

105TH CONGRESS  
1ST SESSION

# H. R. 2543

To amend titles XVIII and XIX of the Social Security Act to require hospitals, skilled nursing facilities, home health agencies, hospice programs, clinical laboratories, and ambulance services to fund annual financial and compliance audits as a condition of participation under the Medicare and Medicaid programs.

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## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 24, 1997

Mr. STARK (for himself, Mr. DELLUMS, and Mr. MILLER of California) introduced the following bill; which was referred to the Committee on 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

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## A BILL

To amend titles XVIII and XIX of the Social Security Act to require hospitals, skilled nursing facilities, home health agencies, hospice programs, clinical laboratories, and ambulance services to fund annual financial and compliance audits as a condition of participation under the Medicare and Medicaid programs.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Medicare and Medicaid  
3 Provider Review Act of 1997”.

4 **SEC. 2. REQUIRING CERTAIN PROVIDERS TO FUND ANNUAL**  
5 **FINANCIAL AND COMPLIANCE AUDITS AS A**  
6 **CONDITION OF PARTICIPATION UNDER THE**  
7 **MEDICARE AND MEDICAID PROGRAMS.**

8 (a) ESTABLISHMENT OF ANNUAL FINANCIAL AND  
9 COMPLIANCE AUDIT FEE SCHEDULE.—Title XI of the  
10 Social Security Act, as amended by sections 4321(c) of  
11 the Balanced Budget Act of 1997 (Public Law 105–33),  
12 is amended by inserting after section 1146 the following  
13 new section:

14 “COMPLIANCE AND FINANCIAL AUDIT FEE SCHEDULE

15 “SEC. 1147. (a) ESTABLISHMENT.—

16 “(1) IN GENERAL.—Subject to subsection (c),  
17 the Secretary shall—

18 “(A) establish a schedule of hourly rates  
19 for the conduct of annual financial and compli-  
20 ance audits during each fiscal year for all  
21 health care providers described in subsection (b)  
22 that receive payment under title XVIII or XIX  
23 during the year; and

24 “(B) provide for the conduct, in a separate  
25 office within the Department of Health and  
26 Human Services, of such audits by specially

1 trained and qualified personnel of each provid-  
 2 er's substantial compliance with the require-  
 3 ments for payment to such provider under title  
 4 XVIII, title XIX, or both (whichever is applica-  
 5 ble), including requirements relating to medical  
 6 necessity and appropriate coding and docu-  
 7 mentation for services and supplies provided.

8 “(2) SCOPE OF AUDITS.—An audit of a pro-  
 9 vider under paragraph (1)(B) shall include, as ap-  
 10 propriate, audits of related entities (including busi-  
 11 nesses owned, in whole or in part, by the provider).

12 “(b) COVERED PROVIDERS.—

13 “(1) IN GENERAL.—Subject to paragraph (2),  
 14 each of the following is a health care provider de-  
 15 scribed in this subsection:

16 “(A) A hospital.

17 “(B) A skilled nursing facility or nursing  
 18 facility.

19 “(C) A home health agency.

20 “(D) A hospice program.

21 “(E) A provider of clinical laboratory serv-  
 22 ices.

23 “(F) A provider of ambulance services.

24 “(2) LOW VOLUME PROVIDER EXEMPTION.—

25 The Secretary may exclude a particular health care

1 provider described in paragraph (1) if the Secretary  
 2 finds that the provider receives a small amount of  
 3 revenues from titles XVIII and XIX.

4 “(c) REQUIRING MAINTENANCE OF APPROPRIATION  
 5 LEVEL.—No rates shall be collected under subsection (a)  
 6 and no audits conducted under such subsection for a fiscal  
 7 year if the amount appropriated and available for the con-  
 8 duct of audits of the type described in subsection  
 9 (a)(1)(B) for the fiscal year is less than the amount so  
 10 appropriated for fiscal year 1998 or for the fiscal year pre-  
 11 ceding the fiscal year involved, whichever is greater.

12 “(d) USE OF FUNDS EXCLUSIVELY FOR FINANCIAL  
 13 AND COMPLIANCE AUDITS.—Annual payments made to  
 14 the Secretary under sections 1866(a)(1)(T), 1862(a)(22),  
 15 and 1903(i)(19) in the amounts specified under subsection  
 16 (a) are hereby appropriated to the Secretary for the sole  
 17 purpose of conducting audits described in subsection (a).”.

18 (b) APPLICATION UNDER MEDICARE PROGRAM.—

19 (1) PAYMENT REQUIREMENT FOR HOSPITALS,  
 20 SKILLED NURSING FACILITIES, HOME HEALTH  
 21 AGENCIES, AND HOSPICE PROGRAMS.—Section  
 22 1866(a)(1) of the Social Security Act, as amended  
 23 by section 4321(b) of the Balanced Budget Act of  
 24 1997 (42 U.S.C. 1395cc), is amended—

1 (A) by striking “and” at the end of sub-  
2 paragraph (R),

3 (B) by striking the period at the end of  
4 subparagraph (S), and

5 (C) by inserting after subparagraph (S)  
6 the following new subparagraph:

7 “(T) in the case of a hospital, skilled nursing  
8 facility, home health agency, or hospice program,  
9 subject to section 1147(c), to provide for annual  
10 payment to the Secretary of the appropriate amount  
11 specified under section 1147(a) as necessary for the  
12 conduct of an annual financial and compliance audit  
13 of the hospital, facility, agency, or program under  
14 such section.”.

15 (2) REQUIREMENT FOR AMBULANCE SERVICES  
16 AND CLINICAL LABORATORIES.—Section 1862(a) of  
17 the Social Security Act (42 U.S.C. 1395y(a)), as  
18 amended by sections 4319(b), 4432(b),  
19 4507(a)(2)(B), 4541(b), and 4603(c)(2)(C) of the  
20 Balanced Budget Act of 1997, is amended—

21 (A) by striking “or” at the end of para-  
22 graph (20),

23 (B) by striking the period at the end of  
24 paragraph (21) and inserting “; or”, and

1 (C) by inserting after paragraph (21) the  
2 following new paragraph:

3 “(22) where such expenses are for ambulance  
4 services or clinical laboratory services unless, subject  
5 to section 1147(c), the provider of such services has  
6 provided for annual payment to the Secretary of the  
7 appropriate amount specified under section 1147(a)  
8 as necessary for the conduct of an annual financial  
9 and compliance audit of the provider under such sec-  
10 tion.”.

11 (c) MEDICAID.—Section 1903(i) of such Act (42  
12 U.S.C. 1396b(i)), as amended by sections 4724(a) and  
13 4724(b) of the Balanced Budget Act of 1997 (Public Law  
14 105–33), is amended—

15 (1) by striking “or” at the end of paragraph  
16 (17),

17 (2) by striking the period at the end of para-  
18 graph (18) and inserting “; or”, and

19 (3) by inserting after paragraph (18) the fol-  
20 lowing new paragraph:

21 “(19) with respect to any amount expended for  
22 services furnished by a covered provider described in  
23 section 1147(b) unless, subject to section 1147(c),  
24 the provider has provided for annual payment to the  
25 Secretary of the appropriate amount specified under

1 section 1147(a) as necessary for the conduct of an  
2 annual financial and compliance audit of the pro-  
3 vider under such section.”.

4 (d) REPORT ON AUDITING AGENCIES.—

5 (1) STUDY.—The Secretary of Health and  
6 Human Services shall conduct a study of the exam-  
7 ining and accrediting agencies that conduct audits  
8 and inspections of covered providers (described in  
9 section 1147(b) of the Social Security Act, as added  
10 by subsection (a)). Such study shall include an ex-  
11 amination of the audits and inspections conducted  
12 by such agencies.

13 (2) REPORT.—Based on the study conducted  
14 under paragraph (1), the Secretary shall submit to  
15 Congress, by not later than June 1, 1999, a report  
16 that includes recommendations on how best to co-  
17 ordinate and consolidate these audits and inspec-  
18 tions to minimize unnecessary duplication.

19 (e) EFFECTIVE DATE.—The amendments made by  
20 subsections (a) through (c) shall take effect as of January  
21 1, 1998.

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