

105TH CONGRESS
1ST SESSION

H. R. 1770

To prevent fraud, abuse, and waste in the Medicare and Medicaid Programs,
and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 3, 1997

Mr. STARK (for himself, Mr. McDERMOTT, and Mr. WEYGAND) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committees on Commerce and the Judiciary, 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 prevent fraud, abuse, and waste in the Medicare and
Medicaid Programs, 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; TABLE OF CONTENTS; REF-**
4 **ERENCES IN ACT.**

5 (a) SHORT TITLE.—This Act may be cited as the
6 “Medicare and Medicaid Fraud, Abuse, and Waste Pre-
7 vention Amendments of 1997”.

1 (b) TABLE OF CONTENTS.—The table of contents for
 2 this Act is as follows:

Sec. 1. Short title; table of contents; references in Act.

TITLE I—ACCOUNTABILITY OF SERVICE PROVIDERS

PART A—SANCTION AUTHORITY

- Sec. 101. Exclusion of entity controlled by family member of a sanctioned individual.
- Sec. 102. Civil money penalties (CMPs) for kickbacks.
- Sec. 103. CMPs for persons that contract with excluded individuals.
- Sec. 104. CMPs for services ordered or prescribed by an excluded individual or entity.
- Sec. 105. CMPs for false certification of eligibility to receive partial hospitalization and hospice services.
- Sec. 106. Extension of subpoena and injunction authority.
- Sec. 107. Kickback penalties for knowing violations.
- Sec. 108. Elimination of exception of Federal Employees Health Benefits Program from definition of Federal health care program.
- Sec. 109. Amounts of CMPs.
- Sec. 110. Liability of physicians in specialty hospitals.
- Sec. 111. Expansion of criminal penalties for kickbacks.

PART B—PROVIDER ENROLLMENT PROCESS

- Sec. 121. Requirements to disclose employer identification numbers (EINs) and social security numbers (SSNs).
- Sec. 122. Fees for agreements with Medicare providers and suppliers.
- Sec. 123. Authority to refuse to enter into Medicare or Medicaid agreements with individuals or entities convicted of felonies.
- Sec. 124. Fees and requirements for issuance of standard health care identifiers.

TITLE II—PROVIDER REIMBURSEMENT AND RELATED MATTERS

PART A—COVERAGE AND PAYMENT LIMITS

- Sec. 201. No home health benefits based solely on drawing blood.
- Sec. 202. Monthly certification for hospice care after first six months.
- Sec. 203. Payment for home hospice care on basis of geographic location of home.
- Sec. 204. Limitation on hospice care liability for individuals not in fact terminally ill.
- Sec. 205. Medicare capital asset sales price equal to book value.
- Sec. 206. Repeal of moratorium on bad debt policy.

PART B—BANKRUPTCY PROVISIONS

- Sec. 221. Application of certain provisions of the bankruptcy code.

TITLE III—MEDICARE MENTAL HEALTH PARTIAL
HOSPITALIZATION SERVICES

- Sec. 301. Services not to be furnished in residential settings.

Sec. 302. Additional requirements for community mental health centers.
 Sec. 303. Prospective payment system.

TITLE IV—MEDICARE RURAL HEALTH CLINICS

Sec. 401. Per-visit payment limits for provider-based clinics.
 Sec. 402. Assurance of quality services.
 Sec. 403. Waiver of certain staffing requirements limited to clinics in program.
 Sec. 404. Refinement of shortage area requirements.
 Sec. 405. Decreased beneficiary cost sharing for RHC services.
 Sec. 406. Prospective payment system for RHC services.

1 (c) REFERENCE TO SOCIAL SECURITY ACT.—Except
 2 as otherwise specifically provided, whenever in this act an
 3 amendment is expressed in terms of an amendment to or
 4 repeal of a section or other provision, the reference is con-
 5 sidered to be made to that section or other provision of
 6 the Social Security Act.

7 **TITLE I—ACCOUNTABILITY OF** 8 **SERVICE PROVIDERS**

9 **PART A—SANCTION AUTHORITY**

10 **SEC. 101. EXCLUSION OF ENTITY CONTROLLED BY FAMILY** 11 **MEMBER OF A SANCTIONED INDIVIDUAL.**

12 Section 1128 (42 U.S.C. 1320a–7) is amended—

13 (1) in subsection (b)(8), by inserting “, or an
 14 immediate family member of such person (as defined
 15 in section 1128(j)), or a member of the household of
 16 such person (as defined in section 1128(k))” after
 17 “the Secretary determines that a person”; and

18 (2) by adding after subsection (i) the following
 19 new subsections:

1 “(j) DEFINITION OF IMMEDIATE FAMILY MEM-
 2 BER.—For purposes of subsection (b)(8), the term ‘imme-
 3 diate family member’ means a husband or wife; natural
 4 or adoptive parent, child, or sibling; stepparent, stepchild,
 5 stepbrother, or stepsister; father-, mother-, daughter-,
 6 son-, brother-, or sister-in-law; grandparent or grandchild;
 7 or spouse of a grandparent or grandchild.

8 “(k) DEFINITION OF MEMBER OF THE HOUSE-
 9 HOLD.—For purposes of subsection (b)(8), the term
 10 ‘member of the household’ means any person sharing a
 11 common abode as part of a single family unit, including
 12 domestic employees and others who live together as a fam-
 13 ily unit, but not including a roomer or boarder.”.

14 **SEC. 102. CIVIL MONEY PENALTIES (CMPS) FOR KICK-**
 15 **BACKS.**

16 (a) PERMITTING SECRETARY TO IMPOSE CIVIL MON-
 17 ETARY PENALTY.—Section 1128A(a) (42 U.S.C. 1320a–
 18 7a(a)) is amended—

19 (1) by striking “or” at the end of paragraph
 20 (4);

21 (2) by adding “or” at the end of paragraph (5);
 22 and

23 (3) by adding after paragraph (5) the following
 24 new paragraph:

1 “(6) commits an act described in paragraph (1)
2 or (2) of section 1128B(b);”.

3 (b) DESCRIPTION OF CIVIL MONETARY PENALTY AP-
4 PLICABLE.—Section 1128A(a) (42 U.S.C. 1320a–7a(a)) is
5 amended—

6 (1) by striking “occurs).” in the matter follow-
7 ing paragraph (6) and inserting “occurs; or, in cases
8 under paragraph (6), \$50,000 for each such viola-
9 tion).”; and

10 (2) by striking “claim.” in the matter following
11 paragraph (6) and inserting “claim (or, in cases
12 under paragraph (6), damages of not more than
13 three times the total amount of remuneration of-
14 fered, paid, solicited, or received, without regard to
15 whether a portion of such remuneration was offered,
16 paid, solicited, or received for a lawful purpose).”.

17 **SEC. 103. CMPS FOR PERSONS THAT CONTRACT WITH EX-**
18 **CLUDED INDIVIDUALS.**

19 Section 1128A(a) (42 U.S.C. 1320a–7a(a)), as
20 amended by section 102, is amended—

21 (1) by striking “or” at the end of paragraph
22 (5);

23 (2) by adding “or” at the end of paragraph (6);
24 and

1 (3) by adding after paragraph (6) the following
 2 new paragraph:

3 “(7) arranges or contracts (by employment or
 4 otherwise) with an individual or entity that the per-
 5 son knows or should know is excluded from partici-
 6 pation in a Federal health care program (as defined
 7 in section 1128B(f)), for the provision of items or
 8 services for which payment may be made under such
 9 a program;”.

10 **SEC. 104. CMPS FOR SERVICES ORDERED OR PRESCRIBED**
 11 **BY AN EXCLUDED INDIVIDUAL OR ENTITY.**

12 Section 1128A(a)(1) (42 U.S.C. 1320a–7a(a)(1)), as
 13 amended by section 102, is amended—

14 (1) in subparagraph (D)—

15 (A) by inserting “, ordered, or prescribed
 16 by such person” after “other item or service
 17 furnished”;

18 (B) by inserting “(pursuant to this title or
 19 title XVIII)” after “period in which the person
 20 was excluded”;

21 (C) by striking “pursuant to a determina-
 22 tion by the Secretary” and all that follows
 23 through “the provisions of section 1842(j)”;
 24 and

25 (D) by striking “or” at the end; and

1 (2) by redesignating subparagraph (E) as sub-
2 paragraph (F); and

3 (3) by adding after subparagraph (D) the fol-
4 lowing new subparagraph:

5 “(E) is for a medical or other item or serv-
6 ice ordered or prescribed by a person excluded
7 (pursuant to this title or title XVIII) from the
8 program under which the claim was made, and
9 the person furnishing such item or service
10 knows or should know of such exclusion, or”.

11 **SEC. 105. CMPS FOR FALSE CERTIFICATION OF ELIGI-**
12 **BILITY TO RECEIVE PARTIAL HOSPITALIZA-**
13 **TION AND HOSPICE SERVICES.**

14 Section 1128A(b)(3) (42 U.S.C. 1320a–7a(b)(3)) is
15 amended—

16 (1) in subparagraph (A)(ii), by inserting “, hos-
17 pice care, or partial hospitalization services” after
18 “home health services”; and

19 (2) in subparagraph (B), by inserting “, section
20 1814(a)(7) in the case of hospice care, or section
21 1835(a)(2)(F) in the case of partial hospitalization
22 services” after “home health services”.

1 **SEC. 106. EXTENSION OF SUBPOENA AND INJUNCTION AU-**
 2 **THORITY.**

3 (a) SUBPOENA AUTHORITY.—Section 1128A(j)(1)
 4 (42 U.S.C. 1320a–7a(j)(1)) is amended by inserting “and
 5 section 1128” after “with respect to this section”.

6 (b) INJUNCTION AUTHORITY.—Section 1128A(k) (42
 7 U.S.C. 1320a–7a(k)) is amended by inserting “or an ex-
 8 clusion under section 1128,” after “subject to a civil mon-
 9 etary penalty under this section,”.

10 (c) CLARIFYING AMENDMENTS.—Section 1128A(j)
 11 (42 U.S.C. 1320a–7a(j)) is amended—

12 (1) in paragraph (1)—

13 (A) by inserting “, except that, in so ap-
 14 plying such sections, any reference therein to
 15 the Commissioner of Social Security or the So-
 16 cial Security Administration shall be considered
 17 a reference to the Secretary or the Department
 18 of Health and Human Services, respectively”
 19 after “with respect to title II”; and

20 (B) by striking the second sentence; and

21 (2) in paragraph (2), to read as follows:

22 “(2) The Secretary may delegate to the Inspector
 23 General of the Department of Health and Human Services
 24 any or all authority granted under this section or under
 25 section 1128.”.

1 (d) CONFORMING AMENDMENT.—Section 1128 (42
 2 U.S.C. 1320a–7) is amended by adding at the end the fol-
 3 lowing new subsection:

4 “(j) REFERENCE TO LAWS DIRECTLY AFFECTING
 5 THIS SECTION.—For provisions of law concerning the
 6 Secretary’s subpoena and injunction authority under this
 7 section, see section 1128A(j) and (k).”.

8 **SEC. 107. KICKBACK PENALTIES FOR KNOWING VIOLA-**
 9 **TIONS.**

10 Section 1128B(b) (42 U.S.C. 1320a–7b(b)) is
 11 amended by striking “and willfully” each place it occurs.

12 **SEC. 108. ELIMINATION OF EXCEPTION OF FEDERAL EM-**
 13 **PLOYEES HEALTH BENEFITS PROGRAM**
 14 **FROM DEFINITION OF FEDERAL HEALTH**
 15 **CARE PROGRAM.**

16 Section 1128B(f)(1) (42 U.S.C. 1320a–7b(f)(1)) is
 17 amended by striking “(other than the health insurance
 18 program under chapter 89 of title 5, United States
 19 Code)”.

20 **SEC. 109. AMOUNTS OF CMPS.**

21 Section 1842(j)(2) (42 U.S.C. 1395u(j)(2)) is amend-
 22 ed in the second sentence—

23 (1) by striking “(other than the first 2 sen-
 24 tences of subsection (a) and other than subsection
 25 (b))”; and

1 (2) by inserting before the period “(and for the
 2 purpose of so applying section 1128A(a), each viola-
 3 tive act by a person with respect to an item or serv-
 4 ice shall be treated as a claim for payment for that
 5 item or service, and the amount of such claim shall
 6 be considered to be the amount of the request for
 7 payment made by that person with respect to that
 8 item or service)”.

9 **SEC. 110. LIABILITY OF PHYSICIANS IN SPECIALTY HOS-**
 10 **PITALS.**

11 Section 1867(d)(1)(B) (42 U.S.C. 1395dd(d)(1)(B))
 12 is amended—

13 (1) by inserting “or a physician working at or
 14 on-call at a hospital that is subject to the require-
 15 ments of subsection (g),” after “physician on-call for
 16 the care of such an individual,”;

17 (2) by striking “or” at the end of clause (i);
 18 and

19 (3) by adding after clause (ii) the following new
 20 clauses:

21 “(iii) fails or refuses to appear within
 22 a reasonable time at a hospital subject to
 23 the requirements of subsection (g) in order
 24 to provide an appropriate medical screen-
 25 ing examination as required by subsection

1 (a), or necessary stabilizing treatment as
 2 required by subsection (b), or
 3 “(iv) fails or refuses to accept an ap-
 4 propriate transfer of a patient to a hospital
 5 that has specialized capabilities or facilities
 6 as defined in subsection (g),”.

7 **SEC. 111. EXPANSION OF CRIMINAL PENALTIES FOR KICK-**
 8 **BACKS.**

9 (a) APPLICATION OF CRIMINAL PENALTY AUTHOR-
 10 ITY TO ALL HEALTH CARE BENEFIT PROGRAMS.—Sec-
 11 tion 1128B(b) (42 U.S.C. 1320a–7b(b)) is amended by
 12 striking “Federal health care program” each place it ap-
 13 pears and inserting “health care benefit program”.

14 (b) ATTORNEY GENERAL’S AUTHORITY TO SEEK
 15 CIVIL PENALTIES.—Section 1128B (42 U.S.C. 1320a–7b)
 16 is further amended by adding at the end the following new
 17 subsection:

18 “(g)(1) The Attorney General may bring an action
 19 in the district courts to impose upon any person who car-
 20 ries out any activity in violation of this section with re-
 21 spect to a Federal health care program a civil penalty of
 22 \$25,000 to \$50,000 for each such violation, and damages
 23 of three times the total remuneration offered, paid, solie-
 24 ited, or received.

1 “(2) A violation exists under paragraph (1) is one
2 or more purposes of the remuneration is unlawful, and the
3 damages shall be the full amount of such remuneration.

4 “(3) The procedures for actions under paragraph (1)
5 with regard to subpoenas, statute of limitations, standard
6 of proof, and collateral estoppel shall be governed by 31
7 U.S.C. 3731, and the Federal Rules of Civil Procedure
8 shall apply to actions brought under this section.

9 “(4) This provision does not affect the availability of
10 other criminal and civil remedies for such violations.”.

11 (c) ATTORNEY GENERAL’S INJUNCTION AUTHOR-
12 ITY.—Section 1128B (42 U.S.C. 1320a–7b) is further
13 amended by adding at the end the following new sub-
14 section:

15 “(h) If the Attorney General has reason to believe
16 that a person is engaging in conduct constituting an of-
17 fense under subsection (b) or (g), the Attorney General
18 may petition an appropriate United States district court
19 for an order prohibiting that person from engaging in such
20 conduct. The court may issue an order prohibiting that
21 person from engaging in such conduct if the court finds
22 that the conduct constitutes such an offense. The filing
23 of a petition under this section does not preclude any other
24 remedy which is available by law to the United States or
25 any other person.”.

1 (d) DEFINITION.—Section 1128B(f) (42 U.S.C.
2 1320a–7b(f)) is amended—

3 (1) by redesignating paragraphs (1) and (2) as
4 subparagraphs (A) and (B);

5 (2) by striking “(f)” and inserting “(f)(1)”; and

6 (3) by adding at the end the following new
7 paragraph:

8 “(2) For purposes of this section, the term “health
9 care benefit program” has the meaning given such term
10 in 18 U.S.C. 24(b).”.

11 (e) CONFORMING AMENDMENTS.—

12 (1) Section 1128A(a) (42 U.S.C. 1320a–7a(a))
13 is amended in the final sentence by striking
14 “1128B(f)(1)” and inserting “1128B(f)(1)(A)”; and

15 (2) Section 24(a) of title 18 of the United
16 States Code is amended—

17 (A) by striking the period at the end of
18 paragraph (2) and adding a semicolon; and

19 (B) by adding after paragraph (2) the fol-
20 lowing new paragraph:

21 “(3) section 1128B of the Social Security Act.”.

1 **PART B—PROVIDER ENROLLMENT PROCESS**

2 **SEC. 121. REQUIREMENTS TO DISCLOSE EMPLOYER IDENTIFICATION NUMBERS (EINs) AND SOCIAL SECURITY NUMBERS (SSNs).**

5 (a) DISCLOSING ENTITIES, OWNERS, AND CONTROLLING INTERESTS.—Section 1124 (42 U.S.C. 1320a–3) is amended by adding after subsection (b) the following new subsection:

9 “(c) REQUIREMENT TO FURNISH SOCIAL SECURITY NUMBERS AND EMPLOYER IDENTIFICATION NUMBERS.—No payment may be made to any disclosing entity under title V, XVIII, or XIX unless such disclosing entity furnishes to the Secretary both the employer identification number and social security number of—

15 “(1) the disclosing entity;

16 “(2) each person with an ownership or control interest (as defined in subsection (a)(3)); and

18 “(3) any subcontractor in which the entity directly or indirectly has a 5 percent or more ownership interest.”.

21 (b) OTHER MEDICARE PROVIDERS.—Section 1124A (42 U.S.C. 1320a–3a) is amended—

23 (1) in subsection (a)—

24 (A) by striking “and” at the end of paragraph (1);

1 (B) by striking the period at the end of
2 paragraph (2) and inserting “; and”; and

3 (C) by adding after paragraph (2) the fol-
4 lowing new paragraph:

5 “(3) including the employer identification num-
6 ber and social security number of the disclosing part
7 B provider and any person, managing employee, or
8 other entity identified under paragraph (1) or (2).”;
9 and

10 (2) in subsection (c) by inserting “(or, for pur-
11 poses of subsection (a)(3), any entity receiving pay-
12 ment)” after “on an assignment-related basis”.

13 (c) VERIFICATION BY SOCIAL SECURITY ADMINIS-
14 TRATION (SSA).—Section 1124A (42 U.S.C. 1320a–3a)
15 is amended—

16 (1) by redesignating subsection (c) as sub-
17 section (d); and

18 (2) by adding after subsection (b) the following
19 new subsection:

20 “(c) VERIFICATION BY SOCIAL SECURITY ADMINIS-
21 TRATION.—

22 “(1) TRANSMITTAL BY HHS.—The Secretary
23 shall transmit to the Social Security Administration
24 information concerning each social security number
25 and employer identification number supplied to the

1 Secretary pursuant to subsection (a)(3) or section
2 1124(c) to the extent necessary for verification of
3 such information in accordance with paragraph (2).

4 “(2) VERIFICATION BY SSA.—The Social Secu-
5 rity Administration shall verify the accuracy of, or
6 correct, the information supplied by the Secretary
7 pursuant to paragraph (1), and shall report such
8 verifications or corrections to the Secretary.

9 “(3) FEES FOR SSA VERIFICATION.—The Sec-
10 retary shall reimburse the Commissioner of Social
11 Security, at a rate negotiated between the Secretary
12 and the Commissioner, for the costs incurred by the
13 Commissioner in performing the verification and cor-
14 rection services described in this subsection.”.

15 **SEC. 122. FEES FOR AGREEMENTS WITH MEDICARE PRO-**
16 **VIDERS AND SUPPLIERS.**

17 (a) FEES RELATED TO MEDICARE PROVIDER AND
18 SUPPLIER ENROLLMENT AND REENROLLMENT.—Section
19 1866 is amended—

20 (1) in the heading, by adding “AND ENROLL-
21 MENT OF OTHER PERSONS FURNISHING
22 SERVICES” after “PROVIDERS OF SERV-
23 ICES”; and

24 (2) by adding at the end the following new sub-
25 section:

1 “(j) ENROLLMENT PROCEDURES AND FEES.—

2 “(1) ENROLLMENT.—The Secretary is author-
3 ized to establish a procedure for enrollment (and
4 periodic reenrollment) of individuals or entities that
5 are not providers of services subject to the provisions
6 of subsection (a) but that furnish health care items
7 or services under this title.

8 “(2) FEES.—The Secretary is authorized to im-
9 pose fees for initiation and renewal of provider
10 agreements and for enrollment and periodic reenroll-
11 ment of other individuals and entities furnishing
12 health care items or services under this title, in
13 amounts up to the full amount which the Secretary
14 reasonably estimates to be sufficient to cover the
15 Secretary’s costs related to the process for initiating
16 and reviewing such agreements and enrollments.
17 Fees collected pursuant to this paragraph shall be
18 credited to a special fund of the United States
19 Treasury, and shall remain available until expended,
20 to the extent and in such amounts as provided in
21 advance in appropriations acts, for necessary ex-
22 penses for these purposes, including costs of estab-
23 lishing and maintaining procedures and records sys-
24 tems; processing applications; and background inves-
25 tigations.”.

1 **SEC. 123. AUTHORITY TO REFUSE TO ENTER INTO MEDI-**
2 **CARE OR MEDICAID AGREEMENTS WITH IN-**
3 **DIVIDUALS OR ENTITIES CONVICTED OF**
4 **FELONIES.**

5 (a) MEDICARE PART A.—Section 1866(b)(2) (42
6 U.S.C. 1395cc(b)(2)) is amended—

7 (1) by striking “or” at the end of subparagraph
8 (B);

9 (2) by striking the period at the end of sub-
10 paragraph (C) and inserting “, or”; and

11 (3) by adding after subparagraph (C) the fol-
12 lowing new subparagraph:

13 “(D) has ascertained that the provider has
14 been convicted of a felony under Federal or
15 State law for an offense which the Secretary de-
16 termines is inconsistent with the best interests
17 of program beneficiaries.”.

18 (b) MEDICARE PART B.—section 1842 (42 U.S.C.
19 1395u) is amended by adding after subsection (r) the fol-
20 lowing new subsection:

21 “(s) The Secretary may refuse to enter into an agree-
22 ment with a physician or supplier under subsection (h)
23 or may terminate or refuse to renew such agreement, in
24 the event that such physician or supplier has been con-
25 victed of a felony under Federal or State law for an of-

1 fense which the Secretary determines is inconsistent with
 2 the best interests of program beneficiaries.”.

3 (c) MEDICAID.—Section 1902(a)(23) (42 U.S.C.
 4 1396(a)) is amended—

5 (1) by relocating the matter that precedes “pro-
 6 vide that, (A)” immediately before the semicolon;

7 (2) by inserting a semicolon immediately after
 8 “1915”;

9 (3) by striking the comma after “Guam” and
 10 inserting a semicolon; and

11 (4) by inserting before the semicolon at the end
 12 “and except that this provision does not require a
 13 State to provide medical assistance for such services
 14 furnished by a person or entity convicted of a felony
 15 under Federal or State law for an offense which the
 16 State agency determines is inconsistent with the best
 17 interests of beneficiaries under the State plan”.

18 **SEC. 124. FEES AND REQUIREMENTS FOR ISSUANCE OF**
 19 **STANDARD HEALTH CARE IDENTIFIERS.**

20 Section 1173(b) is amended by adding after para-
 21 graph (2) the following new paragraphs:

22 “(3) REQUIREMENT TO FURNISH SOCIAL SECU-
 23 RITY NUMBERS AND EMPLOYER IDENTIFICATION
 24 NUMBERS.—The Secretary shall, as appropriate, re-
 25 quire such individuals and entities to provide their

1 social security numbers and employer identification
 2 numbers as a condition to receiving such identifiers.

3 “(4) FEES.—The Secretary may impose fees for
 4 issuing such identifiers, in amounts which the Sec-
 5 retary reasonably estimates to be sufficient to cover
 6 all costs to the Secretary associated with such activ-
 7 ity. Physicians subject to fees under section 1842(r)
 8 shall not be subject to fees under this paragraph.
 9 Fees collected pursuant to this paragraph shall be
 10 credited to a special fund of the United States
 11 Treasury, and shall remain available until expended,
 12 to the extent and in such amounts as provided in ad-
 13 vance in appropriations acts, for costs incurred by
 14 the Secretary in issuing such identifiers, including
 15 costs of establishing and maintaining an automated
 16 database and procedures; processing applications;
 17 and verifying information provided.”.

18 **TITLE II—PROVIDER REIM-** 19 **BURSEMENT AND RELATED** 20 **MATTERS**

21 **PART A—COVERAGE AND PAYMENT LIMITS**

22 **SEC. 201. NO HOME HEALTH BENEFITS BASED SOLELY ON** 23 **DRAWING BLOOD.**

24 (a) IN GENERAL.—Sections 1814(a)(2)(C) and
 25 1835(a)(2)(A) (42 U.S.C. 1395f(a)(2)(C) and

1 1395n(a)(2)(A)) are each amended by inserting “(other
 2 than solely venipuncture for the purpose of obtaining a
 3 blood sample)” after “skilled nursing care”.

4 (b) EFFECTIVE DATE.—The amendments made by
 5 subsection (a) apply to home health services furnished
 6 after the sixth month beginning after the date of enact-
 7 ment of this Act.

8 **SEC. 202. MONTHLY CERTIFICATION FOR HOSPICE CARE**
 9 **AFTER FIRST SIX MONTHS.**

10 (a) IN GENERAL.—Sections 1812(a)(4) (42 U.S.C.
 11 1395d(a)(4)) is amended by striking “a subsequent period
 12 of 30 days, and a subsequent extension period” and insert-
 13 ing “and subsequent periods of 30 days each,”.

14 (b) CONFORMING AMENDMENTS.—

15 (1) SECTION 1812(d).—Section 1812(d) (42
 16 U.S.C. 1395d(d)) is amended—

17 (A) in paragraph (1), by striking “only
 18 during two periods of 90 days each” and all
 19 that follows through “with respect to each such
 20 period, if” and inserting “during a particular
 21 period only if, with respect to that period,”; and

22 (B) in the matter in paragraph (2)(B) pre-
 23 ceding clause (i), by striking “90-day or 30-day
 24 period or a subsequent extension”.

1 (2) SECTION 1814(a).—Section 1814(a)(7)(A)
2 (42 U.S.C. 1395f(a)(7)(A)) is amended—

3 (A) by adding “and” at the end of clause
4 (i);

5 (B) by striking “, and” at the end of
6 clause (ii) and adding a semicolon; and

7 (C) by striking clause (iii).

8 (c) EFFECTIVE DATE.—The amendments made by
9 the preceding subsections apply to hospice care furnished
10 after the sixth month beginning after the date of enact-
11 ment of this Act.

12 **SEC. 203. PAYMENT FOR HOME HOSPICE CARE BASED ON**
13 **LOCATION WHERE CARE IS FURNISHED.**

14 (a) IN GENERAL.—Section 1814(i)(2) (42 U.S.C.
15 1395f(i)(2)) is amended by adding at the end the follow-
16 ing:

17 “(D) A hospice program shall submit claims for pay-
18 ment for hospice care furnished in an individual’s home
19 under this title only on the basis of the geographic location
20 at which the service is furnished, as determined by the
21 Secretary.”.

22 (b) EFFECTIVE DATE.—The amendment made by
23 subsection (a) applies to cost reporting periods beginning
24 on or after October 1, 1997.

1 **SEC. 204. LIMITATION ON HOSPICE CARE LIABILITY FOR**
2 **INDIVIDUALS NOT IN FACT TERMINALLY ILL.**

3 (a) IN GENERAL.—Section 1879(g) (42 U.S.C.
4 1395pp(g)) is amended to read as follows:

5 “(g) A coverage denial described in this subsection
6 is—

7 “(1) with respect to the provision of home
8 health services to an individual, a failure to meet the
9 requirements of section 1814(a)(2)(C) or section
10 1835(a)(2)(A) in that the individual—

11 “(A) is or was not confined to his home;
12 or

13 “(B) does or did not need skilled nursing
14 care on an intermittent basis; and

15 “(2) with respect to the provision of hospice
16 care to an individual, a failure to meet the require-
17 ment of section 1861(dd)(3)(A).”.

18 (b) CONFORMING AMENDMENT.—Section
19 1879(f)(4)(A) (42 U.S.C. 1395pp(f)(4)(A)) is amended by
20 striking “subsection (g)” and inserting “subsection
21 (g)(1)”.

22 (c) EFFECTIVE DATE.—The amendments made by
23 the preceding subsections apply to services furnished after
24 the date of enactment of this Act.

1 **SEC. 205. MEDICARE CAPITAL ASSET SALES PRICE EQUAL**
2 **TO BOOK VALUE.**

3 (a) IN GENERAL.—Section 1861(v)(1)(o) (42 U.S.C.
4 1395x(v)(1)(O)) is amended—

5 (1) in clause (i)—

6 (A) by striking “and (if applicable) a re-
7 turn on equity capital”;

8 (B) by striking “hospital or skilled nursing
9 facility” and inserting “provider of services”;

10 (C) by striking “clause (iv)” and inserting
11 “clause (iii)”;

12 (D) by striking “the lesser of the allowable
13 acquisition cost” and all that follows up to the
14 period and inserting “the historical cost of the
15 asset, as recognized under this title, less depre-
16 ciation allowed, to the owner of record as of the
17 date of enactment of the Medicare and Medic-
18 aid Fraud, Abuse and Waste Prevention
19 Amendments of 1997 (or, in the case of an
20 asset not in existence as of that date, the first
21 owner of record of the asset after that date)”;

22 (2) by striking clause (ii); and

23 (3) by renumbering clauses (iii) and (iv) as (ii)
24 and (iii), respectively.

25 (b) EFFECTIVE DATE.—The amendments made by
26 subsection (a) apply to changes of ownership that occur

1 after the third month beginning after the date of enact-
 2 ment of this Act.

3 **SEC. 206. REPEAL OF MORATORIUM ON BAD DEBT POLICY.**

4 Section 4008(c) of the Omnibus Budget Reconcili-
 5 ation Act of 1987 (42 U.S.C. 1395f note) is repealed.

6 **PART B—BANKRUPTCY PROVISIONS**

7 **SEC. 221. APPLICATION OF CERTAIN PROVISIONS OF THE**
 8 **BANKRUPTCY CODE.**

9 (a) RESTRICTED APPLICABILITY OF BANKRUPTCY
 10 STAY, DISCHARGE, AND PREFERENTIAL TRANSFER PRO-
 11 VISIONS TO MEDICARE AND MEDICAID DEBTS.—Title XI
 12 is amended by inserting after section 1143 the following
 13 new section:

14 “APPLICATION OF CERTAIN PROVISIONS OF THE
 15 BANKRUPTCY CODE

16 “SEC. 1144. (a) MEDICARE AND MEDICAID-RELAT-
 17 ED ACTIONS NOT STAYED BY BANKRUPTCY PROCEED-
 18 INGS.—The commencement or continuation of any action
 19 against a debtor under this title or title XVIII or XIX
 20 (other than an action with respect to health care services
 21 for the debtor under title XVIII), including any action or
 22 proceeding to exclude or suspend the debtor from program
 23 participation, assess civil money penalties, recoup or set
 24 off overpayments, or deny or suspend payment of claims
 25 shall not be subject to the provisions of section 362(a) of
 26 title 11 of the United States Code.

1 “(b) MEDICARE- AND MEDICAID-RELATED DEBT
 2 NOT DISCHARGEABLE IN BANKRUPTCY.—A debt owed to
 3 the United States or to a State for an overpayment under
 4 title XVIII or XIX (other than an overpayment for health
 5 care services for the debtor under title XVIII), or for a
 6 penalty, fine, or assessment under this title or title XVIII
 7 or XIX, shall not be dischargeable under any provision
 8 of title 11 of the United States Code.

9 “(c) REPAYMENT OF CERTAIN DEBTS CONSIDERED
 10 FINAL.—Payments made to repay a debt to the United
 11 States or to a State with respect to items or services pro-
 12 vided, or claims for payment made, under title XVIII or
 13 XIX (including repayment of an overpayment (other than
 14 an overpayment for health care services for the debtor
 15 under such title XVIII)), or to pay a penalty, fine, or as-
 16 sessment under this title or title XVIII or XIX, shall be
 17 considered final and not preferential transfers under sec-
 18 tion 547 of title 11 of the United States Code.”.

19 (b) MEDICARE RULES APPLICABLE TO BANKRUPTCY
 20 PROCEEDINGS.—Title XVIII is amended by adding at the
 21 end the following new section:

22 “APPLICATION OF PROVISIONS OF THE BANKRUPTCY
 23 CODE

24 “SEC. 1894. (a) USE OF MEDICARE STANDARDS AND
 25 PROCEDURES.—Notwithstanding any provision of title 11
 26 of the United States Code or any other provision of law,

1 in the case of claims by a debtor in bankruptcy for pay-
2 ment under this title, the determination of whether the
3 claim is allowable, and of the amount payable, shall be
4 made in accordance with the provisions of this title and
5 title XI and implementing regulations.

6 “(b) NOTICE TO CREDITOR OF BANKRUPTCY PETI-
7 TIONER.—In the case of a debt owed to the United States
8 with respect to items or services provided, or claims for
9 payment made, under this title (including a debt arising
10 from an overpayment or a penalty, fine, or assessment
11 under title XI of this title), the notices to the creditor of
12 bankruptcy petitions, proceedings, and relief required
13 under title 11 of the United States Code (including under
14 section 342 of that title and section 2002(j) of the Federal
15 Rules of Bankruptcy Procedure) shall be given to the Sec-
16 retary. Provision of such notice to a fiscal agent of the
17 Secretary shall not be considered to satisfy this require-
18 ment.

19 “(c) TURNOVER OF PROPERTY TO THE BANKRUPTCY
20 ESTATE.—For purposes of section 542(b) of title 11 of
21 the United States Code, a claim for payment under this
22 title shall not be considered to be a matured debt payable
23 to the estate of a debtor until such claim has been allowed
24 by the Secretary in accordance with procedures under this
25 title.”.

1 **TITLE III—MEDICARE MENTAL**
2 **HEALTH PARTIAL HOS-**
3 **PITALIZATION SERVICES**

4 **SEC. 301. SERVICES NOT TO BE FURNISHED IN RESIDEN-**
5 **TIAL SETTINGS.**

6 (a) IN GENERAL.—Section 1861(ff)(3)(A) (42
7 U.S.C. 1395x(ff)(3)(A)) is amended by inserting “other
8 than in an individual’s home or in an inpatient or residen-
9 tial setting” before the period.

10 (b) EFFECTIVE DATE.—The amendment made by
11 subsection (a) applies to services furnished after the sixth
12 month beginning after the date of enactment of this Act.

13 **SEC. 302. ADDITIONAL REQUIREMENTS FOR COMMUNITY**
14 **MENTAL HEALTH CENTERS.**

15 (a) CRITERIA FOR PROVIDING SERVICES.—Section
16 1861(ff)(3)(B) (42 U.S.C. 1395x(ff)(3)(B)) is amended
17 by striking “entity—” and all that follows and inserting
18 the following:

19 “entity that—

20 “(i) provides the community mental health serv-
21 ices specified in section 1913(c)(1)) of the Public
22 Health Service Act;

23 “(ii) meets applicable certification or licensing
24 requirements for community mental health centers
25 in the State in which it is located;

1 “(iii) is providing a significant share of its serv-
 2 ices to individuals who are not eligible for benefits
 3 under this title; and

4 “(iv) meets such additional conditions as the
 5 Secretary may specify in the interest of the health
 6 and safety of individuals furnished services, or for
 7 the effective or efficient furnishing of services.”.

8 (b) **EFFECTIVE DATE.**—The amendments made by
 9 subsection (a) apply to services furnished after the sixth
 10 month beginning after the date of enactment of this Act.

11 **SEC. 303. PROSPECTIVE PAYMENT SYSTEM.**

12 (a) **ESTABLISHMENT OF SYSTEM.**—Section 1833 (42
 13 U.S.C. 13951) is amended by inserting after subsection
 14 (o) the following new subsection:

15 “(p) **PROSPECTIVE PAYMENT SYSTEM FOR PARTIAL**
 16 **HOSPITALIZATION SERVICES PROVIDED BY A COMMUNITY**
 17 **MENTAL HEALTH CENTER.**—The Secretary may establish
 18 by regulation a prospective payment system for partial
 19 hospitalization services provided by a community mental
 20 health center. The system shall provide for appropriate
 21 payment levels for efficient centers and take into account
 22 payment levels for similar services furnished by other enti-
 23 ties.”.

24 (b) **COINSURANCE AT 20 PERCENT OF PROSPECTIVE**
 25 **PAYMENT BASIS.**—Section 1866(a)(2)(A) (42 U.S.C.

1 1395cc(a)(2)(A)) is amended by adding at the end the fol-
2 lowing: “In the case of services described in section
3 1832(a)(2)(J), clause (ii) of the first sentence of this sub-
4 paragraph shall be applied by substituting the payment
5 basis established under section 1833(p) for the reasonable
6 charges.”.

7 (c) CONFORMING AMENDMENTS.—Section 1833(a)
8 (42 U.S.C. 1395l(a)) is amended—

9 (1) in the matter in paragraph (2) preceding
10 subparagraph (A), by striking “and (I)” and insert-
11 ing “(I), and (J)”;

12 (2) by striking “and” at the end of paragraph
13 (6);

14 (3) by striking the period at the end of para-
15 graph (7) and adding “; and”; and

16 (4) by adding at the end the following new
17 paragraph:

18 “(8) in the case of services described in section
19 1832(a)(2)(J), 80 percent of the payment basis
20 under the prospective payment system established
21 under section 1833(p).”.

22 (d) EFFECTIVE DATE.—The amendments made by
23 subsections (b) and (c) apply to services furnished after
24 the first calendar year that ends at least six months after

1 the date on which regulations are issued under section
 2 1833(p) of the Social Security Act (42 U.S.C. 1395l(p)).

3 **TITLE IV—MEDICARE RURAL** 4 **HEALTH CLINICS**

5 **SEC. 401. PER-VISIT PAYMENT LIMITS FOR PROVIDER-** 6 **BASED CLINICS.**

7 (a) EXTENSION OF LIMIT.—

8 (1) AMENDMENT.—The matter in section
 9 1833(f) (42 U.S.C. 1395l(f)) preceding paragraph
 10 (1) is amended by striking “independent rural
 11 health clinics” and inserting “rural health clinics
 12 (other than such clinics in rural hospitals with less
 13 than 50 beds)”.

14 (2) EFFECTIVE DATE.—The amendment made
 15 by paragraph (1) applies to services furnished after
 16 1997.

17 (b) TECHNICAL CLARIFICATION.—Section 1833(f)(1)
 18 (42 U.S.C. 1395l(f)(1)) is amended by inserting “per
 19 visit” after “\$46”.

20 **SEC. 402. ASSURANCE OF QUALITY SERVICES.**

21 (a) IN GENERAL.—Subparagraph (I) of the first sen-
 22 tence of section 1861(aa)(2) (42 U.S.C. 1395x(aa)(2)) is
 23 amended to read as follows:

24 “(I) has a quality assessment and performance
 25 improvement program, and appropriate procedures

1 for review of utilization of clinic services, as the Sec-
 2 retary may specify.”.

3 (b) EFFECTIVE DATE.—The amendment made by
 4 subsection (a) shall take effect on January 1, 1998.

5 **SEC. 403. WAIVER OF CERTAIN STAFFING REQUIREMENTS**
 6 **LIMITED TO CLINICS IN PROGRAM.**

7 (a) IN GENERAL.—Section 1861(aa)(7)(B) (42
 8 U.S.C. 1395x(aa)(7)(B)) is amended by inserting “, or if
 9 the facility has not yet been determined to meet the re-
 10 quirements (including subparagraph (J) of the first sen-
 11 tence of paragraph (2)) of a rural health clinic.”.

12 (b) EFFECTIVE DATE.—The amendment made by
 13 subsection (a) applies to waiver requests made after 1997.

14 **SEC. 404. REFINEMENT OF SHORTAGE AREA REQUIRE-**
 15 **MENTS.**

16 (a) DESIGNATION REVIEWED TRIENNIALLY.—Sec-
 17 tion 1861(aa)(2) (42 U.S.C. 1395x(aa)(2)) is amended in
 18 the second sentence, in the matter in clause (i) preceding
 19 subclause (I)—

20 (1) by striking “and that is designated” and in-
 21 serting “and that, within the previous three-year pe-
 22 riod, has been designated”; and

23 (2) by striking “or that is designated” and in-
 24 serting “or designated”.

1 (b) AREA MUST HAVE SHORTAGE OF HEALTH CARE
2 PRACTITIONERS.—Section 1861(aa)(2) (42 U.S.C.
3 1395x(aa)(2)), as amended by subsection (a), is further
4 amended in the second sentence, in the matter in clause
5 (i) preceding subclause (I)—

6 (1) by striking the comma after “personal
7 health services”; and

8 (2) by inserting “and in which there are insuffi-
9 cient numbers of needed health care practitioners
10 (as determined by the Secretary),” after “Bureau of
11 the Census)”.

12 (c) PREVIOUSLY QUALIFYING CLINICS GRAND-
13 FATHERED ONLY TO PREVENT SHORTAGE.—Section
14 1861(aa)(2) (42 U.S.C. 1395x(aa)(2)) is amended in the
15 third sentence by inserting before the period “if it is deter-
16 mined, in accordance with criteria established by the Sec-
17 retary in regulations, to be essential to the delivery of pri-
18 mary care services that would otherwise be unavailable in
19 the geographic area served by the clinic”.

20 (d) EFFECTIVE DATES; IMPLEMENTING REGULA-
21 TIONS.—

22 (1) IN GENERAL.—Except as otherwise pro-
23 vided, the amendments made by the preceding sub-
24 sections take effect on January 1 of the first cal-

1 endar year beginning at least one month after enact-
2 ment of this Act.

3 (2) CURRENT RURAL HEALTH CLINICS.—The
4 amendments made by the preceding subsections take
5 effect, with respect to entities that are rural health
6 clinics under title XVIII of the Social Security Act
7 on the date of enactment of this Act, on January 1
8 of the second calendar year following the calendar
9 year specified in paragraph (1).

10 (3) GRANDFATHERED CLINCS.—

11 (A) IN GENERAL.—The amendment made
12 by subsection (c) shall take effect on the effec-
13 tive date of regulations issued by the Secretary
14 under subparagraph (B).

15 (B) REGULATIONS.—The Secretary shall
16 issue final regulations implementing subsection
17 (c) that shall take effect no later than January
18 1 of the third calendar year beginning at least
19 one month after enactment of this Act.

20 **SEC. 405. DECREASED BENEFICIARY COST SHARING FOR**
21 **RHC SERVICES.**

22 (a) IN GENERAL.—Clause (ii) of the second sentence
23 of section 1861(aa)(2) (42 U.S.C. 1395x(aa)(2)) is
24 amended by striking “pursuant to subsections (a) and (b)
25 of section 1833” and inserting “described in section

1 1833(b) or clause (ii) of the first sentence of section
 2 1866(a)(2)(A) (but any coinsurance amount shall not ex-
 3 ceed 20 percent of the limit described in section 1833(f),
 4 and no coinsurance amount shall be imposed for items and
 5 services described in section 1861(s)(10)(A))”.

6 (b) CONFORMING AND TECHNICAL AMENDMENT.—
 7 Section 1833(a)(3) (42 U.S.C. 1395l(a)(3)) is amended
 8 to read as follows:

9 “(3)(A) in the case of rural health clinic serv-
 10 ices, the costs which—

11 “(i) are (I) reasonable and related to the
 12 cost of furnishing such services or (II) based on
 13 such other tests of reasonableness as the Sec-
 14 retary may prescribe in regulations, including
 15 those authorized under section 1861(v)(1)(A);

16 “(ii) do not exceed the limit under sub-
 17 section (f);

18 “(iii) are reduced by any deductible or co-
 19 insurance amount a clinic or center may charge
 20 as described in clause (ii) of the second sen-
 21 tence of section 1861(aa)(2); and

22 “(iv) do not exceed 80 percent of such
 23 costs determined under the preceding clauses
 24 (other than for items and services described in
 25 section 1861(s)(10)(A)); and

1 “(B) in the case of Federally qualified health
 2 center services and services described in subpara-
 3 graph (E) of section 1832(a)(2), the costs which—

4 “(i) are (I) reasonable and related to the
 5 cost of furnishing such services or (II) based on
 6 such other tests of reasonableness as the Sec-
 7 retary may prescribe in regulations, including
 8 those authorized under section 1861(v)(1)(A);

9 “(ii) are reduced by the amount a provider
 10 may charge as described in clause (ii) of section
 11 1866(a)(2)(A); and

12 “(iii) do not exceed 80 percent of such
 13 costs determined under the preceding clauses
 14 (other than for items and services described in
 15 section 1861(s)(10)(A));”.

16 (c) EFFECTIVE DATE.—The amendments made by
 17 the preceding subsections apply to services furnished after
 18 1997.

19 **SEC. 406. PROSPECTIVE PAYMENT SYSTEM FOR RHC SERV-**
 20 **ICES.**

21 (a) ESTABLISHMENT OF SYSTEM.—Section 1833 (42
 22 U.S.C. 1395l) is amended by adding at the end the follow-
 23 ing new subsection:

24 “(t) RURAL HEALTH CLINIC SERVICES.—

1 “(1) ESTABLISHMENT OF PROSPECTIVE PAY-
2 MENT SYSTEM.—The Secretary shall establish by
3 regulation (which may be an interim final regula-
4 tion) a prospective payment system for rural health
5 clinic services. The regulation shall be issued no
6 later than June 30, 2000.

7 “(2) ADJUSTMENTS FOR INAPPROPRIATE UTILI-
8 ZATION.—The Secretary may provide for adjust-
9 ments to the payment levels under the prospective
10 payment system to take into account excessive utili-
11 zation (if any) of rural health clinic services.

12 “(3) ANNUAL UPDATE.—The Secretary shall
13 provide for an annual update to the payment levels
14 under the prospective payment system.

15 “(4) BUDGET NEUTRAL PAYMENTS.—The Sec-
16 retary shall establish the initial payment levels under
17 paragraph (1) in a manner that results in aggregate
18 payments (including payments by individuals to
19 whom services are provided) for the first year, as es-
20 timated by the Secretary, approximately equal to the
21 aggregate payments that would have otherwise been
22 made under this part.”.

23 (b) COINSURANCE AT 20 PERCENT OF PROSPECTIVE
24 PAYMENT BASIS.—Clause (ii) of the second sentence of
25 section 1861(aa)(2) (42 U.S.C. 1395x(aa)(2)) (as amend-

ed by section 405(a) of this Act) is further amended by striking “described in section 1833(b) or clause (ii) of the first sentence of section 1866(a)(2)(A) (but any coinsurance amount shall not exceed 20 percent of the limit described in section 1833(f), and” and inserting “described in section 1833(b) (for any deductible amount) and 20 percent of the payment basis under the prospective payment system established under section 1833(t) (for any coinsurance amount, but”.

(c) CONFORMING AMENDMENTS.—

(1) SEC. 1833(a)(3)(A).—Section 1833(a)(3)(A) (42 U.S.C. 1395l(a)(3)(A)) (as enacted by section 405(b) of this Act) is amended by striking everything after “rural health clinic services,” and inserting “80 percent of the payment basis under the prospective payment system established under section 1833(t) (or 100 percent, for items and services described in section 1861(s)(10)(A)); and”.

(2) SEC. 1833(f).—Section 1833(f) (42 U.S.C. 1395l(f)) is repealed.

(d) EFFECTIVE DATE.—The amendments made by subsections (b) and (c) apply to services furnished after the first calendar year that ends at least six months after

1 the date on which regulations are issued under section
2 1833(t) of the Social Security Act (42 U.S.C. 1395l(t)).

○