assistance to improve the validity and ac-  
2           curacy of data submitted by providers and practi-  
3           tioners who participate in the program under title  
4           XVIII.

5           “(4) Advice and guidance on how to bring  
6           about, sustain, and diffuse internal system redesign  
7           and process changes, particularly those redesign and  
8           process changes that—

9                   “(A) are related to the use of information  
10                   technology for quality improvement; and

11                   “(B) promote care coordination and effi-  
12                   ciency through an episode of care.

13           “(5) Promotion of best practices identified by  
14           research, provider, and industry groups.

15           “(6) Improvement of, and provision of technical  
16           support for, the direct role of providers in the edu-  
17           cation of individuals eligible for benefits under the  
18           program under title XVIII as an integral component  
19           of improved care, better patient experience, and pa-  
20           tient self-management.

21           “(7) Assistance with bringing together and pro-  
22           moting cooperation among various stakeholders in  
23           providing care.”.

1           (2) CONFORMING AMENDMENTS.—Section 1154  
 2 of the Social Security Act (42 U.S.C. 1320c-3) is  
 3 amended—

4           (A) in the heading, by inserting “AND  
 5 OTHER ORGANIZATIONS” after “ORGANIZA-  
 6 TIONS”; and

7           (B) in subsection (a)—

8           (i) in paragraph (1), in the matter  
 9 preceding subparagraph (A)—

10           (I) by inserting “of such title”  
 11 after “part C”; and

12           (II) by inserting “of such title”  
 13 after “part D”; and

14           (ii) in paragraph (17)—

15           (I) by inserting “of title XVIII”  
 16 after “part C”; and

17           (II) by inserting “of such title”  
 18 after “part D”.

19           (b) TRANSFER OF RESPONSIBILITIES FOR PER-  
 20 FORMING OTHER FUNCTIONS.—Part B of title XI of the  
 21 Social Security Act (42 U.S.C. 1320c et seq.) is amended  
 22 by adding at the end the following new section:

23           **“SEC. 1164. TRANSFER OF RESPONSIBILITY FOR PER-**  
 24           **FORMING CERTAIN FUNCTIONS.**

25           “(a) IN GENERAL.—

1           “(1) TRANSITION PLAN.—Not later than 6  
2 months after the date of enactment of this section,  
3 the Secretary shall develop and transmit to the Com-  
4 mittee on Finance of the Senate and the Committees  
5 on Energy and Commerce and Ways and Means of  
6 the House of Representatives a transition plan  
7 under which the functions of utilization and quality  
8 control peer review organizations under section  
9 1154, as in effect on the day before such date of en-  
10 actment, are transferred from the responsibility of  
11 such organizations to other agencies and organiza-  
12 tions (in this part referred to as ‘Medicare provider  
13 review organizations’). The transition plan shall in-  
14 clude a description of the steps the Secretary will  
15 take in implementing the plan and a timeline for  
16 such implementation. The transition plan shall be  
17 developed in a manner that will ensure that the in-  
18 tended beneficiaries of the functions transferred will  
19 neither be harmed as a result of such transfer of re-  
20 sponsibility nor experience a disruption or decrease  
21 in services under section 1154.

22           “(2) MEDICARE PROVIDER REVIEW ORGANIZA-  
23 TIONS.—In determining which agency or organiza-  
24 tion the responsibility for a function is transferred  
25 to under the transition plan implemented under

1 paragraph (1), the Secretary shall take into account  
2 the following considerations:

3 “(A) Whether the agency or organization  
4 is comparable (in terms of experience, capabili-  
5 ties, and capacity) to the organization that per-  
6 formed such responsibilities as of the day before  
7 such date of enactment.

8 “(B) Whether the agency or organization  
9 is able to ensure that at least the same level of  
10 access to services is available when responsibil-  
11 ities are transferred to the agency or organiza-  
12 tion.

13 “(C) Whether the transfer of responsibility  
14 to the agency or organization will ensure the  
15 least amount of disruption and minimize both  
16 the risk of harm to the intended beneficiaries of  
17 the transferred responsibilities and the disrupt-  
18 ion or decrease in services under section 1154.

19 “(D) In the case where the responsibility  
20 transferred is a review function required under  
21 section 1154 as of the day before such date of  
22 enactment, whether the agency or organization  
23 is able, in the judgment of the Secretary, to  
24 perform such review function in a manner con-

1           sistent with the efficient and effective adminis-  
2           tration of this part.

3           “(E) Whether the transferred responsibil-  
4           ities would be most effectively and efficiently  
5           performed at a nationwide, Statewide, or re-  
6           gional level.

7           “(F) Whether the transfer of responsibility  
8           to the agency or organization will not result in  
9           a conflict of interest.

10          “(3) LIMITATION.—A utilization and quality  
11          control peer review organization may not be a Medi-  
12          care provider review organization in any area in  
13          which the utilization and quality control peer review  
14          organization provides technical assistance under sec-  
15          tion 1154(g).

16          “(4) TRANSFER OF RESPONSIBILITY.—Not  
17          later than July 31, 2009, the Secretary shall fully  
18          implement the transition plan under this subsection  
19          and transfer the functions described in paragraph  
20          (1) from utilization and quality control peer review  
21          organizations to Medicare provider review organiza-  
22          tions.

23          “(b) SHARING OF INFORMATION WITH UTILIZATION  
24          AND QUALITY CONTROL PEER REVIEW ORGANIZA-  
25          TIONS.—The Secretary shall develop and implement a

1 process by which a Medicare provider review organization  
 2 that, as a result of the transfer of responsibility under  
 3 subsection (a), conducts case review or has responsibility  
 4 for addressing beneficiary appeals or beneficiary com-  
 5 plaints shares information with utilization and quality con-  
 6 trol peer review organizations for purposes of providing  
 7 technical assistance for quality improvement and perform-  
 8 ance measurement under section 1154(g).”.

9 (c) MEDICARE PROVIDER REVIEW ORGANIZATIONS  
 10 ADDRESSING BENEFICIARY COMPLAINTS.—

11 (1) IN GENERAL.—Section 1164 of the Social  
 12 Security Act, as added by subsection (b), is amended  
 13 by adding at the end the following new subsection:

14 “(c) MEDICARE QUALITY ACCOUNTABILITY PRO-  
 15 GRAM.—On or after the date on which the transition plan  
 16 is fully implemented under subsection (a), a Medicare pro-  
 17 vider review organization that has responsibility for ad-  
 18 dressing beneficiary complaints shall, instead of the re-  
 19 quirements described in paragraph (14) of section  
 20 1154(a), meet the following requirements:

21 “(1) COMPLAINT REVIEW.—The Medicare pro-  
 22 vider review organization shall conduct a review of  
 23 all complaints about the quality of services (for  
 24 which payment may otherwise be made under title  
 25 XVIII) not meeting professionally recognized stand-



1 ards of health care, if the complaint is filed with the  
2 organization by an individual entitled to benefits for  
3 such services under such title (or a person acting on  
4 the individual's behalf). Before the organization con-  
5 cludes that the quality of services does not meet pro-  
6 fessionally recognized standards of health care, the  
7 organization must provide the provider, practitioner,  
8 plan, or person concerned with reasonable notice and  
9 opportunity for comment and discussion.

10 “(2) MEDICARE QUALITY ACCOUNTABILITY  
11 PROGRAM.—The Medicare provider review organiza-  
12 tion shall establish and operate a Medicare quality  
13 accountability program consistent with the following:

14 “(A) The organization shall actively edu-  
15 cate Medicare beneficiaries in an efficient and  
16 effective manner of their right to bring quality  
17 concerns to such Medicare provider review orga-  
18 nizations.

19 “(B) The organization shall report all find-  
20 ings of its investigations to the beneficiary in-  
21 volved or a representative of such beneficiary,  
22 regardless of whether such findings involve a  
23 provider, practitioner, or plan. Such reports  
24 shall describe, at a minimum, whether the orga-  
25 nization confirms the allegations in the com-

1           plaint and any actions taken by the provider,  
2           practitioner, or plan, respectively, with respect  
3           to such findings. Such reports, and any other  
4           documentation prepared by the organization  
5           during the course of investigating complaints,  
6           may not be used in a tort claim or cause of ac-  
7           tion arising under State law.

8           “(C) The organization shall determine  
9           whether the complaint allegations about clinical  
10          quality of care are confirmed. In the case where  
11          such allegations are confirmed, in whole or in  
12          part, the organization shall (based on criteria  
13          issued by the Secretary) refer the provider,  
14          practitioner, or plan to 1 or both of the fol-  
15          lowing:

16               “(i) A utilization and quality control  
17               peer review organization with a contract  
18               with the Secretary under this part for  
19               technical assistance under section 1154(g).

20               “(ii) The appropriate regulatory body  
21               for sanctions.

22          “(D) The organization shall publish and  
23          submit to the Secretary annual reports in each  
24          State in which the organization operates. Such  
25          reports shall include aggregate complaint data

1 (including the number, nature, and disposition  
2 of complaints) and a description of any follow-  
3 up activity conducted with respect to such com-  
4 plaints.

5 “(E) The organization shall promote bene-  
6 ficiary awareness of standardized quality meas-  
7 ures that may be used for evaluating care and  
8 for choosing providers, practitioners, and  
9 plans.”.

10 (2) CONFORMING AMENDMENT.—Section  
11 1154(a)(14) of the Social Security Act (42 U.S.C.  
12 1320e-3(a)(14)) is amended by striking “The orga-  
13 nization” and inserting “Subject to section 1164(c),  
14 the organization”.

15 (d) REFERENCE TO AGENCIES AND ORGANIZATIONS  
16 PERFORMING TRANSFERRED FUNCTIONS.—Section 1164  
17 of the Social Security Act, as added by subsection (b) and  
18 amended by subsection (c), is amended by adding at the  
19 end the following new subsection:

20 “(d) REFERENCE TO AGENCIES AND ORGANIZATIONS  
21 PERFORMING TRANSFERRED FUNCTIONS.—On and after  
22 the date on which the transition plan is fully implemented  
23 under subsection (a), any reference in this Act to a utiliza-  
24 tion and quality control peer review organization, a peer  
25 review organization, an organization, or organizations with

1 respect to the performance of functions for which responsi-  
 2 bility has been transferred under such subsection, shall be  
 3 deemed a reference to the Medicare provider review orga-  
 4 nization to which such responsibility has been transferred.  
 5 In the case where such a reference is deemed a reference  
 6 to a Medicare provider review organization, the Medicare  
 7 provider review organization shall not be required to  
 8 meet—

9           “(1) the definition of a utilization and quality  
 10 control peer review organization under section 1152  
 11 (as amended by section 5 of the Continuing the Ad-  
 12 vancement of Quality Improvement Act of 2007); or

13           “(2) contract requirements applicable to a utili-  
 14 zation and quality control peer review organization  
 15 under section 1153 (as amended by such section  
 16 5).”.

17 **SEC. 3. PRIORITIES FOR SELECTION OF PROVIDERS TO**  
 18 **PROVIDE TECHNICAL ASSISTANCE.**

19 Section 1153 of the Social Security Act (42 U.S.C.  
 20 1320c-2) is amended by adding at the end the following  
 21 new subsection:

22           “(j) The Secretary shall establish priorities for utili-  
 23 zation and quality control peer review organizations to use  
 24 in selecting providers and practitioners to provide tech-  
 25 nical assistance under section 1154(g) in the event de-

1 mand for such assistance exceeds the available resources  
 2 of such organizations. The priorities established shall in-  
 3 clude—

4 “(1) whether the provider or practitioner is lo-  
 5 cated in a rural or underserved area;

6 “(2) the financial needs of the provider or prac-  
 7 titioner;

8 “(3) low performance in measures that may be  
 9 used for public reporting and payment;

10 “(4) whether there has been a significant num-  
 11 ber of beneficiary complaints with respect to the  
 12 practitioner or provider; and

13 “(5) such other measures of performance or  
 14 quality as are available to the Secretary.”.

15 **SEC. 4. DATA PROCESSING.**

16 (a) IN GENERAL.—Section 1160 of the Social Secu-  
 17 rity Act (42 U.S.C. 1320c–9) is amended—

18 (1) in subsection (a)(3), by striking “subsection  
 19 (b)” and inserting “subsections (b) and (f)”; and

20 (2) by adding at the end the following new sub-  
 21 section:

22 “(f)(1) A utilization and quality control peer review  
 23 organization and a Medicare provider review organization  
 24 may share individual-specific data obtained from another  
 25 provider or practitioner with a provider or practitioner

1 who is treating the individual, for quality improvement  
2 and patient safety purposes.

3 “(2) A utilization and quality control peer review or-  
4 ganization and a Medicare provider review organization  
5 may share provider-specific data with the Secretary.

6 “(3) The Secretary shall promulgate, not later than  
7 1 year after the date of the enactment of this subsection,  
8 a regulation that—

9 “(A) specifies the process for sharing data  
10 under paragraphs (1) and (2); and

11 “(B) includes safeguards to ensure the con-  
12 fidentiality of the data shared.

13 “(4) Nothing in this subsection shall be construed to  
14 limit, alter, or affect the requirements imposed by the reg-  
15 ulations promulgated under section 264(c) of the Health  
16 Insurance Portability and Accountability Act of 1996.”.

17 (b) COMPREHENSIVE REVIEW.—

18 (1) IN GENERAL.—The Secretary of Health and  
19 Human Services (in this section referred to as the  
20 “Secretary”) shall conduct a comprehensive review  
21 of the data-sharing systems, processes, and regula-  
22 tions of the Department of Health and Human Serv-  
23 ices in order to—

24 (A) identify best practices and procedures,  
25 including abstraction of medical chart data; and

1 (B) ensure that such systems, processes,  
2 and regulations do not—

3 (i) restrict the sharing of data by uti-  
4 lization and quality control peer review or-  
5 ganizations with a contract under part B  
6 of title XI of the Social Security Act (42  
7 U.S.C. 1320c et seq.) for quality improve-  
8 ment and patient safety purposes; or

9 (ii) inhibit prompt feedback to such  
10 organizations and to providers, practi-  
11 tioners, and Medicare Advantage organiza-  
12 tions offering Medicare Advantage plans  
13 under part C of title XVIII of the Social  
14 Security Act (42 U.S.C. 1395 et seq.) on  
15 the performance of such providers, practi-  
16 tioners, and organizations.

17 (2) REPORT.—Not later than 6 months after  
18 the date of enactment of this Act, the Secretary  
19 shall submit a detailed report to the Committee on  
20 Finance of the Senate and the Committees on En-  
21 ergy and Commerce and Ways and Means of the  
22 House of Representatives containing—

23 (A) the results of the review conducted  
24 under paragraph (1);

1 (B) a timeline for the implementation of  
 2 any administrative action the Secretary deter-  
 3 mines to be appropriate; and

4 (C) recommendations for such legislation  
 5 as the Secretary determines to be appropriate.

6 (c) SUPPORTING NATIONAL REPORTING AND INTE-  
 7 GRATING CARE DATA.—The Secretary shall ensure that  
 8 the program under part B of title XI of the Social Security  
 9 Act, as amended by this Act, supports the processes of  
 10 national reporting of performance measures, data aggre-  
 11 gation, data analysis, and feedback.

12 **SEC. 5. QUALIFICATIONS FOR UTILIZATION AND QUALITY**  
 13 **CONTROL PEER REVIEW ORGANIZATIONS.**

14 (a) REMOVAL OF PHYSICIAN-ACCESS AND PHYSI-  
 15 CIAN-SPONSORED REQUIREMENTS.—

16 (1) IN GENERAL.—Section 1152 of the Social  
 17 Security Act (42 U.S.C. 1320c–1) is amended by  
 18 striking paragraph (1) and inserting the following:

19 “(1) has expertise in quality improvement and  
 20 performance measurement; and”.

21 (2) CONFORMING AMENDMENT.—Section  
 22 1153(b)(1) of the Social Security Act (42 U.S.C.  
 23 1320c–2(b)(1)) is amended by striking the second  
 24 sentence.



1 (b) QUALIFICATIONS.—Part B of title XI of the So-  
2 cial Security Act (42 U.S.C. 1320c), as amended by sec-  
3 tion 3, is amended—

4 (1) in section 1152—

5 (A) by striking paragraph (2);

6 (B) by redesignating paragraph (3) as  
7 paragraph (2); and

8 (C) in paragraph (2), as redesignated by  
9 subparagraph (B), by inserting “and, beginning  
10 on the date that is 1 year after the date of en-  
11 actment of the Continuing the Advancement of  
12 Quality Improvement Act of 2007, that meets  
13 the requirements described in section  
14 1153(k)(1)” before the period at the end; and

15 (2) in section 1153, by adding at the end the  
16 following new subsection:

17 “(k)(1) The requirements described in this paragraph  
18 are as follows:

19 “(A) The governing board of the utilization and  
20 quality control peer review organization is appro-  
21 priately diverse, has relationships with providers and  
22 stakeholders within the State, and provides for  
23 transparency.

24 “(B)(i) Subject to clause (ii), the governing  
25 board of the utilization and quality control peer re-

1 view organization is made up of individuals from di-  
2 verse areas, disciplines, and expertise, including—

3 “(I) quality improvement and performance  
4 measurement professionals from within and  
5 outside of the health care field;

6 “(II) providers of services under the pro-  
7 gram under title XVIII, including physicians  
8 and other health care practitioners;

9 “(III) public or population health profes-  
10 sionals;

11 “(IV) information technology implementa-  
12 tion, management, and oversight professionals;

13 “(V) certified public accountants, auditors,  
14 and attorneys; and

15 “(VI) Medicare beneficiary and consumer  
16 groups.

17 “(ii) A majority of the members of the gov-  
18 erning board of the utilization and quality control  
19 peer review organization do not come from any 1 of  
20 the 5 areas, disciplines, and expertise described in  
21 subclauses (I) through (V) of clause (i).

22 “(C) The governing board of the utilization and  
23 quality control peer review organization has—

24 “(i) developed and implemented a compli-  
25 ance program that includes—

1           “(I) written policies, procedures, and  
2 standards of conduct that articulate the or-  
3 ganization’s commitment to comply with  
4 all applicable Federal and State standards;

5           “(II) effective compliance training and  
6 education for employees, managers, and  
7 members of the governing board;

8           “(III) the designation of—

9                 “(aa) a compliance officer; and

10                “(bb) a compliance committee  
11 comprised of a majority of members  
12 who are independent of the governing  
13 board and to which the governing  
14 board refers issues of conflicts of in-  
15 terest, ethics, program integrity, and  
16 the compensation (including benefits)  
17 and travel costs of senior executive  
18 staff and members of the governing  
19 board;

20           “(IV) effective lines of communication  
21 between the compliance officer designated  
22 under subclause (III)(aa) and the organi-  
23 zation’s employees;

1           “(V) enforcement of policies, proce-  
2           dures, and standards of conduct through  
3           publicized disciplinary guidelines;

4           “(VI) procedures for periodic internal  
5           monitoring and auditing;

6           “(VII) procedures for ensuring  
7           prompt response to detected offenses and  
8           the development of corrective action initia-  
9           tives; and

10           “(VIII) such other requirements as  
11           the Secretary determines to be necessary  
12           for ensuring appropriate governance; and

13           “(ii) set overall policy and direction for the  
14           organization and has retained oversight respon-  
15           sibility over the organization.

16           “(D) The governing board of the utilization and  
17           quality control peer review organization and the uti-  
18           lization and quality control peer review organization  
19           comply with the following requirements for trans-  
20           parency and accountability:

21           “(i) The governing board of the utilization  
22           and quality control peer review organization dis-  
23           closes to the public information regarding the  
24           board, including—

25           “(I) the size of the board;

1           “(II) the length of appointment of  
2 members to the board;

3           “(III) any cap on the length of service  
4 as a member of the board;

5           “(IV) when appointments to the board  
6 are made;

7           “(V) what portion of the board is  
8 typically appointed each year;

9           “(VI) names, affiliation, and com-  
10 pensation of board members; and

11           “(VII) such other disclosure require-  
12 ments as the Secretary determines to be  
13 appropriate.

14           “(ii) The governing board of the utilization  
15 and quality control peer review organization  
16 meets contract requirements developed by the  
17 Secretary—

18           “(I) with respect to the length of serv-  
19 ice, independence, and duties of board  
20 members; and

21           “(II) with respect to compliance offi-  
22 cer and compliance committee duties.

23           “(iii) The governing board of the utiliza-  
24 tion and quality control peer review organiza-  
25 tion complies with guidelines developed by the

1 Secretary as to what constitutes reasonable  
2 compensation for members of the governing  
3 board of a utilization and quality control peer  
4 review organization (including the chief execu-  
5 tive officer, chief operating officer, and chief fi-  
6 nancial officer).

7 “(iv) The utilization and quality control  
8 peer review organization has in place formal  
9 and documented procedures for addressing po-  
10 tential board member and executive conflicts of  
11 interests, ethical issues, and program integrity.

12 “(v) The utilization and quality control  
13 peer review organization implements formal and  
14 documented procedures to evaluate individual  
15 board member actions and activities and overall  
16 board performance not less frequently than on  
17 an annual basis.

18 “(2) Each contract with a utilization and quality con-  
19 trol peer review organization under this part shall require  
20 that the organization comply with a system established by  
21 the Secretary to identify, cure (by resolving or waiving),  
22 and report conflicts of interest with respect to the gov-  
23 erning board of such an organization, such organization,  
24 and entities that subcontract with such organization. Such  
25 system shall include the following:

1           “(A) Guidelines as to what constitutes a con-  
2           flict of interest, including a member of the governing  
3           board receiving compensation from the organization,  
4           directly or indirectly, for the provision of services  
5           outside the scope of their duties and responsibilities  
6           as a member of the governing board.

7           “(B) The requirement to disclose any potential  
8           conflicts of interest.

9           “(C) A process by which conflicts of interest  
10          shall be disclosed.

11          “(D) Methods by which conflicts of interest  
12          shall be resolved or waived.

13          “(3) Each contract with a utilization and quality con-  
14          trol peer review organization under this part shall require  
15          that the organization meet requirements pertaining to the  
16          development and conduct or implementation of—

17                 “(A) annual performance evaluations for mem-  
18                 bers of the governing board of such an organization  
19                 (including the chief executive officer, chief operating  
20                 officer, and chief financial officer);

21                 “(B) an annual self-assessment to be conducted  
22                 by the governing board of such an organization; and

23                 “(C) an overall performance improvement plan  
24                 for the governing board of such an organization.”.

1           (c) DURATION OF CONTRACTS, SELECTION CRI-  
2   TERIA, AND ENSURING VALUE.—Section 1153 of the So-  
3   cial Security Act (42 U.S.C. 1320c–2) is amended—

4           (1) by striking paragraph (3) of subsection (c)  
5   and inserting the following new paragraph:

6           “(3) contract terms are consistent with sub-  
7   section (i);”; and

8           (2) by striking subsection (i) and inserting the  
9   following new subsection:

10          “(i)(1) Subject to the succeeding provisions of this  
11   subsection, each contract with a utilization and quality  
12   control peer review organization under this part shall be  
13   for an initial term of 5 years, beginning and ending on  
14   a common date for all contractors as required under this  
15   subsection and shall be renewable for 5-year terms there-  
16   after.

17          “(2) Each contract with a utilization and quality con-  
18   trol peer review organization under this part—

19           “(A) shall be bid on through a competitive proc-  
20   ess; and

21           “(B) shall not be renewed without going  
22   through a competitive process.

23          “(3) The Secretary shall use criteria for selecting uti-  
24   lization and quality control peer review organizations to



1 enter into a contract with under this part that takes into  
2 consideration—

3           “(A) any previous experience and performance  
4           of the organization under a contract under this part;

5           “(B) whether the organization has dem-  
6           onstrated a capacity to support quality improvement  
7           and performance measurement; and

8           “(C) the financial integrity of the organization.

9           “(4) The Secretary shall develop performance meas-  
10          ures, including interim and final goals, for the functions  
11          to be performed by the utilization and quality control peer  
12          review organization under the contract. The performance  
13          measures shall be based on nationwide priorities developed  
14          or adopted by the Secretary. Such measures shall be made  
15          available to utilization and quality control peer review or-  
16          ganizations during the bidding process. The Secretary  
17          shall provide financial incentives and penalties that reward  
18          high performance and penalize poor performance under  
19          such contracts, taking into consideration the measures de-  
20          veloped under this paragraph.

21          “(5) The Secretary shall develop procedures for the  
22          conduct of interim and final evaluations to assess the per-  
23          formance of the utilization and quality control peer review  
24          organization under the contract against the performance  
25          measures developed under paragraph (4). Such procedures

1 shall provide for 3 types of evaluations to be conducted  
2 at each of the following levels:

3           “(A) The program under this part as a whole.

4           “(B) Individual utilization and quality control  
5 peer review organizations with respect to the con-  
6 tract entered into with such organization under this  
7 part.

8           “(C) Selected quality improvement interventions  
9 implemented by such organizations.

10          “(6) The Secretary shall enter into a contract with  
11 an entity to conduct an independent external evaluation  
12 of the overall contributions of the program under this part  
13 toward quality improvement and performance measure-  
14 ment. Such an evaluation shall be conducted not less fre-  
15 quently than once during each contract cycle.

16          “(7) The Secretary shall extend each contract with  
17 a utilization and quality control peer review organization  
18 under this part the contract period for which began on  
19 or after August 1, 2005, and on or before February 1,  
20 2006, so that the subsequent contract period begins on  
21 August 1, 2009.”.

22          (d) SCOPE OF WORK.—Section 1153 of the Social Se-  
23 curity Act (42 U.S.C. 1320c-2), as amended by sub-  
24 sections (b) and (c), is amended—

1           (1) in paragraph (3) of subsection (c), by strik-  
2           ing “subsection (i)” and inserting “subsections (i)  
3           and (l)”;

4           (2) by adding at the end the following new sub-  
5           section:

6           “(l)(1) The scope of work required under a contract  
7           with a utilization and quality control peer review organiza-  
8           tion under this part shall reflect the priorities of—

9           “(A) quality improvement in individual provider  
10          settings and across multiple-provider settings; and

11          “(B) performance measurement which may be  
12          used for purposes of public reporting and payment  
13          under title XVIII.

14          “(2) In advance of each contract cycle, the Secretary  
15          shall conduct an assessment of the need for technical as-  
16          sistance for quality improvement and performance meas-  
17          urement by obtaining feedback from providers within each  
18          provider setting under the program under title XVIII. The  
19          feedback obtained shall be on applicable areas, including  
20          the following:

21                 “(A) Internal capacities of providers for quality  
22                 improvement and performance measurement.

23                 “(B) Past and current quality improvement and  
24                 performance measurement activities.

1           “(C) Technical assistance that providers are  
2           currently receiving on quality improvement and per-  
3           formance measurement.

4           “(D) Current gaps in technical assistance for  
5           quality improvement and performance measure-  
6           ment.”.

7           (e) EFFECTIVE DATE.—Except as provided in sub-  
8           section (b)(1)(C), the amendments made by this section  
9           shall apply to contracts entered into on or after August  
10          1, 2009.

11       **SEC. 6. FUNDING.**

12           (a) IN GENERAL.—

13               (1) FUNDING.—Section 1159 of the Social Se-  
14           curity Act (42 U.S.C. 1320c–8) is amended—

15                   (A) in the matter preceding paragraph (1),  
16                   by inserting “(a)” before “Expenses incurred”;  
17                   and

18                   (B) by adding at the end the following new  
19                   subsections:

20           “(b) Subject to subsection (c), funding for contracts  
21           under this part shall be used solely for providing technical  
22           assistance for quality improvement and performance  
23           measurement. The decision whether to fund such con-  
24           tracts under this part shall be based on the results of eval-  
25           uations conducted by the Secretary to determine—

1           “(1) the overall impact of the program under  
2 this part on quality improvement and performance  
3 measurement;

4           “(2) the specific quality improvement methods  
5 and techniques used by an organization;

6           “(3) which organizations that the Secretary  
7 contracts with under this part are most successful;  
8 and

9           “(4) whether there is continued demand for  
10 technical assistance for quality improvement and  
11 performance measurement, as demonstrated by—

12                   “(A) demand by providers for such assist-  
13                   ance;

14                   “(B) the activities of utilization and qual-  
15                   ity control peer review organizations; and

16                   “(C) referrals made by the Secretary,  
17                   Medicare provider review organizations, and  
18                   other agencies and organizations (including con-  
19                   tractors) for such assistance.

20           “(c) Expenses incurred by Medicare provider review  
21 organizations in carrying out functions the responsibility  
22 for which was transferred under section 1164(a) shall be  
23 payable from funds authorized under subsection (a).”

1           (2) EFFECTIVE DATE.—The amendments made  
2           by this subsection shall apply to contracts entered  
3           into on or after August 1, 2009.

4           (b) LIMITATIONS ON USE AND REDUCTION OF  
5 FUNDING.—

6           (1) IN GENERAL.—Section 1159 of the Social  
7           Security Act (42 U.S.C. 1320c–8), as amended by  
8           subsection (a), is amended—

9                   (A) in subsection (b), by striking “sub-  
10                   section (c)” and inserting “subsections (c) and  
11                   (d)”; and

12                   (B) by adding at the end the following new  
13                   subsections:

14           “(d) Funding for contracts under this part may not  
15           be used for either of the following purposes:

16                   “(1) To pay dues for membership in an organi-  
17                   zation that engages in lobbying activities (as defined  
18                   in section 3 of the Lobbying Disclosure Act of 1995  
19                   (2 U.S.C. 1602)).

20                   “(2) To pay fees to any individual for lobbying  
21                   activities (as so defined).

22           “(e) The Secretary may not reduce the amount of  
23           funding under a contract under this part unless the scope  
24           of work has been reduced. In the case where the scope  
25           of work has been reduced, any reduction in contract fund-

1 ing shall be commensurate with the reduction in the scope  
2 of work.”.

3 (2) **EFFECTIVE DATE.**—The amendments made  
4 by this subsection shall take effect on the date that  
5 is 1 year after the date of enactment of this Act.

6 **SEC. 7. IMPROVEMENTS TO ANNUAL REPORTS.**

7 Section 1161 of the Social Security Act (42 U.S.C.  
8 1320c–1) is amended—

9 (1) in the matter preceding paragraph (1), by  
10 striking “the Congress” and inserting “the Com-  
11 mittee on Finance of the Senate and the Committees  
12 on Energy and Commerce and Ways and Means of  
13 the House of Representatives”;

14 (2) by redesignating paragraphs (4), (5), and  
15 (6) as paragraphs (5), (6), and (7), respectively; and

16 (3) by inserting after paragraph (3) the fol-  
17 lowing new paragraph:

18 “(4) in the case of reports submitted on or  
19 after April 1, 2010—

20 “(A) the number and type of practitioners  
21 and providers that are provided technical assist-  
22 ance for quality improvement and performance  
23 measurement under section 1154(g);

24 “(B) the performance of organizations  
25 under a contract under this part against per-

1 formance measures, including interim and final  
2 goals, developed under section 1153(i)(4);

3 “(C) the number and nature of complaints  
4 investigated by Medicare provider review orga-  
5 nizations, and the disposition of such com-  
6 plaints by such organizations;

7 “(D) a compilation of the data contained  
8 in quality reports submitted to the Secretary  
9 under section 1164(c)(2)(D);

10 “(E) the amount and apportionment of  
11 funding from the Federal Hospital Insurance  
12 Trust Fund and the Federal Supplementary  
13 Medical Insurance Trust Fund to administer  
14 this part under section 1159, including how  
15 such funds were allocated based on the recipi-  
16 ent, purpose, and amount; and

17 “(F) any weaknesses identified in audits  
18 conducted with respect to the financial state-  
19 ments of utilization and quality control peer re-  
20 view organizations and Medicare provider re-  
21 view organizations.”.

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