

105TH CONGRESS
1ST SESSION

H. R. 2301

To establish a program to improve the control of fraud and abuse in the Medicare Program, to increase the amount of civil monetary penalties which may be assessed against individuals and entities committing fraud against the Medicare Program, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 30, 1997

Ms. DANNER introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Commerce, 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 establish a program to improve the control of fraud and abuse in the Medicare Program, to increase the amount of civil monetary penalties which may be assessed against individuals and entities committing fraud against the Medicare Program, 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 and
5 Abuse Control Act of 1997”.

1 **SEC. 2. ESTABLISHMENT OF MEDICARE FRAUD AND ABUSE**
2 **CONTROL PROGRAM.**

3 (a) IN GENERAL.—Not later than 6 months after the
4 date of the enactment of this Act, the Secretary of Health
5 and Human Services shall establish a program to improve
6 the prevention, detection, and control of fraud and abuse
7 under the medicare program.

8 (b) AWARD OF PORTION OF AMOUNTS COLLECTED
9 TO INDIVIDUALS PROVIDING INFORMATION.—Under the
10 program established pursuant to subsection (a), the Sec-
11 retary shall pay a portion of any civil monetary penalty
12 assessed under the medicare program to any individual or
13 entity who provided information which served as the basis
14 for the assessment of the penalty, under the same terms
15 and conditions applicable to awards to qui tam plaintiffs
16 under chapter 37 of title 31, United States Code.

17 **SEC. 3. PROVIDING INFORMATION ON REPORTING FRAUD**
18 **AND ABUSE WITH MEDICARE CLAIMS AND**
19 **BENEFIT FORMS.**

20 (a) IN GENERAL.—Title XVIII of the Social Security
21 Act (42 U.S.C. 1395 et seq.) is amended by adding at
22 the end the following new section:

23 “SOLICITATION OF INFORMATION ON FRAUD AND ABUSE
24 “SEC. 1894. With each explanation of benefits pro-
25 vided to an individual to whom items or services are fur-
26 nished under this title and with each notice of payment

1 provided to an individual or entity furnishing an item or
 2 service for which payment is made under this title, the
 3 Secretary shall include a statement soliciting any informa-
 4 tion the individual or entity may possess on any fraud and
 5 abuse committed against the program under this title.”.

6 (b) EFFECTIVE DATE.—The amendment made by
 7 subsection (a) shall apply to items and services furnished
 8 and payments made under title XVIII of the Social Secu-
 9 rity Act on or after January 1, 1998.

10 **SEC. 4. INCREASE IN AMOUNT OF PENALTIES.**

11 (a) IN GENERAL.—

12 (1) GENERAL CIVIL MONETARY PENALTIES.—

13 Section 1128A of the Social Security Act (42 U.S.C.
 14 1320a–7a) is amended—

15 (A) in subsection (a), by striking
 16 “\$15,000” and inserting “\$30,000”; and

17 (B) in subsection (b), by striking “\$2,000”
 18 each place it appears and inserting “\$4,000”.

19 (2) CRIMINAL PENALTIES.—Section 1128B of
 20 such Act (42 U.S.C. 1320a–7b) is amended—

21 (A) in subsection (a)—

22 (i) by striking “\$25,000” and insert-
 23 ing “\$50,000”, and

24 (ii) by striking “\$10,000” and insert-
 25 ing “\$20,000”;

1 (B) in subsections (b), (c), and (d), by
 2 striking “\$25,000” each place it appears and
 3 inserting “\$50,000”; and

4 (C) in subsection (e), by striking “\$2,000”
 5 and inserting “\$4,000”.

6 (3) STANDARDS FOR NURSING FACILITIES.—

7 (A) PROVIDING ADVANCE NOTICE OF SUR-
 8 VEY TO NURSING FACILITY.—Section
 9 1819(g)(2)(A)(i) of such Act (42 U.S.C. 1395i-
 10 3(g)(2)(A)(i)) is amended by striking “\$2,000”
 11 and inserting “\$4,000”.

12 (B) NONCOMPLIANCE WITH NURSING FA-
 13 CILITY STANDARDS.—Section 1819(h)(2)(B)(ii)
 14 of such Act (42 U.S.C. 1395i-3(h)(2)(B)(ii)) is
 15 amended by striking “\$10,000” and inserting
 16 “\$20,000”.

17 (4) FAILURE TO PROVIDE INFORMATION ON RE-
 18 FERRING PHYSICIAN ON UNASSIGNED CLAIMS.—Sec-
 19 tion 1833(q)(2)(B)(i) of such Act (42 U.S.C.
 20 1395l(q)(2)(B)(i)) is amended by striking “\$2,000”
 21 and inserting “\$4,000”.

22 (5) DISTRIBUTION BY SUPPLIERS OF MEDICAL
 23 EQUIPMENT OF MEDICAL NECESSITY FORMS.—Sec-
 24 tion 1834(j)(2)(A)(iii) of such Act (42 U.S.C.

1 1395m(j)(2)(A)(iii)) is amended by striking
2 “\$1,000” and inserting “\$2,000”.

3 (6) FAILURE TO INCLUDE DIAGNOSIS CODE ON
4 UNASSIGNED CLAIMS.—Section 1842(p)(3)(A) of
5 such Act (42 U.S.C. 1395u(p)(3)(A)) is amended by
6 striking “\$2,000” and inserting “\$4,000”.

7 (7) INTERMEDIATE SANCTIONS FOR PROVIDERS
8 OR SUPPLIERS OF CLINICAL DIAGNOSTIC LABORA-
9 TORY TESTS.—Section 1846(b)(2)(A)(ii) of such Act
10 (42 U.S.C. 1395w–2(b)(2)(A)(ii)) is amended by
11 striking “\$10,000” and inserting “\$20,000”.

12 (8) MEDICARE SECONDARY PAYER.—

13 (A) OFFERING FINANCIAL INCENTIVES
14 FOR BENEFICIARIES NOT TO ENROLL IN PRI-
15 MARY PLANS.—The second sentence of section
16 1862(b)(3)(C) of such Act (42 U.S.C.
17 1395y(b)(3)(C)) is amended by striking
18 “\$5,000” and inserting “\$10,000”.

19 (B) FAILURE OF EMPLOYER TO PROVIDE
20 MATCHING INFORMATION ON SECONDARY
21 PAYER SITUATIONS.—The second sentence of
22 section 1862(b)(5)(C)(ii) of such Act (42
23 U.S.C. 1395y(b)(5)(C)(ii)) is amended by strik-
24 ing “\$1,000” and inserting “\$2,000”.

1 (C) FAILURE OF PROVIDER TO PROVIDE
2 INFORMATION ON AVAILABILITY OF OTHER
3 PAYERS.—Section 1862(b)(6)(B) of such Act
4 (42 U.S.C. 1395y(b)(6)(B)) is amended by
5 striking “\$2,000” and inserting “\$4,000”.

6 (9) IMPROPER BILLING BY HOSPITALS.—Sec-
7 tion 1866(g) of such Act (42 U.S.C. 1395cc(g)) is
8 amended by striking “\$2,000” and inserting
9 “\$4,000”.

10 (10) VIOLATION OF ANTI-DUMPING RESTRIC-
11 TIONS.—Section 1867(d)(1) of such Act (42 U.S.C.
12 1395dd(d)(1)) is amended—

13 (A) by striking “\$50,000” each place it
14 appears and inserting “\$100,000”; and

15 (B) in subparagraph (A), by striking
16 “\$25,000” and inserting “\$50,000”.

17 (11) SANCTIONS AGAINST HEALTH MAINTENANCE
18 ORGANIZATIONS.—Section 1876(i)(6)(B)(i)
19 of such Act (42 U.S.C. 1395mm(i)(6)(B)(i)) is
20 amended—

21 (A) by striking “\$25,000” and inserting
22 “\$50,000”;

23 (B) by striking “\$100,000” and inserting
24 “\$200,000”; and

1 (C) by striking “\$15,000” and inserting
 2 “\$30,000”.

3 (12) REFERRALS BY PHYSICIANS WITH OWNER-
 4 SHIP OR INVESTMENT INTERESTS.—

5 (A) IMPROPER CLAIMS.—Section
 6 1877(g)(3) of such Act (42 U.S.C.
 7 1395nn(g)(3)) is amended by striking
 8 “\$15,000” and inserting “\$30,000”.

9 (B) CIRCUMVENTION SCHEMES.—Section
 10 1877(g)(4) of such Act (42 U.S.C.
 11 1395nn(g)(4)) is amended by striking
 12 “\$100,000” and inserting “\$200,000”.

13 (C) FAILURE TO REPORT INFORMATION.—
 14 Section 1877(g)(5) of such Act (42 U.S.C.
 15 1395nn(g)(5)) is amended by striking
 16 “\$10,000” and inserting “\$20,000”.

17 (13) MEDICARE SUPPLEMENTAL POLICIES.—

18 (A) ISSUANCE OF POLICIES WHERE NO
 19 STANDARDS IN EFFECT.—The second sentence
 20 of section 1882(a)(2) of such Act (42 U.S.C.
 21 1395ss(a)(2)) is amended by striking
 22 “\$25,000” and inserting “\$50,000”.

23 (B) MISREPRESENTATIONS OF POLICIES.—
 24 Section 1882(d) of such Act (42 U.S.C.
 25 1395ss(d)) is amended—

(i) in paragraphs (1), (2), and (4)(A),
by striking “\$5,000” and inserting
“\$10,000”; and

(ii) in paragraph (3), by striking
“\$25,000 (or \$15,000” each place it ap-
pears and inserting “\$50,000 (or
\$30,000”.

(C) VIOLATION OF BENEFITS STAND-
ARDS.—Section 1882(p) of such Act (42 U.S.C.
1395ss(p)) is amended by striking “\$25,000 (or
\$15,000” each place it appears in paragraphs
(8) and (9)(C) and inserting “\$50,000 (or
\$30,000”.

(D) VIOLATION OF GUARANTEED RENEW-
ABILITY STANDARDS.—Section 1882(q)(5)(C)
of such Act (42 U.S.C. 1395ss(q)(5)(C)) is
amended by striking “\$25,000” and inserting
“\$50,000”.

(E) VIOLATION OF LOSS RATIO STAND-
ARDS.—Section 1882(r)(6)(A) of such Act (42
U.S.C. 1395ss(r)(6)(A)) is amended by striking
“\$25,000” and inserting “\$50,000”.

(F) VIOLATION OF PRE-EXISTING CONDI-
TION STANDARDS.—Section 1882(s)(3) of such

1 Act (42 U.S.C. 1395ss(s)(3)) is amended by
 2 striking “\$5,000” and inserting “\$10,000”.

3 (G) MEDICARE SELECT POLICIES.—Section
 4 1882(t)(2) of such Act (42 U.S.C.
 5 1395ss(t)(2)) is amended by striking “\$25,000”
 6 and inserting “\$50,000”.

7 (14) VIOLATION OF HOME HEALTH PARTICIPA-
 8 TION STANDARDS.—Section 1891 of such Act (42
 9 U.S.C. 1395bbb) is amended—

10 (A) in subsection (a)(3)(D)(iii)(III), by
 11 striking “\$5,000” and inserting “\$10,000”;

12 (B) in subsection (c)(1), by striking
 13 “\$2,000” and inserting “\$4,000” ; and

14 (C) in subsection (f)(2)(A)(i), by striking
 15 “\$10,000” and inserting “\$20,000”.

16 (b) EFFECTIVE DATE.—The amendments made by
 17 subsection (a) shall apply to civil monetary penalties im-
 18 posed with respect to acts or omissions occurring on or
 19 after January 1, 1998.

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