

113TH CONGRESS
1ST SESSION

H. R. 418

To reduce Medicare waste, fraud, and abuse by providing for enhanced penalties to combat Medicare and Medicaid fraud, for a Medicare data-mining system, for a study on applying biometric technology, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 25, 2013

Ms. ROS-LEHTINEN 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

A BILL

To reduce Medicare waste, fraud, and abuse by providing for enhanced penalties to combat Medicare and Medicaid fraud, for a Medicare data-mining system, for a study on applying biometric technology, 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 “Medicare Fraud En-
5 forcement and Prevention Act of 2013”.

1 **SEC. 2. ENHANCED CRIMINAL PENALTIES TO COMBAT**
2 **MEDICARE AND MEDICAID FRAUD.**

3 (a) IN GENERAL.—Section 1128B of the Social Secu-
4 rity Act (42 U.S.C. 1320a–7b) is amended—

5 (1) in subsection (a), by striking “\$10,000 or
6 imprisoned for not more than one year” and insert-
7 ing “\$20,000 or imprisoned for not more than two
8 years”; and

9 (2) in each of subsections (a), (b)(1), (b)(2),
10 (c), and (d), by striking “\$25,000 or imprisoned for
11 not more than five years” and inserting “\$50,000 or
12 imprisoned for not more than 10 years”.

13 (b) ILLEGAL DISTRIBUTION OF MEDICARE OR MED-
14 ICAID BENEFICIARY IDENTIFICATION OR BILLING PRIVI-
15 LEGES.—Section 1128B of the Social Security Act (42
16 U.S.C. 1320a–7b) is amended by adding at the end the
17 following new subsection:

18 “(h) Whoever knowingly purchases, sells, or unlaw-
19 fully distributes, or arranges for the purchase, sale, or un-
20 lawful distribution of two or more Medicare or Medicaid
21 beneficiary identification numbers or billing privileges
22 under title XVIII or title XIX shall be imprisoned for not
23 more than 10 years or fined under title 18, United States
24 Code (or, if greater, an amount equal to the monetary loss
25 to the Federal and any State government as a result of
26 such acts), or both.”.

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to acts committed on or after the
3 date of the enactment of this Act.

4 **SEC. 3. ENHANCED CIVIL AUTHORITIES TO COMBAT MEDI-**
5 **CARE AND MEDICAID FRAUD.**

6 (a) CIVIL MONETARY PENALTIES LAW ALIGNMENT
7 AND OTHER CHANGES.—

8 (1) Section 1128A(a) of the Social Security Act
9 (42 U.S.C. 1320a–7a(a)) is amended—

10 (A) in paragraph (1), by striking “to an
11 officer, employee, or agent of the United States,
12 or of any department or agency thereof, or of
13 any State agency (as defined in subsection
14 (i)(1)),”;

15 (B) by inserting after paragraph (10), as
16 added by section 6402(d)(2) of the Patient Pro-
17 tection and Affordable Care Act (Public Law
18 111–148) the following new paragraphs:

19 “(11) conspires to commit a violation of this
20 section; or

21 “(12) knowingly makes, uses, or causes to be
22 made or used, a false record or statement material
23 to an obligation to pay or transmit money or prop-
24 erty to a Federal health care program, or knowingly
25 conceals or knowingly and improperly avoids or de-

1 creases an obligation to pay or transmit money or
2 property to a Federal health care program;”;

3 (C) in the first sentence—

4 (i) by striking “or in cases under
5 paragraph (9)” and inserting “in cases
6 under paragraph (9)”;

7 (ii) by striking “fact)” and inserting
8 “fact), in cases under paragraph (11),
9 \$50,000 for any violation described in this
10 section committed in furtherance of the
11 conspiracy involved, and in cases under
12 paragraph (12), \$50,000 for each false
13 record or statement, or concealment, avoid-
14 ance, or decrease”;

15 (D) in the second sentence, by striking
16 “material fact).” and inserting “material fact);
17 or in cases under paragraph (11), an assess-
18 ment of not more than 3 times the total
19 amount that would otherwise apply for any vio-
20 lation described in this section committed in
21 furtherance of the conspiracy involved; or in
22 cases under paragraph (12), an assessment of
23 not more than 3 times the total amount of the
24 obligation to which the false record or state-

1 ment was material or that was avoided or de-
2 creased.”.

3 (2) Section 1128A(c)(1) of the Social Security
4 Act (42 U.S.C. 1320a-7a(c)(1)) is amended by
5 striking “six years” and inserting “10 years”.

6 (3) Section 1128A(i) of the Social Security Act
7 (42 U.S.C. 1320a-7a(i)) is amended—

8 (A) by amending paragraph (2) to read as
9 follows:

10 “(2) The term ‘claim’ means any application,
11 request, or demand, whether under contract, or oth-
12 erwise, for money or property for items and services
13 under a Federal health care program (as defined in
14 section 1128B(f)), whether or not the United States
15 or a State agency has title to the money or property,
16 that—

17 “(A) is presented or caused to be pre-
18 sented to an officer, employee, or agent of the
19 United States, or of any department or agency
20 thereof, or of any State agency (as defined in
21 subsection (i)(1)); or

22 “(B) is made to a contractor, grantee, or
23 other recipient if the money or property is to be
24 spent or used on the Federal health care pro-
25 gram’s behalf or to advance a Federal health

1 care program interest, and if the Federal health
2 care program—

3 “(i) provides or has provided any por-
4 tion of the money or property requested or
5 demanded; or

6 “(ii) will reimburse such contractor,
7 grantee, or other recipient for any portion
8 of the money or property which is re-
9 quested or demanded.”;

10 (B) by amending paragraph (3) to read as
11 follows:

12 “(3) The term ‘item or service’ means, without
13 limitation, any medical, social, management, admin-
14 istrative, or other item or service used in connection
15 with or directly or indirectly related to a Federal
16 health care program.”;

17 (C) in paragraph (7)—

18 (i) by striking “term ‘should know’
19 means” and inserting “terms ‘knowing’,
20 ‘knowingly’, and ‘should know’ mean”;

21 (ii) by redesignating subparagraphs
22 (A) and (B) as subparagraphs (B) and
23 (C), respectively;

1 (iii) by inserting before subparagraph
2 (B), as redesignated by clause (ii), the fol-
3 lowing new subparagraph:

4 “(A) has actual knowledge of the informa-
5 tion;”; and

6 (iv) in the matter following subpara-
7 graph (C), as redesignated by clause (ii)—

8 (I) by inserting “require” after
9 “and”; and

10 (II) by striking “is required”;
11 and

12 (D) by adding at the end the following new
13 paragraphs:

14 “(8) The term ‘obligation’ means an established
15 duty, whether or not fixed, arising from an express
16 or implied contractual, grantor-grantee, or licensor
17 licensee relationship, from a fee-based or similar re-
18 lationship, from statute or regulation, or from the
19 retention of any overpayment.

20 “(9) The term ‘material’ means having a nat-
21 ural tendency to influence, or be capable of influ-
22 encing, the payment or receipt of money or prop-
23 erty.”.

24 (b) EXCLUSION OF RESPONSIBLE CORPORATE OFFI-
25 CIALS.—Section 1128(b) of the Social Security Act (42

1 U.S.C. 1320a–7(b)) is amended by striking clauses (i) and
2 (ii) of paragraph (15)(A) and inserting the following:

3 “(i) who has or had a direct or indi-
4 rect ownership or control interest in a
5 sanctioned entity at the time of and who
6 knew or should have known (as defined in
7 section 1128(i)(7)) of any of the conduct
8 that formed a basis for the conviction or
9 exclusion described in subparagraph (B);
10 or

11 “(ii) who is or was an officer or man-
12 aging employee (as defined in section
13 1126(b)) of such an entity at the time of
14 any of the conduct that formed a basis for
15 the conviction or exclusion so described.”.

16 (c) PAYMENT SUSPENSIONS.—Subsection (o)(1) of
17 section 1862 of the Social Security Act (42 U.S.C. 1395y)
18 is amended by striking “may” and inserting “shall”.

19 (d) CIVIL MONETARY PENALTIES FOR FALSE STATE-
20 MENTS OR DELAYING INSPECTIONS.—Paragraph (9) of
21 section 1128A(a) of the Social Security Act (42 U.S.C.
22 1320a–7a(a)) is amended by inserting “or to timely pro-
23 vide information in response to a request authorized by
24 section 1128J(b),” after “regulations),”.

1 **SEC. 4. ENHANCED SCREENING, MEDICARE DATA-MINING**
2 **SYSTEM; BIOMETRIC TECHNOLOGY STUDY.**

3 (a) ENHANCED SCREENING.—Section
4 1866(j)(2)(B)(ii) of the Social Security Act (42 U.S.C.
5 1395cc(j)(2)(B)(ii)) is amended by striking “may” and in-
6 serting “shall”.

7 (b) ACCESS TO REAL TIME CLAIMS AND PAYMENT
8 DATA.—Section 1128J(a)(2) of the Social Security Act is
9 amended—

10 (1) by inserting “including real time claims and
11 payment data,” after “access to claims and payment
12 data”; and

13 (2) by adding at the end the following sentence:
14 “In carrying out this section, the Inspector General
15 of the Department of Health and Human Services,
16 in consultation with the Attorney General, shall im-
17 plement mechanisms for the sharing of information
18 about suspected fraud relating to the Federal health
19 care programs under titles XVIII, XIX, and XXI
20 with other appropriate law enforcement officials.”.

21 (c) STUDY ON USE OF BIOMETRIC TECHNOLOGY.—

22 (1) IN GENERAL.—The Secretary of Health and
23 Human Services shall provide for a study that ana-
24 lyzes the feasibility and benefits in reducing waste,
25 fraud, and abuse of carrying out a program (in this
26 subsection referred to as a “biometric technology

1 program”) that implements biometric technology to
2 ensure that individuals entitled to benefits under
3 part A of title XVIII of the Social Security Act or
4 enrolled under part B of such title are physically
5 present at the time and place of receipt of certain
6 items and services (specified by the Secretary) for
7 which payment may be made under such title. Such
8 a program may provide for financial incentives to
9 encourage voluntary participation of providers of
10 services (as defined in section 1861(u) of such Act)
11 and suppliers (as defined in section 1861(d) of such
12 Act).

13 (2) REPORT.—Not later than 6 months after
14 the date of the enactment of this Act, the Secretary
15 shall submit to the Congress a report on the study
16 conducted under paragraph (1). Such report shall
17 include an analysis of the likely effectiveness of a bi-
18 ometric technology program on reducing waste,
19 fraud, and abuse under the Medicare program and
20 may include recommendations with regard to wheth-
21 er such a program, on a pilot or other basis, should
22 be implemented.

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