

105TH CONGRESS  
1ST SESSION

# H. R. 2632

To amend title XI and title XVIII of the Social Security Act to combat health care fraud and abuse.

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## IN THE HOUSE OF REPRESENTATIVES

OCTOBER 7, 1997

Mr. STARK 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

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## A BILL

To amend title XI and title XVIII of the Social Security Act to combat health care fraud and abuse.

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; AMENDMENTS TO SOCIAL SECU-**  
4 **RITY ACT; TABLE OF CONTENTS.**

5 (a) SHORT TITLE.—This Act may be cited as the  
6 “Medicare and Medicaid Beneficiary Protection Act of  
7 1997”.

8 (b) AMENDMENTS TO SOCIAL SECURITY ACT.—Ex-  
9 cept as otherwise specifically provided, whenever in this

1 title an amendment is expressed in terms of an amend-  
 2 ment to or repeal of a section or other provision, the ref-  
 3 erence shall be considered to be made to that section or  
 4 other provision of the Social Security Act.

5 (c) TABLE OF CONTENTS.—The table of contents of  
 6 this Act is as follows:

Sec. 1. Short title; amendments to Social Security Act; table of contents.

#### TITLE I—REVISIONS TO SANCTIONS FOR FRAUD AND ABUSE

##### Subtitle A—Exclusion Authority

Sec. 101. Clarification of application of mandatory exclusion based on felony convictions relating to controlled substances to individuals involved in health care.

Sec. 102. Clarification of period of exclusion based on loss of license.

Sec. 103. Clarification of application of sanctions to Federal health care programs.

Sec. 104. Clarification of application of certain individuals who have had an ownership or control interest.

##### Subtitle B—Civil Monetary Penalties

Sec. 111. Repeal of clarification concerning levels of knowledge required for imposition of civil monetary penalties.

Sec. 112. Civil money penalties for services ordered or prescribed by an excluded individual or entity.

Sec. 113. Permitting HHS to pursue civil monetary penalty actions after consultation with the attorney general.

Sec. 114. Clarification of payment practice exception authority to definition of remuneration.

Sec. 115. Extension of subpoena and injunction authority.

Sec. 116. Amounts of civil monetary penalties.

Sec. 117. Applying anti-dumping sanctions against physicians who refuse an appropriate transfer at a hospital with specialized capabilities or facilities.

##### Subtitle C—Criminal Penalties

Sec. 121. Kickback penalties for knowing violations.

Sec. 122. Repeal of expanded exception for risk-sharing contract to anti-kickback provisions.

Sec. 123. Expansion of criminal penalties for kickbacks.

Sec. 124. Treatment of certain social security act crimes as Federal health care offenses.

##### Subtitle D—Miscellaneous Provision

Sec. 131. Repeal of HIPAA advisory opinion authority.

- Sec. 132. Clarification of identification numbers to be used with adverse action data base.
- Sec. 133. Access to information in adverse action data bank by entities provided information on licensing sanctions.

## TITLE II—IMPROVEMENTS IN PROTECTING PROGRAM INTEGRITY

### Subtitle A—General Provisions

- Sec. 201. Limiting the use of automatic stays and discharge in bankruptcy proceedings for provider liability for health care fraud.
- Sec. 202. Requiring certain providers to fund annual financial and compliance audits as a condition of participation under the medicare and medicaid programs.
- Sec. 203. Liability of medicare carriers and fiscal intermediaries and of State medicaid agencies for claims submitted by excluded providers.
- Sec. 204. Medicare hospital outpatient payment policies.
- Sec. 205. Standardization of forms used for certifications of medical necessity and certifications of terminal illness.
- Sec. 206. No mark-up for drugs, biologicals, or nutrients; use of national drug code numbers in medicare claims.
- Sec. 207. Adjustments in hospital payments to reflect excess payment resulting from a financial interest with down-stream facilities.

### Subtitle B—Other Provisions

- Sec. 211. Inclusion of cost of home health services in explanation of medicare benefits.
- Sec. 212. Prohibition of “cold call” marketing for Medicare+Choice plans.

## TITLE III—PROVIDER ENROLLMENT PROCESS; FEES

- Sec. 301. Fees for agreements with medicare providers and suppliers.
- Sec. 302. Requirements and fees for issuance of standard health care identifiers.
- Sec. 303. Administrative fees for medicare overpayment collection.

## TITLE IV—PAYMENT IMPROVEMENTS

### Subtitle A—Mental Health Partial Hospitalization Services

- Sec. 401. Limitation on location of provision of services.
- Sec. 402. Qualifications for community mental health centers.
- Sec. 403. Audit of providers of partial hospitalization services.
- Sec. 404. Prospective payment system for partial hospitalization services.
- Sec. 405. Demonstration for expanded partial hospitalization services.

### Subtitle B—Rural Health Clinic Services

- Sec. 411. Decreased beneficiary cost sharing for rural health clinic services.
- Sec. 412. Prospective payment system for rural health clinic services.

1 **TITLE I—REVISIONS TO SANC-**  
 2 **TIONS FOR FRAUD AND**  
 3 **ABUSE**

4 **Subtitle A—Exclusion Authority**

5 **SEC. 101. CLARIFICATION OF APPLICATION OF MANDA-**  
 6 **TORY EXCLUSION BASED ON FELONY CON-**  
 7 **VICTIONS RELATING TO CONTROLLED SUB-**  
 8 **STANCES TO INDIVIDUALS INVOLVED IN**  
 9 **HEALTH CARE.**

10 (a) IN GENERAL.—Section 1128(a)(4) (42 U.S.C.  
 11 1320a–7(a)(4)) is amended—

12 (1) by striking “convicted for” and inserting  
 13 “convicted of”, and

14 (2) by striking the period at the end and insert-  
 15 ing the following: “if the individual or entity at the  
 16 time of the offense or conviction—

17 “(A) is a health care practitioner, provider,  
 18 or supplier;

19 “(B) is a person with an ownership or con-  
 20 trol interest (as defined in section 1124(a)(3))  
 21 in an entity that is a health care provider or  
 22 supplier;

23 “(C) is an officer, director, agent, or man-  
 24 aging employee (as defined in section 1126(b))  
 25 of such an entity; or

1 “(D) is employed in any capacity in the  
2 health care industry.”.

3 (b) CONFORMING EXPANSION OF DISCRETIONARY  
4 EXCLUSION AUTHORITY.—Section 1128(b)(3) (42 U.S.C.  
5 1320a–7(b)(3)) is amended—

6 (1) in the heading, by striking “MISDEMEANOR  
7 CONVICTION” and inserting “CONVICTION”;

8 (2) by inserting “that is not described in sub-  
9 section (a)(3) and” after “Any individual or entity”;  
10 and

11 (3) by striking “consisting of a misdemeanor”.

12 (c) EFFECTIVE DATE.—The amendments made by  
13 this section shall be effective as if included in the enact-  
14 ment of section 211(b) of the Health Insurance Portability  
15 and Accountability Act of 1996, but shall not apply to any  
16 action initiated before the date of the enactment of this  
17 Act.

18 **SEC. 102. CLARIFICATION OF PERIOD OF EXCLUSION**  
19 **BASED ON LOSS OF LICENSE.**

20 (a) IN GENERAL.—Section 1128(c)(3)(E) (42 U.S.C.  
21 1320a–7(c)(3)(E)) is amended—

22 (1) by striking “or surrendered” and inserting  
23 “or otherwise lost, or surrendered during a formal  
24 disciplinary proceeding,” and

1           (2) by inserting “, or otherwise sanctioned  
2       under,” after “suspended from”.

3       (b) EFFECTIVE DATE.—The amendments made by  
4       subsection (a) shall apply to exclusions in effect on or after  
5       the date of the enactment of this Act.

6       **SEC. 103. CLARIFICATION OF APPLICATION OF SANCTIONS**  
7                               **TO FEDERAL HEALTH CARE PROGRAMS.**

8       (a) COVERAGE OF EMPLOYMENT.—Section 1128 (42  
9       U.S.C. 1320a–7) is amended—

10           (1) in subsection (a), by inserting “(including  
11       employment under)” after “participation in”, and

12           (2) in subsection (b), by inserting “(including  
13       employment)” after “participation”.

14       (b) APPLICATION UNDER CIVIL MONEY PENALTY  
15       AUTHORITY.—Section 1128A (42 U.S.C. 1320a–7a) is  
16       amended—

17           (1) in subsection (a)(4), by striking “program  
18       under title XVIII or a State health care program”  
19       and inserting “Federal health care program” each  
20       place it appears;

21           (2) in subsection (a)(5)—

22                   (A) by striking “title XVIII of this Act, or  
23       under a State health care program (as defined  
24       in section 1128(h))” and inserting “a Federal  
25       health care program”, and

1 (B) by striking “title XVIII, or a State  
2 health care program (as so defined)” and in-  
3 serting “such program”;

4 (3) in the last sentence of subsection (a), by  
5 striking “and to direct the appropriate State agency  
6 to exclude the person from participation in any State  
7 health care program”; and

8 (4) in subsection (h), by striking “State agency  
9 or agencies administering or supervising the admin-  
10 istration of State health care programs (as defined  
11 in section 1128(h))” and inserting “State or Federal  
12 State agency or agencies administering or super-  
13 vising the administration of Federal health care pro-  
14 grams”.

15 (c) APPLICATION OF WAIVER PROVISIONS TO FED-  
16 ERAL HEALTH CARE PROGRAMS.—Section 1128 (42  
17 U.S.C. 1320a–7) is amended—

18 (1) in subsection (c)(3)(B), by striking “upon  
19 the request of a State” and inserting “upon the re-  
20 quest of the director of a Federal health care pro-  
21 gram”;

22 (2) in subsection (d)(3)(B)(i)—

23 (A) by striking “State health care pro-  
24 gram” and inserting “Federal health care pro-  
25 gram”, and

1 (B) by striking “State agency” and insert-  
 2 ing “State or Federal agency”; and

3 (3) in subsection (d)(3)(B)(ii), by striking  
 4 “State health care program” and inserting “Federal  
 5 health care program (other than under title  
 6 XVIII)”.

7 (d) NOTICE PROVISION REGARDING FEDERAL  
 8 HEALTH CARE PROGRAMS.—Section 1128 (42 U.S.C.  
 9 1320a–7) is amended—

10 (1) in the heading of subsection (d), by striking  
 11 “TO STATE AGENCIES AND EXCLUSION UNDER  
 12 STATE HEALTH CARE PROGRAMS” and inserting  
 13 “AND EXCLUSION UNDER FEDERAL HEALTH CARE  
 14 PROGRAMS”;

15 (2) in subsection (d)(1), by striking “State”  
 16 and inserting “Federal”;

17 (3) in subsection (d)(2)—

18 (A) by striking “State agency” and insert-  
 19 ing “Federal or State agency” each place it ap-  
 20 pears, and

21 (B) by striking “State health care pro-  
 22 gram” and inserting “Federal health care pro-  
 23 gram” each place it appears;

24 (4) in subsection (d)(3)(A), by striking “State”  
 25 and inserting “Federal”; and



1 (5) in subsection (g)(3)—

2 (A) by striking “State agency” and insert-  
3 ing “Federal or State agency”, and

4 (B) by striking “State health care pro-  
5 gram” and inserting “Federal health care pro-  
6 gram”.

7 (e) USE OF DEFINITION OF FEDERAL HEALTH CARE  
8 PROGRAM AND TREATMENT OF FEDERAL EMPLOYEES  
9 HEALTH BENEFITS PROGRAM AS A FEDERAL HEALTH  
10 CARE PROGRAM.—Section 1128B(f)(1) (42 U.S.C.  
11 1320a–7b(f)(1)), as amended by section 123(a)(2)(B), is  
12 amended—

13 (1) by inserting “and sections 1128, 1128A,  
14 and 1128B” after “this section”, and

15 (2) in subparagraph (A), by striking “(other  
16 than the health insurance program under chapter 89  
17 of title 5, United States Code)”.

18 (f) EFFECTIVE DATE.—(1) Subject to paragraph (2),  
19 the amendments made by this section shall take effect on  
20 the date of the enactment of this Act.

21 (2) The amendment made by subsection (e)(2) shall  
22 apply, with respect to convictions under the health insur-  
23 ance program under chapter 89 of title 5, United States  
24 Code, that occur on or after the date of the enactment  
25 of this Act.

1 **SEC. 104. CLARIFICATION OF APPLICATION TO CERTAIN IN-**  
 2 **DIVIDUALS WHO HAVE HAD AN OWNERSHIP**  
 3 **OR CONTROL INTEREST.**

4 Section 1128(b)(15)(A)(i) (42 U.S.C. 1320a–  
 5 7(b)(15)(A)(i)) is amended by inserting “or has had” after  
 6 “who has”.

7 **Subtitle B—Civil Monetary**  
 8 **Penalties**

9 **SEC. 111. REPEAL OF CLARIFICATION CONCERNING LEV-**  
 10 **ELS OF KNOWLEDGE REQUIRED FOR IMPOSI-**  
 11 **TION OF CIVIL MONETARY PENALTIES.**

12 (a) ELIMINATION OF “KNOWING” STANDARD.—Sec-  
 13 tion 1128A(a) (42 U.S.C. 1320a–7a(a)) is amended by  
 14 striking “knowingly” in paragraphs (1), (2), and (3).

15 (b) ELIMINATION OF STATUTORY DEFINITION OF  
 16 “SHOULD KNOW”.—Section 1128A(i) (42 U.S.C. 1320a–  
 17 7a(i)) is amended by striking paragraph (7).

18 (c) EFFECTIVE DATE.—The amendments made by  
 19 this section shall apply to acts or omissions occurring on  
 20 or after the date of the enactment of this Act.

21 **SEC. 112. CIVIL MONEY PENALTIES FOR SERVICES OR-**  
 22 **DERED OR PRESCRIBED BY AN EXCLUDED IN-**  
 23 **DIVIDUAL OR ENTITY.**

24 (a) IN GENERAL.—Section 1128A(a)(1) (42 U.S.C.  
 25 1320a–7a(a)(1)) is amended—

26 (1) in subparagraph (D)—

1 (A) by inserting “, ordered, or prescribed  
2 by such person” after “other item or service  
3 furnished”;

4 (B) by inserting “(pursuant to this title or  
5 title XVIII)” after “period in which the person  
6 was excluded”;

7 (C) by striking “pursuant to a determina-  
8 tion by the Secretary” and all that follows  
9 through “the provisions of section 1842(j)(2)”;  
10 and

11 (D) by striking “or” at the end;

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

14 (3) by inserting after subparagraph (D) the fol-  
15 lowing:

16 “(E) is for a medical or other item or serv-  
17 ice ordered or prescribed by a person excluded  
18 pursuant to this title or title XVIII from the  
19 program under which the claim was made, and  
20 the person furnishing such item or service  
21 knows or should know of such exclusion, or”.

22 (b) EFFECTIVE DATE.—The amendments made by  
23 subsection (a) shall apply to items and services furnished,  
24 ordered, or prescribed after the date of the enactment of  
25 this Act.

1 **SEC. 113. PERMITTING HHS TO PURSUE CIVIL MONETARY**  
2 **PENALTY ACTIONS AFTER CONSULTATION**  
3 **WITH THE ATTORNEY GENERAL.**

4 (a) IN GENERAL.—The first sentence of section  
5 1128A(c)(1) (42 U.S.C. 1320a–7a(c)(1)) is amended by  
6 striking “as authorized” and all that follows up to the pe-  
7 riod at the end and inserting “after consultation with the  
8 Attorney General”.

9 (b) EFFECTIVE DATE.—The amendment made by  
10 subsection (a) shall apply to proceedings initiated on or  
11 after the date of the enactment of this Act.

12 **SEC. 114. CLARIFICATION OF PAYMENT PRACTICE EXCEP-**  
13 **TION AUTHORITY TO DEFINITION OF REMU-**  
14 **NERATION.**

15 Section 1128A(i)(6)(B) (42 U.S.C. 1320a–  
16 7a(i)(6)(B)) is amended by inserting “or payment prac-  
17 tice” after “permissible waiver”.

18 **SEC. 115. EXTENSION OF SUBPOENA AND INJUNCTION AU-**  
19 **THORITY.**

20 (a) SUBPOENA AUTHORITY.—Section 1128A(j)(1)  
21 (42 U.S.C. 1320a–7a(j)(1)) is amended by inserting “and  
22 section 1128” after “with respect to this section”.

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

1 (c) CLARIFYING AMENDMENTS.—(1) Section  
2 1128A(j)(1) (42 U.S.C. 1320a–7a(j)(1)) is amended—

3 (A) by inserting “, except that, in so applying  
4 such sections, any reference therein to the Commis-  
5 sioner of Social Security or the Social Security Ad-  
6 ministration shall be considered a reference to the  
7 Secretary or the Department of Health and Human  
8 Services, respectively” after “with respect to title  
9 II”; and

10 (B) by striking the second sentence.

11 (2) Section 1128A(j)(2) (42 U.S.C. 1320a–7a(j)(2))  
12 is amended to read as follows:

13 “(2) The Secretary may delegate to the Inspector  
14 General of the Department of Health and Human Services  
15 any or all authority granted under this section or under  
16 section 1128.”.

17 (d) CONFORMING AMENDMENT.—Section 1128 (42  
18 U.S.C. 1320a–7), as amended by section 4303(a)(2) of the  
19 Balanced Budget Act of 1997 (Public Law 105–33), is  
20 amended by adding at the end the following new sub-  
21 section:

22 “(k) For provisions of law concerning the Secretary’s  
23 subpoena and injunction authority respect to activities  
24 under this section, see subsections (j) and (k) of section  
25 1128A.”.

1 **SEC. 116. AMOUNTS OF CIVIL MONETARY PENALTIES.**

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

4 (1) by striking “other than the first 2 sentences  
5 of subsection (a) and”;

6 (2) by inserting before the period “(and for the  
7 purpose of so applying section 1128A(a), each act of  
8 a physician for which a sanction may be applied with  
9 respect to an item or service shall be treated as a  
10 claim for payment for that item or service, and the  
11 amount of such claim shall be considered to be the  
12 amount of the request for payment made by that  
13 physician with respect to that item or service)”.

14 **SEC. 117. APPLYING ANTI-DUMPING SANCTIONS AGAINST**  
15 **PHYSICIANS WHO REFUSE AN APPROPRIATE**  
16 **TRANSFER AT A HOSPITAL WITH SPECIAL-**  
17 **IZED CAPABILITIES OR FACILITIES.**

18 (a) IN GENERAL.—Section 1867(d)(1) (42 U.S.C.  
19 1395dd(d)(1)) is amended by adding at the end the follow-  
20 ing new subparagraph:

21 “(D) Any physician (including a physician on-  
22 call) who—

23 “(i) is responsible for the acceptance of an  
24 individual at a hospital that is subject to the re-  
25 quirements of subsection (g) and who fails or  
26 refuses to accept a transfer of the individual to

1 such hospital in a case in which the hospital  
 2 may not refuse to accept the transfer under  
 3 such subsection; or

4 “(ii) is responsible for the treatment of an  
 5 individual at a hospital that is subject to the re-  
 6 quirements of subsection (g) and who fails or  
 7 refuses to appear within a reasonable period of  
 8 time at the hospital in order to provide treat-  
 9 ment required in connection with the transfer of  
 10 the individual,

11 is subject to a civil money penalty and exclusion in  
 12 the same manner as provided under subparagraph  
 13 (B) in the case of a negligent violation described in  
 14 such subparagraph.”.

15 (b) EFFECTIVE DATE.—The amendments made by  
 16 subsection (a) apply to failures and refusals occurring on  
 17 or after the date of the enactment of this Act.

## 18 **Subtitle C—Criminal Penalties**

### 19 **SEC. 121. KICKBACK PENALTIES FOR KNOWING VIOLA-** 20 **TIONS.**

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

1 **SEC. 122. REPEAL OF EXPANDED EXCEPTION FOR RISK-**  
2 **SHARING CONTRACT TO ANTI-KICKBACK**  
3 **PROVISIONS.**

4 (a) IN GENERAL.—Section 1128B(b)(3) (42 U.S.C.  
5 1320a–7b(b)(3)) is amended—

6 (1) by adding “and” at the end of subpara-  
7 graph (D);

8 (2) by striking “; and” at the end of subpara-  
9 graph (E) and inserting a period; and

10 (3) by striking subparagraph (F).

11 (b) ELIMINATION OF REPORT.—Subsection (b) of  
12 section 216 of the Health Insurance Portability and Ac-  
13 countability Act of 1996 is repealed.

14 (c) EFFECTIVE DATES.—(1) The amendments made  
15 by subsection (a) shall apply to remuneration provided on  
16 or after the date of the enactment of this Act, regardless  
17 of whether it is pursuant to an agreement or arrangement  
18 entered into before such date.

19 (2) Subsection (b) shall take effect on the date of the  
20 enactment of this Act.

21 **SEC. 123. EXPANSION OF CRIMINAL PENALTIES FOR KICK-**  
22 **BACKS.**

23 (a) APPLICATION OF CRIMINAL PENALTY AUTHOR-  
24 ITY TO ALL HEALTH CARE BENEFIT PROGRAMS.—

25 (1) IN GENERAL.—Section 1128B(b) (42  
26 U.S.C. 1320a–7b(b)) is amended by striking “Fed-



1       eral health care program” each place it appears and  
 2       inserting “health care benefit program”.

3               (2) DEFINITION OF HEALTH CARE BENEFIT  
 4       PROGRAM.—Section 1128B(f) (42 U.S.C. 1320a–  
 5       7b(f)) is amended—

6                       (A) by redesignating paragraphs (1) and  
 7               (2) as subparagraphs (A) and (B);

8                       (B) by striking “(f)” and inserting  
 9               “(f)(1)”; and

10                      (C) by adding at the end the following new  
 11       paragraph:

12       “(2) For purposes of this section, the term ‘health  
 13       care benefit program’ has the meaning given such term  
 14       in section 24(b) of title 18, United States Code.”.

15               (3) CONFORMING AMENDMENT.—Section  
 16       1128A(a) (42 U.S.C. 1320a–7a(a)) is amended in  
 17       the final sentence by striking “1128B(f)(1)” and in-  
 18       serting “1128B(f)(1)(A)”.

19       **SEC. 124. TREATMENT OF CERTAIN SOCIAL SECURITY ACT**  
 20                       **CRIMES AS FEDERAL HEALTH CARE OF-**  
 21                       **FENSES.**

22       Section 24(a) of title 18, United States Code, is  
 23       amended—

24               (1) by striking the period at the end of para-  
 25       graph (2) and inserting “; or”; and

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

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

4 **Subtitle D—Miscellaneous**  
 5 **Provision**

6 **SEC. 131. REPEAL OF HIPAA ADVISORY OPINION AUTHOR-**  
 7 **ITY.**

8 (a) GENERAL AUTHORITY.—Section 1128D (42  
 9 U.S.C. 1320a–7d) is amended by striking subsection (b).

10 (b) CONFORMING AMENDMENTS.—

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

13 (A) in subsection (a)(1)(A)—

14 (i) by adding “and” at the end of  
 15 clause (ii),

16 (ii) by striking clause (iii), and

17 (iii) by redesignating clause (iv) as  
 18 clause (iii) and by striking “subsection (c)”  
 19 and inserting “subsection (b)”; and

20 (B) by redesignating subsection (c) as sub-  
 21 section (b).

22 (2) Section 1128C(a)(1)(D) (42 U.S.C. 1320a–  
 23 7c(a)(1)(D)), as inserted by section 201(a) of the  
 24 Balanced Budget Act of 1997, is amended by strik-  
 25 ing “advisory opinions and”.

1 (c) EFFECTIVE DATE.—The amendments made by  
 2 this section take effect on the date of the enactment of  
 3 this Act, but shall not apply to advisory opinions issued  
 4 before such date.

5 **SEC. 132. CLARIFICATION OF IDENTIFICATION NUMBERS**  
 6 **TO BE USED WITH ADVERSE ACTION DATA**  
 7 **BASE.**

8 (a) IN GENERAL.—Section 1128E(b)(2)(A) (42  
 9 U.S.C. 1320a–7e(b)(2)(A)) is amended by striking “and  
 10 TIN (as defined in section 7701(a)(41) of the Internal  
 11 Revenue Code of 1986)” and inserting “social security ac-  
 12 count number and, if applicable, Federal employer identi-  
 13 fication number”.

14 (b) EFFECTIVE DATE.—The amendment made by  
 15 subsection (a) shall apply to information reported on or  
 16 after such date (not later than 60 days after the date of  
 17 the enactment of this Act) as the Secretary of Health and  
 18 Human Services shall specify.

19 **SEC. 133. ACCESS TO INFORMATION IN ADVERSE ACTION**  
 20 **DATA BANK BY ENTITIES PROVIDED INFOR-**  
 21 **MATION ON LICENSING SANCTIONS.**

22 Section 1128E(d)(1) (42 U.S.C. 1320a–7e(d)(1)) is  
 23 amended by striking “and health plans” and inserting “,  
 24 health plans, private accreditation organizations, and  
 25 other agencies, organizations, hospitals, and health care

1 entities to which information may be disclosed under sec-  
 2 tion 1921(b)”.

## 3 **TITLE II—IMPROVEMENTS IN** 4 **PROTECTING PROGRAM IN-** 5 **TEGRITY**

### 6 **Subtitle A—General Provisions**

#### 7 **SEC. 201. LIMITING THE USE OF AUTOMATIC STAYS AND** 8 **DISCHARGE IN BANKRUPTCY PROCEEDINGS** 9 **FOR PROVIDER LIABILITY FOR HEALTH CARE** 10 **FRAUD.**

11 (a) NONAPPLICABILITY OF AUTOMATIC STAY PROVI-  
 12 SIONS.—

13 (1) IN EXCLUSION PROCEEDINGS.—Section  
 14 1128 (42 U.S.C. 1320a–7), as amended by section  
 15 4303(a) of the Balanced Budget Act of 1997, is  
 16 amended by adding at the end the following new  
 17 subsection:

18 “(k) NONAPPLICABILITY OF BANKRUPTCY STAY.—  
 19 An exclusion imposed under this section or a proceeding  
 20 seeking an exclusion under this section is not subject to  
 21 the automatic stay under section 362(a) of title 11, United  
 22 States Code.”.

23 (2) IN CIVIL MONEY PENALTY PROCEEDINGS.—  
 24 Section 1128A(a) (42 U.S.C. 1320a–7a(a)) is  
 25 amended by adding at the end the following: “An ex-

1 exclusion, penalty, or assessment imposed under this  
2 section or a proceeding that seeks an exclusion, pen-  
3 alty, or assessment under this section, is not subject  
4 to the automatic stay under section 362(a) of title  
5 11, United States Code. Notwithstanding any other  
6 provision of law, amounts made payable under this  
7 section are not dischargeable under any provision of  
8 such title.”.

9 (3) IN RECOUPMENT UNDER PART A OF MEDI-  
10 CARE.—Section 1815(d) (42 U.S.C. 1395g(d)) is  
11 amended—

12 (A) by inserting “(1)” after “(d)”, and

13 (B) by adding at the end the following:

14 “(2) The recoupment of an overpayment under this  
15 section is not subject to the automatic stay under section  
16 362(a) of title 11, United States Code. Notwithstanding  
17 any other provision of law, amounts due to the Secretary  
18 under this section are not dischargeable under any provi-  
19 sion of such title.”.

20 (4) IN RECOUPMENT UNDER PART B OF MEDI-  
21 CARE.—Section 1833(j) (42 U.S.C. 1395l(j)) is  
22 amended—

23 (A) by inserting “(1)” after “(j)”, and

24 (B) by adding at the end the following:

1       “(2) The recoupment of an overpayment under this  
 2 section is not subject to the automatic stay under section  
 3 362(a) of title 11, United States Code. Notwithstanding  
 4 any other provision of law, amounts due to the Secretary  
 5 under this section are not dischargeable under any provi-  
 6 sion of such title.”.

7           (5) IN COLLECTION OF OVERDUE PAYMENTS ON  
 8 SCHOLARSHIPS AND LOANS.—Section 1892(a)(4)  
 9 (42 U.S.C. 1395ccc(a)(4)) is amended by adding at  
 10 the end the following:

11           “(5) An exclusion imposed under paragraph  
 12 (2)(C)(ii) or (3)(B) is not subject to the automatic  
 13 stay under section 362(a) of title 11, United States  
 14 Code.”.

15       (b) NONDISCHARGABILITY.—

16           (1) IN CIVIL MONEY PENALTY PROCEEDINGS.—  
 17 Section 1128A(a) (42 U.S.C. 1320a–7a(a)), as  
 18 amended by subsection (a)(2), is further amended by  
 19 adding at the end the following: “Notwithstanding  
 20 any other provision of law, amounts made payable  
 21 under this section are not dischargeable under any  
 22 provision of such title.”.

23           (2) IN RECOUPMENT UNDER PART A OF MEDI-  
 24 CARE.—Section 1815(d) (42 U.S.C. 1395g(d)(2)),

1 as amended by subsection (a)(3), is further amended  
2 by adding at the end the following:

3 “(3) Notwithstanding any other provision of law,  
4 amounts due to the Secretary under this section are not  
5 dischargeable under any provision of such title.”.

6 (3) IN RECOUPMENT UNDER PART B OF MEDI-  
7 CARE.—Section 1833(j) (42 U.S.C. 1395l(j)), as  
8 amended by subsection (a)(4), is further amended by  
9 adding at the end the following: “Notwithstanding  
10 any other provision of law, amounts due to the Sec-  
11 retary under this section are not dischargeable under  
12 any provision of such title.”.

13 (c) EFFECTIVE DATES.—

14 (1) The amendments made by subsection (a)  
15 shall apply to bankruptcy petitions filed after the  
16 date of the enactment of this Act.

17 (2) The amendments made by subsection (b)  
18 shall apply on and after the date of the enactment  
19 of this Act to any proceeding which has not been  
20 completed as of such date.

1 **SEC. 202. REQUIRING CERTAIN PROVIDERS TO FUND AN-**  
2 **NUAL FINANCIAL AND COMPLIANCE AUDITS**  
3 **AS A CONDITION OF PARTICIPATION UNDER**  
4 **THE MEDICARE AND MEDICAID PROGRAMS.**

5 (a) ESTABLISHMENT OF ANNUAL FINANCIAL AND  
6 COMPLIANCE AUDIT FEE SCHEDULE.—Title XI, as  
7 amended by section 4321(c) of the Balanced Budget Act  
8 of 1997, is amended by inserting after section 1146 the  
9 following new section:

10 “COMPLIANCE AND FINANCIAL AUDIT FEE SCHEDULE

11 “SEC. 1147. (a) ESTABLISHMENT.—

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

14 “(A) establish a schedule of hourly rates  
15 for the conduct of annual financial and compli-  
16 ance audits during each fiscal year for all cov-  
17 ered health care entities (as defined in sub-  
18 section (b)); and

19 “(B) provide for the conduct, in a separate  
20 office within the Department of Health and  
21 Human Services, of such audits by specially  
22 trained and qualified personnel of each entity’s  
23 substantial compliance with the requirements  
24 for payment to such entity under title XVIII,  
25 title XIX, or both (whichever is applicable), in-  
26 cluding requirements relating to medical neces-



1           sity and appropriate coding and documentation  
 2           for services and supplies provided.

3           “(2) SCOPE OF AUDITS.—An audit of an entity  
 4           under paragraph (1)(B) shall include, as appro-  
 5           priate, audits of related entities (including busi-  
 6           nesses owned, in whole or in part, by the provider).

7           “(b) COVERED HEALTH CARE ENTITY.—

8           “(1) IN GENERAL.—For purposes of this sec-  
 9           tion, the term ‘covered health care entity’ means,  
 10          with respect to a fiscal year, an entity that—

11           “(A) is a disclosing entity (as defined in  
 12           section 1124(a)(2)), a health care provider, a  
 13           practitioner (or group of practitioners), an eligi-  
 14           ble organization (as defined in section 1876(b)),  
 15           or a Medicare+Choice organization (as defined  
 16           in section 1959(a)(1)), and

17           “(B) provides (or arranges for the provi-  
 18           sion of) services for which aggregate payment  
 19           of at least \$500,000 is made under titles XVIII  
 20           and XIX during the fiscal year.

21           “(2) APPLICATION OF CONTROL GROUP  
 22           RULE.—In applying paragraph (1), all persons treat-  
 23           ed as a single employer under subsection (a) or (b)  
 24           of section 52 of the Internal Revenue Code of 1986  
 25           shall be treated as a single entity.

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

9       “(d) USE OF FUNDS EXCLUSIVELY FOR FINANCIAL  
 10 AND COMPLIANCE AUDITS.—Annual payments made to  
 11 the Secretary under sections 1866(a)(1)(T), 1862(a)(22),  
 12 and 1903(i)(19) in the amounts specified under subsection  
 13 (a) are hereby appropriated to the Secretary for the sole  
 14 purpose of conducting audits described in subsection (a).  
 15 Such amounts are available to the Secretary for such pur-  
 16 pose without fiscal year limitation.”.

17       (b) APPLICATION UNDER MEDICARE PROGRAM.—

18               (1) PAYMENT REQUIREMENT UNDER  
 19 MEDICARE+CHOICE PROGRAM.—Section 1857(d)  
 20 (42 U.S.C. 1395w-27(d)), as inserted by section  
 21 4001 of the Balanced Budget Act of 1997, is  
 22 amended by adding at the end the following new  
 23 paragraph:

24               “(6) PAYMENT FOR ANNUAL AUDIT.—The con-  
 25 tract shall require the Medicare+Choice organiza-

tion to provide for annual payment to the Secretary of the appropriate amount specified under section 1147(a) as necessary for the conduct of an annual financial and compliance audit of the organization under such section.”.

(2) PAYMENT REQUIREMENT UNDER CURRENT CAPITATION.—Section 1876(k)(4) (42 U.S.C. 1395mm(k)(4)), as inserted by section of the Balanced Budget Act of 1997, is amended by adding at the end the following:

“(E) The requirement of providing for payment for annual audits under section 1857(d)(6).”.

(3) PAYMENT REQUIREMENT FOR PROVIDERS OF SERVICES.—Section 1866(a)(1) (42 U.S.C. 1395cc(a)(1)), as amended by section 4321(b) of the Balanced Budget Act of 1997, is amended—

(A) by adding a semicolon at the end of subparagraph (R);

(B) by striking the period at the end of subparagraph (S) and inserting “; and”; and

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

“(T) in the case of a provider that is a covered health care entity (as defined in section 1147(b)), to provide for annual payment to the Secretary of the

1 appropriate amount specified under section 1147(a)  
2 as necessary for the conduct of an annual financial  
3 and compliance audit of the provider under such sec-  
4 tion.”.

5 (4) REQUIREMENT FOR OTHER PROVIDERS,  
6 SUPPLIERS, AND PRACTITIONERS.—Section 1862(a)  
7 (42 U.S.C. 1395y(a)), as amended by sections  
8 4319(b), 4432(b), 4507(a)(2)(B), 4541(b), and  
9 4603(c)(2)(C) of the Balanced Budget Act of 1997,  
10 is amended—

11 (A) by striking “or” at the end of para-  
12 graph (20);

13 (B) by striking the period at the end of  
14 paragraph (21) and inserting “; or”; and

15 (C) by inserting after paragraph (21) the  
16 following new paragraph:

17 “(22) where such expenses are for items and  
18 services furnished by a covered health care entity (as  
19 defined in section 1147(b)), unless the entity has an  
20 agreement in effect under section 1857, 1866, or  
21 1876(i) or has provided for annual payment to the  
22 Secretary of the appropriate amount specified under  
23 section 1147(a) as necessary for the conduct of an  
24 annual financial and compliance audit of the audit  
25 under such section.”.

1 (c) MEDICAID.—

2 (1) UNDER MANAGED CARE CONTRACT.—Sec-  
3 tion 1932(d) (42 U.S.C. 1396u–2(d)), as added by  
4 section 4707(a) of the Balanced Budget Act of  
5 1997, is amended by adding at the end the follow-  
6 ing:

7 “(5) PAYMENT FOR ANNUAL AUDIT.—Each  
8 managed care entity, in its contract under section  
9 1903(m)(2)(A) or 1905(t)(3), shall provide for an-  
10 nual payment to the Secretary of the appropriate  
11 amount specified under section 1147(a) as necessary  
12 for the conduct of an annual financial and compli-  
13 ance audit of the entity under such section.”.

14 (2) OTHER PROVIDERS.—Section 1903(i) (42  
15 U.S.C. 1396b(i)), as amended by sections 4724(a)  
16 and 4724(b) of the Balanced Budget Act of 1997,  
17 is amended—

18 (A) by striking “or” at the end of para-  
19 graph (17);

20 (B) by striking the period at the end of  
21 paragraph (18) and inserting “; or”; and

22 (C) by inserting after paragraph (18) the  
23 following new paragraph:

24 “(19) with respect to any amount expended for  
25 services furnished by a covered health care entity (as

1 defined in section 1147(b)), unless the entity has a  
2 contract under section 1903(m)(2)(A) or 1905(t)(3)  
3 or has provided for annual payment to the Secretary  
4 of the appropriate amount specified under section  
5 1147(a) as necessary for the conduct of an annual  
6 financial and compliance audit of the entity under  
7 such section.”.

8 (d) REPORT ON AUDITING AGENCIES.—

9 (1) STUDY.—The Secretary of Health and  
10 Human Services shall conduct a study of the exam-  
11 ining and accrediting agencies that conduct audits  
12 and inspections of covered health care entities (as  
13 defined in section 1147(b) of the Social Security  
14 Act, as added by subsection (a)). Such study shall  
15 include an examination of the audits and inspections  
16 conducted by such agencies.

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

23 (e) EFFECTIVE DATE.—The amendments made by  
24 subsections (a) through (c) shall take effect on the date

1 of the enactment of this Act and shall first apply to fiscal  
 2 years beginning with fiscal year 1998.

3 **SEC. 203. LIABILITY OF MEDICARE CARRIERS AND FISCAL**  
 4 **INTERMEDIARIES AND OF STATE MEDICAID**  
 5 **AGENCIES FOR CLAIMS SUBMITTED BY EX-**  
 6 **CLUDED PROVIDERS.**

7 (a) REIMBURSEMENT TO THE SECRETARY FOR  
 8 AMOUNTS PAID TO EXCLUDED PROVIDERS.—

9 (1) REQUIREMENTS FOR FISCAL  
 10 INTERMEDIARIES.—

11 (A) IN GENERAL.—Section 1816 (42  
 12 U.S.C. 1395h) is amended by adding at the end  
 13 the following new subsection:

14 “(m) An agreement with an agency or organization  
 15 under this section shall require that such agency or orga-  
 16 nization reimburse the Secretary for any amounts paid by  
 17 the agency or organization for a service under this title  
 18 which is furnished, directed, or prescribed by an individual  
 19 or entity during any period for which the individual or  
 20 entity is excluded pursuant to section 1128, 1128A, or  
 21 1156, from participation in the program under this title,  
 22 if the amounts are paid after the Secretary notifies the  
 23 agency or organization of the exclusion.”.

1 (B) CONFORMING AMENDMENT.—Sub-  
 2 section (i) of such section is amended by adding  
 3 at the end the following new paragraph:

4 “(4) Nothing in this subsection shall be construed to  
 5 prohibit reimbursement by an agency or organization  
 6 under subsection (m).”.

7 (2) REQUIREMENTS FOR CARRIERS.—Section  
 8 1842(b)(3) (42 U.S.C. 1395u(b)(3)) is amended—

9 (A) by striking “and” at the end of sub-  
 10 paragraph (I); and

11 (B) by inserting after subparagraph (I) the  
 12 following new subparagraph:

13 “(J) will reimburse the Secretary for any  
 14 amounts paid by the carrier for an item or service  
 15 under this part which is furnished, directed, or pre-  
 16 scribed by an individual or entity during any period  
 17 for which the individual or entity is excluded pursu-  
 18 ant to section 1128, 1128A, or 1156, from partici-  
 19 pation in the program under this title, if the  
 20 amounts are paid after the Secretary notifies the  
 21 carrier of the exclusion, and”.

22 (3) MEDICAID PROVISION.—Section  
 23 1902(a)(39) (42 U.S.C. 1396a(a)(39)) is amended—

24 (A) by inserting “(A)” after “provide”,  
 25 and



1 (B) by inserting before the semicolon at  
 2 the end the following: “, and (B) for reimburse-  
 3 ment to the Secretary of any payments made  
 4 under the plan or any item or service furnished,  
 5 directed, or prescribed by the excluded individ-  
 6 ual or entity during such period, after the Sec-  
 7 retary notifies the State of such exclusion”.

8 (b) CONFORMING REPEAL OF MANDATORY PAYMENT  
 9 RULE.—Section 1862(e) (42 U.S.C. 1395y(e)) is amend-  
 10 ed—

11 (1) in paragraph (1)(B), by striking “and when  
 12 the person” and all that follows through “person”;  
 13 and

14 (2) in paragraph (2), by striking the first sen-  
 15 tence and inserting the following: “No individual or  
 16 entity may bill (or collect any amount from) any in-  
 17 dividual for any item or service for which payment  
 18 is denied under paragraph (1). No person is liable  
 19 for payment of any amounts billed for such an item  
 20 or service in violation of the previous sentence.”.

21 (c) EFFECTIVE DATE.—

22 (1) IN GENERAL.—The amendments made by  
 23 this section shall apply to claims for payment sub-  
 24 mitted on or after the date of the enactment of this  
 25 Act.

1           (2) CONTRACT MODIFICATION.—The Secretary  
 2           of Health and Human Services shall take such steps  
 3           as may be necessary to modify contracts and agree-  
 4           ments entered into, renewed, or extended before  
 5           such date to conform such contracts or agreements  
 6           to the provisions of this subsection.

7   **SEC. 204. MEDICARE HOSPITAL OUTPATIENT PAYMENT**  
 8           **POLICIES.**

9           (a) BASING MEDICARE PAYMENT FOR HOSPITAL  
 10          OUTPATIENT DEPARTMENT SERVICES ON PAYMENT  
 11          RATES FOR SIMILAR SERVICES PROVIDED OUTSIDE THE  
 12          HOSPITAL SETTING.—

13           (1) IN GENERAL.—Section 1833(t)(1) (42  
 14          U.S.C. 1395l(t)(1)), as added by section 4523(a) of  
 15          the Balanced Budget Act of 1997, is amended—

16                   (A) in subparagraph (A), by inserting  
 17                   “subject to subparagraph (C),” after “1999,”  
 18                   and

19                   (B) by adding at the end the following new  
 20                   subparagraph:

21                           “(C) USE OF RATES IN NON-HOSPITAL  
 22                   SETTINGS.—With respect to covered OPD serv-  
 23                   ices furnished on or after January 1, 2000, if  
 24                   payment may be made under this part for simi-  
 25                   lar services (such as physicians’ services) fur-

1           nished outside the hospital setting, in accord-  
 2           ance with regulations of the Secretary, the total  
 3           amount of payment under this part for such  
 4           covered OPD services (including any facility-re-  
 5           lated component to such services) shall be de-  
 6           termined on the same basis on which payment  
 7           may be made for such similar services furnished  
 8           outside the hospital setting.”.

9           (2) CONFORMING AMENDMENT.—The fifth sen-  
 10          tence of section 1866(a)(2)(A) (42 U.S.C.  
 11          1395cc(a)(2)(A)), as added by section 4523(b) of  
 12          the Balanced Budget Act of 1997, is amended by in-  
 13          serting “, or in the case described in section  
 14          1833(t)(1)(C), the coinsurance amount that would  
 15          otherwise apply with respect to the provision of the  
 16          similar services referred to in such section” before  
 17          the period at the end.

18          (b) MEDICARE PAYMENTS FOR INPATIENT HOSPITAL  
 19          SERVICES INVOLVING EMERGENCY CARE.—

20               (1) MEDPAC REPORT ON DRG WEIGHTING FAC-  
 21          TORS.—The Medicare Payment Advisory Commis-  
 22          sion (established under section 1805 of the Social  
 23          Security Act (42 U.S.C. 1395b–6), as inserted by  
 24          section 4022(a) of the Balanced Budget Act of  
 25          1997, shall submit a report to Congress and the

1 Secretary of Health and Human Services, by Janu-  
 2 ary 1, 1999, on whether the DRG weighting factors  
 3 under section 1886(d)(4)(B) of the Social Security  
 4 Act for diagnosis-related groups associated with  
 5 emergency care are adequate to cover the costs of  
 6 emergency room use within discharges classified  
 7 within such groups.

8 (2) ADJUSTMENT OF WEIGHTING FACTORS.—  
 9 Taking into account the report submitted under  
 10 paragraph (1), the Secretary of Health and Human  
 11 Services shall make appropriate adjustments in the  
 12 DRG weighting factors described in paragraph (1)  
 13 for discharges occurring on or after January 1,  
 14 2000, as may be appropriate to ensure that hospital  
 15 emergency room costs attributable to medicare pa-  
 16 tients are appropriately covered.

17 **SEC. 205. STANDARDIZATION OF FORMS USED FOR CER-**  
 18 **TIFICATIONS OF MEDICAL NECESSITY AND**  
 19 **CERTIFICATIONS OF TERMINAL ILLNESS.**

20 (a) PART A SERVICES.—

21 (1) PUBLICATION OF STANDARD.—Section  
 22 1814 (42 U.S.C. 1395f) is amended by adding at  
 23 the end the following new subsection:

1 “Standard Form for Certifications

2 “(m)(1) For purposes of certifications and recertifi-  
3 cations under paragraphs (2), (3), and (8) of subsection  
4 (a), the Secretary shall specify and publish a standard  
5 form and manner in which such certifications and recer-  
6 tifications are to be made.”.

7 (2) APPLICATION TO PART A SERVICES.—Sec-  
8 tion 1814(a) (42 U.S.C. 1395f(a)) is amended—

9 (A) in paragraph (2), by striking “certifies  
10 (and recertifies,” and inserting “certifies in a  
11 form and manner consistent with subsection  
12 (m)(1) (and recertifies in such a form and man-  
13 ner, ’;

14 (B) in paragraph (3), by striking “cer-  
15 tifies” and inserting “certifies in a form and  
16 manner consistent with subsection (m)(1)”; and

17 (C) in paragraph (8), by striking “cer-  
18 tifies” and inserting “certifies in a form and  
19 manner consistent with subsection (m)(1)”.

20 (b) HOSPICE CARE.—

21 (1) PUBLICATION OF STANDARD.—Section  
22 1814(m) (42 U.S.C. 1395f(m)), as added by sub-  
23 section (a), is amended by adding at the end the fol-  
24 lowing new paragraph:

1       “(2) For purposes of certifications and recertifi-  
 2 cations of terminal illness under subsection (a)(7), the  
 3 Secretary shall specify and publish a standard form and  
 4 manner in which such certifications and recertifications  
 5 are to be made.”.

6           (2) APPLICATION TO HOSPICE CARE.—Section  
 7 1814(a)(7) (42 U.S.C. 1395f(a)(7)) is amended—

8           (A) in subsection (A)(i), by inserting “in a  
 9 form and manner consistent with subsection  
 10 (m)(2)” after “each certify in writing”; and

11          (B) in subsection (A)(ii), by inserting “in  
 12 such a form and manner” after “recertifies”.

13       (c) PART B SERVICES.—

14           (1) PUBLICATION OF STANDARD.—Section  
 15 1835 (42 U.S.C. 1395n) is amended by adding at  
 16 the end the following:

17       “(f) For purposes of certifications and recertifi-  
 18 cations under subsection (a)(2), the Secretary shall specify  
 19 and publish a standard form and manner in which such  
 20 certifications and recertifications are to be made.”.

21           (2) APPLICATION TO PART B SERVICES.—Sec-  
 22 tion 1835(a)(2) (42 U.S.C. 1395n(a)(2)) is amended  
 23 by striking “certifies (and recertifies,” and inserting  
 24 “certifies in a form and manner consistent with sub-

1 section (f) (and recertifies in such a form and man-  
 2 ner,’.

3 (d) EFFECTIVE DATE.—The amendments made by  
 4 subsections (a)(2), (b)(2), and (c)(2) shall apply to certifi-  
 5 cations and recertifications made on or after 6 months  
 6 after the date the Secretary of Health and Human Serv-  
 7 ices publishes a standard form and manner for such cer-  
 8 tifications and recertifications under the amendments  
 9 made by subsections (a)(1), (b)(1), and (c)(1) respectively.

10 **SEC. 206. NO MARK-UP FOR DRUGS, BIOLOGICALS, OR NU-**  
 11 **TRIENTS; USE OF NATIONAL DRUG CODE**  
 12 **NUMBERS IN MEDICARE CLAIMS.**

13 (a) NO MARK-UP FOR DRUGS OR BIOLOGICALS.—

14 (1) IN GENERAL.—Section 1842(o) (42 U.S.C.  
 15 1395u(o)), as added by section 4556(a) of the Bal-  
 16 anced Budget Act of 1997, is amended to read as  
 17 follows:

18 “(o)(1) For purposes of section 1833(a)(1)(S), the  
 19 payment amount established in this subsection for a drug  
 20 or biological shall be the lowest of the following:

21 “(A) The actual acquisition cost, as defined in  
 22 paragraph (2), to the person submitting the claim  
 23 for payment for the drug or biological.

24 “(B) The average wholesale price of such drug  
 25 or biological, as determined by the Secretary.

1           “(C) For payments for drugs or biologicals fur-  
2           nished on or after January 1, 2000, the median ac-  
3           tual acquisition cost of all claims for payment for  
4           such drugs or biologicals for the 12-month period  
5           beginning July 1, 1998 (and adjusted, as the Sec-  
6           retary determines appropriate, to reflect changes in  
7           the cost of such drugs or biologicals due to inflation,  
8           and such other factors as the Secretary determines  
9           appropriate).

10           “(D) The amount otherwise determined under  
11           this part.

12           “(2) For purposes of paragraph (1)(A), the term ‘ac-  
13           tual acquisition cost’ means, with respect to such drugs  
14           or biologicals the cost of the drugs or biologicals based  
15           on the most economical case size in inventory on the date  
16           of dispensing or, if less, the most economical case size pur-  
17           chased within six months of the date of dispensing wheth-  
18           er or not that specific drug was furnished to an individual  
19           whether or not enrolled under this part. Such term in-  
20           cludes appropriate adjustments, as determined by the Sec-  
21           retary, for all discounts, rebates, or any other benefit in  
22           cash or in kind (including travel, equipment, or free prod-  
23           ucts). The Secretary shall include an additional payment  
24           for administrative, storage, and handling costs.



1       “(3)(A) No payment shall be made under this part  
2 for drugs or biologicals to a person whose bill or request  
3 for payment for such drugs or biologicals does not include  
4 a statement of the person’s actual acquisition cost.

5       “(B) A person may not bill an individual enrolled  
6 under this part—

7               “(i) any amount other than the payment  
8 amount specified in paragraph (1) or (4) (plus any  
9 applicable deductible and coinsurance amounts), or

10              “(ii) any amount for such drugs or biologicals  
11 for which payment may not be made pursuant to  
12 subparagraph (A).

13       “(C) If a person knowingly and willfully in repeated  
14 cases bills one or more individuals in violation of subpara-  
15 graph (B), the Secretary may apply sanctions against that  
16 person in accordance with subsection (j)(2).

17       “(4) The Secretary may pay a reasonable dispensing  
18 fee (less the applicable deductible and coinsurance  
19 amounts) for drugs and biologicals to a licensed pharmacy  
20 approved to dispense drugs or biologicals under this part,  
21 if payment for such drugs or biologicals is made to the  
22 pharmacy.”.

23              (2) EFFECTIVE DATE.—The amendments made  
24 by paragraph (1) apply to drugs and biologicals fur-  
25 nished on or after January 1, 1998.

1           (3) ELIMINATION OF REPORT ON AVERAGE  
2       WHOLESALE PRICE.—Section 4556 of the Balanced  
3       Budget Act of 1997 is amended—

4                   (A) by striking subsection (c); and

5                   (B) by redesignating subsection (d) as sub-  
6       section (c).

7       (b) NO MARK-UP FOR PARENTERAL NUTRIENTS.—

8           (1) IN GENERAL.—Section 1881(b) (42 U.S.C.  
9       1395rr(b)) is amended by adding at the end the fol-  
10      lowing new paragraph:

11      “(12)(A) Intradialytic parenteral nutrients (including  
12      related supplies and equipment), when provided to a pa-  
13      tient determined to have end stage renal disease, shall not  
14      be included as a dialysis service for purposes of payment  
15      under any prospective payment amount or comprehensive  
16      fee established under this section, and payment for such  
17      item shall be made separately in the amount specified in  
18      subparagraph (B).

19      “(B)(i) The amount specified in this subparagraph  
20      is 80 percent of the lowest of the following, less the appli-  
21      cable deductible amount:

22           “(I) The actual acquisition cost as defined in  
23      clause (ii), to the person submitting the claim for  
24      payment for the intradialytic parenteral nutrients.

1           “(II) The average wholesale price of such nutri-  
2           ents, as determined by the Secretary.

3           “(III) For payments for nutrients furnished on  
4           or after January 1, 2000, the median actual acquisi-  
5           tion cost of all claims for payment for such nutrients  
6           for the 12-month period beginning July 1, 1998.  
7           The Secretary may adjust such median actual acqui-  
8           sition cost to reflect changes in the cost of such nu-  
9           trients due to inflation, to costs associated with the  
10          proper administration of such nutrients, and such  
11          other factors as the Secretary determines appro-  
12          priate.

13          “(ii) For purposes of clause (i), the term ‘actual ac-  
14          quisition cost’ means, with respect to such nutrients, the  
15          cost of the nutrients at the time of purchase. Such term  
16          includes appropriate adjustments, as determined by the  
17          Secretary, for all discounts, rebates, or any other benefit  
18          in cash or in kind (including travel, equipment, or free  
19          products). The Secretary shall include an additional pay-  
20          ment for administrative, storage, and handling costs.

21          “(iii) A physician, supplier, or other person may not  
22          bill an individual enrolled under part B any amount other  
23          than the payment amount specified in this subparagraph  
24          (plus any applicable deductible and coinsurance amounts).

1       “(C)(i) No payment shall be made under part B for  
 2 intradialytic parenteral nutrients to a physician, supplier,  
 3 or other person whose bill or request for payment for such  
 4 nutrients does not include a statement of the physician’s,  
 5 supplier’s, or other person’s actual acquisition cost.

6       “(ii) A physician, supplier, or other person may not  
 7 bill an individual enrolled under part B any amount for  
 8 such nutrients for which payment may not be made pursu-  
 9 ant to clause (i).

10       “(D) If a physician, supplier, or other person know-  
 11 ingly and willfully in repeated cases bills one or more indi-  
 12 viduals in violation of subparagraph (B)(iv) or (C)(ii), the  
 13 Secretary may apply sanctions against that physician, sup-  
 14 plier, or other person in accordance with section  
 15 1842(j)(2).”.

16           (2) EFFECTIVE DATE.—The amendment made  
 17 by paragraph (1) applies with respect to payments  
 18 for intradialytic parenteral nutrients provided on or  
 19 after January 1, 1998.

20       (c) USE OF NATIONAL DRUG CODE NUMBERS IN  
 21 MEDICARE CLAIMS.—

22           (1) IN GENERAL.—The Secretary of Health and  
 23 Human Services shall modify the standard claim  
 24 form used under part B of title XVIII of the Social  
 25 Security Act for physicians’ services so that the form

1 provides for the reporting of the national drug code  
2 (NDC) number for any prescription drug for which  
3 such a number has been assigned.

4 (2) DEADLINE; EFFECTIVE DATE.—The Sec-  
5 retary shall make the modification under paragraph  
6 (1) in a manner so that the modified form applies  
7 to claims submitted on or after such date (not later  
8 than 6 months after the date of the enactment of  
9 this Act) as the Secretary specifies.

10 **SEC. 207. ADJUSTMENTS IN HOSPITAL PAYMENTS TO RE-**  
11 **FLECT EXCESS PAYMENT RESULTING FROM A**  
12 **FINANCIAL INTEREST WITH DOWN-STREAM**  
13 **FACILITIES.**

14 (a) IN GENERAL.—Section 1886(d)(5) (42 U.S.C.  
15 1395ww(d)(5)) is amended by adding at the end the fol-  
16 lowing new subparagraph:

17 “(K) In the case of a hospital that has a financial  
18 relationship described in section 1866(a)(1)(S) with one  
19 or more home health agencies or other entities, the Sec-  
20 retary shall provide for such a payment adjustment as  
21 may be necessary to ensure that the total payments under  
22 this title to the hospital and such entities during a fiscal  
23 year does not exceed the total payments that the Secretary  
24 estimates would have been made under this title during  
25 the fiscal year if the services furnished by such entities

1 had been furnished by entities with no such financial rela-  
2 tionship to the hospital.”.

3 (b) EFFECTIVE DATE.—The amendment made by  
4 subsection (a) shall apply to payments during fiscal years  
5 beginning with fiscal year 1999.

## 6 **Subtitle B—Other Provisions**

### 7 **SEC. 211. INCLUSION OF COST OF HOME HEALTH SERVICES**

#### 8 **IN EXPLANATION OF MEDICARE BENEFITS.**

9 (a) IN GENERAL.—Section 1895 (42 U.S.C. 1395fff),  
10 as added by section 4603(a) of the Balanced Budget Act  
11 of 1997, is amended by adding at the end the following  
12 new subsection:

13 “(e) INCLUSION OF COSTS OF HOME HEALTH SERV-  
14 ICES IN EXPLANATION OF MEDICARE BENEFITS.—The  
15 Secretary shall provide that each explanation of benefits  
16 provided under this title for home health services shall in-  
17 clude the total amount that the home health agency or  
18 other provider of such services billed for such services.”.

19 (b) EFFECTIVE DATE.—The amendments made by  
20 subsection (a) apply to explanation of benefits provided  
21 on and after the first day of the sixth month that begins  
22 after the date of the enactment of this Act.

1 **SEC. 212. PROHIBITION OF “COLD CALL” MARKETING FOR**  
2 **MEDICARE+CHOICE PLANS AND HOME**  
3 **HEALTH AGENCIES.**

4 (a) MEDICARE+CHOICE PLANS.—Section  
5 1851(h)(4) (42 U.S.C. 1395w–21(h)(4)), as inserted by  
6 section 4001 of the Balanced Budget Act of 1997, is  
7 amended—

8 (1) by striking “and” at the end of subpara-  
9 graph (A);

10 (2) by striking the period at the end of sub-  
11 paragraph (B); and

12 (3) by adding at the end the following new sub-  
13 paragraph:

14 “(C) shall prohibit a Medicare+Choice or-  
15 ganization from conducting, directly or indi-  
16 rectly, door-to-door, telephonic, or other ‘cold-  
17 call’ marketing of enrollment under this part.”.

18 (b) HOME HEALTH AGENCIES.—Section 1891(a) (42  
19 U.S.C. 1395bbb(a)) is amended by adding at the end the  
20 following new paragraph:

21 “(7) The agency does not conduct, directly or  
22 indirectly, door-to-door, telephonic, or other ‘cold-  
23 call’ marketing of home health services under this  
24 title.”.

25 (c) EFFECTIVE DATE.—The amendments made by  
26 this section shall take effect on the date of the enactment

1 of this Act and shall apply to contracts entered into or  
 2 renewed on or after such date.

### 3 **TITLE III—PROVIDER** 4 **ENROLLMENT PROCESS; FEES**

#### 5 **SEC. 301. FEES FOR AGREEMENTS WITH MEDICARE PRO-** 6 **VIDERS AND SUPPLIERS.**

7 (a) FEES RELATED TO MEDICARE PROVIDER AND  
 8 SUPPLIER ENROLLMENT AND REENROLLMENT.—Section  
 9 1866 (42 U.S.C. 1395cc) is amended by adding at the  
 10 end the following:

11 “(j) ENROLLMENT PROCEDURES AND FEES.—

12 “(1) ENROLLMENT.—The Secretary may estab-  
 13 lish a procedure for enrollment (and periodic re-  
 14 enrollment) of individuals or entities that are not  
 15 providers of services subject to the provisions of sub-  
 16 section (a) but that furnish health care items or  
 17 services under this title.

18 “(2) FEES.—The Secretary may impose fees for  
 19 initiation and renewal of provider agreements and  
 20 for enrollment and periodic reenrollment of other in-  
 21 dividuals and entities furnishing health care items or  
 22 services under this title, in amounts up to the full  
 23 amount which the Secretary reasonably estimates to  
 24 be sufficient to cover the Secretary’s costs related to  
 25 the process for initiating and reviewing such agree-



1       ments and enrollments. Fees collected pursuant to  
 2       this paragraph shall be credited to a special fund of  
 3       the United States Treasury, and shall remain avail-  
 4       able until expended, to the extent and in such  
 5       amounts as provided in advance in appropriations  
 6       acts, for necessary expenses for these purposes, in-  
 7       cluding costs of establishing and maintaining proce-  
 8       dures and records systems; processing applications;  
 9       and background investigations.”.

10       (b) CLERICAL AMENDMENT.—The heading of such  
 11       section is amended to read as follows:

12       “AGREEMENTS WITH PROVIDERS OF SERVICES AND EN-  
 13       ROLLMENT OF OTHER PERSONS FURNISHING SERV-  
 14       ICES”.

15       **SEC. 302. REQUIREMENTS AND FEES FOR ISSUANCE OF**  
 16       **STANDARD HEALTH CARE IDENTIFIERS.**

17       Section 1173(b) (42 U.S.C. 1320d–2(b)) is amended  
 18       by adding at the end the following:

19       “(3) REQUIREMENT TO FURNISH SOCIAL SECU-  
 20       RITY NUMBERS AND EMPLOYER IDENTIFICATION  
 21       NUMBERS.—The Secretary shall, as appropriate, re-  
 22       quire each such individual, employer, health plan,  
 23       and health care provider to provide its employer  
 24       identification number (assigned pursuant to section  
 25       6109 of the Internal Revenue Code of 1986) and so-  
 26       cial security account number (assigned under section

1       205(c)(2)(B)) as a condition to receiving a unique  
2       health identifier.

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 under this paragraph shall be credited  
10      to a special fund of the United States Treasury, and  
11      shall remain available until expended, to the extent  
12      and in such amounts as provided in advance in ap-  
13      propriations Acts, for costs incurred by the Sec-  
14      retary in issuing such identifiers, including costs of  
15      establishing and maintaining an automated database  
16      and procedures, processing applications, and verify-  
17      ing information provided.”.

18   **SEC. 303. ADMINISTRATIVE FEES FOR MEDICARE OVERPAY-**  
19               **MENT COLLECTION.**

20       (a) ADMINISTRATIVE FEES FOR PROVIDERS OF  
21      SERVICES UNDER PART A.—Section 1815(d) (42 U.S.C.  
22      1395g(d)) is amended by inserting “(1)” after “(d)” and  
23      by adding at the end the following:

24       “(2) If the payment of an excess described in para-  
25      graph (1) is not made (or effected by offset) within 30

1 days of the date of the determination, an administrative  
2 fee of 5 percent of the outstanding balance of the excess  
3 (after application of paragraph (1)), or such lower amount  
4 as an administrative law judge may determine upon an  
5 appeal of the initial determination of the excess, shall be  
6 imposed on the provider. The administrative fees so col-  
7 lected shall be deposited into the Federal Hospital Insur-  
8 ance Trust Fund.”.

9 (b) ADMINISTRATIVE FEES FOR PROVIDERS OF  
10 SERVICES OR OTHER PERSONS UNDER PART B.—Section  
11 1833(j) (42 U.S.C. 1395l(j)) is amended by inserting  
12 “(1)” after “(j)” and by adding at the end the following  
13 new paragraph:

14 “(2) If the payment of an excess described in para-  
15 graph (1) is not made (or effected by offset) within 30  
16 days of the date of the determination, an administrative  
17 fee of 5 percent of the outstanding balance of the excess  
18 (after application of paragraph (1)), or such lower amount  
19 as an administrative law judge may determine upon an  
20 appeal of the initial determination of the excess, shall be  
21 imposed on the provider, or other person receiving the ex-  
22 cess. The administrative fees so collected shall be depos-  
23 ited into the Federal Supplementary Medical Insurance  
24 Trust Fund.”.

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

4 **TITLE IV—PAYMENT**  
5 **IMPROVEMENTS**  
6 **Subtitle A—Mental Health Partial**  
7 **Hospitalization Services**

8 **SEC. 401. LIMITATION ON LOCATION OF PROVISION OF**  
9 **SERVICES.**

10 (a) IN GENERAL.—Section 1861(ff)(2) (42 U.S.C.  
11 1395x(ff)(2)) is amended in the matter following subpara-  
12 graph (I)—

13 (1) by striking “and furnished” and inserting  
14 “furnished”; and

15 (2) by inserting before the period the following:  
16 “, and furnished other than in a skilled nursing fa-  
17 cility or in an individual’s Personal Residence”.

18 (b) EFFECTIVE DATE.—The amendments made by  
19 subsection (a) shall apply to partial hospitalization serv-  
20 ices furnished on or after the first day of the third month  
21 beginning after the date of the enactment of this Act.

1 **SEC. 402. QUALIFICATIONS FOR COMMUNITY MENTAL**  
2 **HEALTH CENTERS.**

3 Section 1861(ff)(3)(B) (42 U.S.C. 1395x(ff)(3)(B))  
4 is amended by striking “entity” and all that follows and  
5 inserting the following: “entity that—

6 “(i) provides the mental health services de-  
7 scribed in paragraph (1) of section 1913(c) of the  
8 Public Health Service Act;

9 “(ii) meets applicable licensing or certification  
10 requirements for community mental health centers  
11 in the State in which it is located; and

12 “(iii) meets such additional conditions as the  
13 Secretary may specify to ensure (I) the health and  
14 safety of individuals being furnished such services,  
15 (II) the effective or efficient furnishing of such serv-  
16 ices, and (III) the compliance of such entity with the  
17 criteria described in such section.”.

18 **SEC. 403. RE-ENROLLMENT OF PROVIDERS OF CMHC PAR-**  
19 **TIAL HOSPITALIZATION SERVICES.**

20 (a) IN GENERAL.—With respect to each community  
21 mental health center that furnishes partial hospitalization  
22 services for which payment is made under title XVIII of  
23 the Social Security Act, the Secretary of Health and  
24 Human Services shall provide for periodic recertification  
25 to ensure that the provision of such services complies with  
26 section 1913(c) of the Public Health Service Act.

1 (b) DEADLINE FOR FIRST RE-CERTIFICATION.—The  
 2 first Re-certification under subsection (a) shall be com-  
 3 pleted not later than 1 year after the date of the enact-  
 4 ment of this Act.

5 **SEC. 404. PROSPECTIVE PAYMENT SYSTEM FOR PARTIAL**  
 6 **HOSPITALIZATION SERVICES.**

7 (a) ESTABLISHMENT OF SYSTEM.—Section 1833 (42  
 8 U.S.C. 1395l) is amended by inserting after subsection (o)  
 9 the following:

10 “(p)(1) The Secretary may establish by regulation a  
 11 prospective payment system for partial hospitalization  
 12 services provided by a community mental health center or  
 13 by a hospital to its outpatients. The system shall provide  
 14 for appropriate payment levels for efficient centers and  
 15 take into account payment levels for similar services fur-  
 16 nished by other efficient entities.

17 “(2) A prospective payment system established pur-  
 18 suant to paragraph (1) shall provide for payment amounts  
 19 for—

20 “(A) the first year in which such system ap-  
 21 plies, at a level so that, as estimated by the Sec-  
 22 retary, the total aggregate payments under this part  
 23 (including payments attributable to deductibles and  
 24 coinsurance) are equal to the total aggregate pay-  
 25 ments that would have otherwise been made under

1       this part if such system had not been implemented;  
2       and

3               “(B) each subsequent year, in an amount equal  
4       to the payment amount provided for under this  
5       paragraph for the preceding year updated by the  
6       percentage increase in the consumer price index for  
7       all urban consumers (all items; United States city  
8       average) for the 12-month period ending with Sep-  
9       tember of that preceding year.”.

10       (b) COINSURANCE.—Section 1866(a)(2)(A) (42  
11 U.S.C. 1395cc(a)(2)(A)) is amended by adding at the end  
12 the following: “In the case of services described in section  
13 1832(a)(2)(J), clause (ii) of the first sentence of this sub-  
14 paragraph shall be applied by substituting the payment  
15 basis established under section 1833(p) for the reasonable  
16 charges.”.

17       (c) CONFORMING AMENDMENTS.—(1) Section  
18 1832(a)(2) (42 U.S.C. 1395k(a)(2)) is amended—

19               (A) in subparagraph (B), by striking “or sub-  
20       paragraph (I)” and inserting “, (I), or (J)”; and

21               (B) in subparagraph (J), by striking “provided  
22       by a community mental health center (as described  
23       in section 1861(ff)(2)(B))”.

24       (2) Section 1833(a) (42 U.S.C. 1395l(a)) is amend-  
25 ed—

1 (A) in paragraph (2) preceding subparagraph  
 2 (A), by striking “(H), and (I)” and inserting “(H),  
 3 (I), and (J)”;

4 (B) by striking “and” at the end of paragraph  
 5 (8);

6 (C) by striking the period at the end of para-  
 7 graph (9) and inserting “; and”; and

8 (D) by adding at the end the following new  
 9 paragraph:

10 “(10) in the case of partial hospitalization serv-  
 11 ices, 80 percent of the payment basis under the pro-  
 12 spective payment system established under section  
 13 1833(p).”.

14 (d) **EFFECTIVE DATE.**—The amendments made by  
 15 subsections (b) and (c) apply to services furnished on or  
 16 after January 1 of the first year that begins at least 6  
 17 months after the date on which regulations are issued  
 18 under section 1833(p) (42 U.S.C. 1395l(p)) as inserted  
 19 by subsection (a).

20 **SEC. 405. DEMONSTRATION FOR EXPANDED PARTIAL HOS-**  
 21 **PITALIZATION SERVICES.**

22 (a) **ESTABLISHMENT.**—

23 (1) **IN GENERAL.**—The Secretary of Health and  
 24 Human Services shall implement a demonstration  
 25 project (in this section referred to as the “project”)



1 under part B of title XVIII of the Social Security  
2 Act under which community mental health centers  
3 may offer expanded partial hospitalization services  
4 (described in paragraph (2)) for purposes of provid-  
5 ing for a full continuum of ambulatory behavioral  
6 health care services.

7 (2) ADDITIONAL MENTAL HEALTH SERVICES  
8 DESCRIBED.—For purposes of paragraph (1), the  
9 expanded partial hospitalization services are out-  
10 patient mental health services and such other mental  
11 health services as the Secretary determines appro-  
12 priate which are not partial hospitalization services  
13 as defined in section 1861(ff)(1) of such Act (42  
14 U.S.C. 1395x(ff)(1)).

15 (b) SELECTION OF CENTERS.—For purposes of im-  
16 plementing such project, the Secretary shall select for par-  
17 ticipation in the project community mental health centers  
18 that serve populations in 3 different States, 1 of which  
19 predominantly serves rural populations.

20 (c) CAPITATED PAYMENT.—Under this project, pay-  
21 ment for expanded partial hospitalization services shall be  
22 made on a capitated basis.

23 (d) WAIVER AUTHORITY.—The Secretary may waive  
24 such provisions of title XVIII of the Social Security Act

1 as the Secretary deems necessary to conduct the project  
2 established under this section.

3 (e) EVALUATION AND REPORT.—

4 (1) EVALUATION.—The Secretary shall evaluate  
5 the project. Such evaluation shall include an exam-  
6 ination of—

7 (A) the project's effect on the health and  
8 well-being of beneficiaries;

9 (B) any savings to the medicare program  
10 by reason of capitated payments for partial hos-  
11 pitalization services;

12 (C) the impact of basing payment for such  
13 services on a capitated basis; and

14 (D) the project's effect on utilization of in-  
15 patient services (including inpatient mental  
16 health services), and associated costs.

17 (2) REPORT.—Not later than 4 years after the  
18 date of the enactment of this Act, the Secretary  
19 shall submit to Congress a report containing a state-  
20 ment of the findings and conclusions of the Sec-  
21 retary pursuant to the evaluation conducted under  
22 paragraph (1), together with any recommendations  
23 for legislation the Secretary considers appropriate  
24 with respect to—

1 (A) the provision of additional mental  
 2 health services by community mental health  
 3 centers under partial hospitalization services;  
 4 and

5 (B) payment for such services on a  
 6 capitated basis.

7 (f) DURATION.—The project shall be conducted for  
 8 a 3 year period.

## 9 **Subtitle B—Rural Health Clinic** 10 **Services**

### 11 **SEC. 411. DECREASED BENEFICIARY COST SHARING FOR** 12 **RURAL HEALTH CLINIC SERVICES.**

13 (a) IN GENERAL.—Section 1861(aa)(2) (42 U.S.C.  
 14 1395x(aa)(2)) is amended, in clause (ii) of the second sen-  
 15 tence, by striking “pursuant to subsections (a) and (b)  
 16 of section 1833” and inserting “described in section  
 17 1833(b) or clause (ii) of the first sentence of section  
 18 1866(a)(2)(A) (but in no case may any coinsurance  
 19 amount exceed 20 percent of the limit described in section  
 20 1833(f), and in no case may any coinsurance be imposed  
 21 for items and services described in subsection  
 22 (s)(10)(A))”.

23 (b) CONFORMING AND TECHNICAL AMENDMENT.—  
 24 Paragraph (3) of section 1833(a) (42 U.S.C. 1395l(a)) is  
 25 amended to read as follows:

1 “(3)(A) in the case of services described in sec-  
2 tion 1832(a)(2)(D)(i) (relating to rural health clinic  
3 services), 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) do not exceed the limit under sub-  
10 section (f);

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

15 “(iv) do not exceed 80 percent of such  
16 costs determined under the preceding clauses  
17 (other than for items and services described in  
18 section 1861(s)(10)(A)); and

19 “(B) in the case of services described in section  
20 1832(a)(2)(D)(ii) (relating to Federally qualified  
21 health center services), the costs which—

22 “(i) are (I) reasonable and related to the  
23 cost of furnishing such services or (II) based on  
24 such other tests of reasonableness as the Sec-

1           retary may prescribe in regulations, including  
 2           those authorized under section 1861(v)(1)(A);

3           “(ii) are reduced by the amount a provider  
 4           may charge as described in clause (ii) of section  
 5           1866(a)(2)(A); and

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

10       (c) EFFECTIVE DATE.—The amendments made by  
 11       this section apply to services furnished on or after Janu-  
 12       ary 1, 1998.

13       **SEC. 412. PROSPECTIVE PAYMENT SYSTEM FOR RURAL**  
 14               **HEALTH CLINIC SERVICES.**

15       (a) ESTABLISHMENT OF SYSTEM.—Section 1833 (42  
 16       U.S.C. 1395l), as amended by section 4523(a) of the Bal-  
 17       anced Budget Act of 1997, is amended by adding at the  
 18       end the following:

19       “(u) PROSPECTIVE PAYMENT SYSTEM FOR RURAL  
 20       HEALTH CLINIC SERVICES.—

21               “(1) ESTABLISHMENT OF SYSTEM.—The Sec-  
 22       retary shall establish by regulation a prospective  
 23       payment system for rural health clinic services. The  
 24       regulation shall be issued no later than June 30,  
 25       2000.

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

6           “(3) ANNUAL UPDATE.—The Secretary shall  
7           provide for an annual update to the payment levels  
8           under the prospective payment system.

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

18          (b) APPLICATION TO COINSURANCE.—Clause (ii) of  
19          the second sentence of section 1861(aa)(2) (42 U.S.C.  
20          1395x(aa)(2)), as amended by section 411(a), is further  
21          amended by striking “described in section 1833(b) or  
22          clause (ii) of the first sentence of section 1866(a)(2)(A)  
23          (but any coinsurance amount shall not exceed 20 percent  
24          of the limit described in section 1833(f), and” and insert-  
25          ing “described in section 1833(b) (for any deductible

1 amount) and 20 percent of the payment basis under the  
2 prospective payment system established under section  
3 1833(t) (for any coinsurance amount, but”).

4 (c) OTHER CONFORMING AMENDMENTS.—Section  
5 1833 (42 U.S.C. 1395l) is amended—

6 (1) in subsection (a)(3)(A), as amended by sec-  
7 tion 411(b), by striking “rural health clinic serv-  
8 ices),” and all that follows and inserting “rural  
9 health clinic services), 80 percent of the payment  
10 basis under the prospective payment system estab-  
11 lished under section 1833(u) (or 100 percent of such  
12 payment basis, for items and services described in  
13 section 1861(s)(10)(A)); and”; and

14 (2) by striking subsection (f).

15 (d) EFFECTIVE DATE.—The amendments made by  
16 subsections (b) and (c) apply to services furnished on or  
17 after January 1 of the first year that begins at least 6  
18 months after the date on which regulations are issued  
19 under section 1833(u) of the Social Security Act (42  
20 U.S.C. 1395l(u)), as added by subsection (a).

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