

105TH CONGRESS  
1ST SESSION

# S. 865

To provide for improved coordination, communication, and enforcement related to health care fraud, waste, and abuse, to create a point of order against legislation which diverts savings achieved through medicare waste, fraud, and abuse enforcement activities for purposes other than improving the solvency of the Federal Hospital Insurance Trust Fund under title XVIII of the Social Security Act, to ensure the integrity of such trust fund, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

JUNE 10, 1997

Mr. GRAHAM (for himself, Mr. MACK, and Mr. BAUCUS) introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To provide for improved coordination, communication, and enforcement related to health care fraud, waste, and abuse, to create a point of order against legislation which diverts savings achieved through medicare waste, fraud, and abuse enforcement activities for purposes other than improving the solvency of the Federal Hospital Insurance Trust Fund under title XVIII of the Social Security Act, to ensure the integrity of such trust fund, 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,*

1 **SECTION 1. SHORT TITLE; REFERENCES IN ACT; TABLE OF**  
 2 **CONTENTS.**

3 (a) SHORT TITLE.—This Act may be cited as the  
 4 “Medicare Antifraud Act of 1997”.

5 (b) AMENDMENTS TO SOCIAL SECURITY ACT.—Ex-  
 6 cept as otherwise specifically provided, whenever in this  
 7 Act an amendment is expressed in terms of an amendment  
 8 to, or repeal of, a section or other provision, the reference  
 9 shall be considered to be made to that section or other  
 10 provision of the Social Security Act.

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

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

**TITLE I—PROTECTING PROGRAM INTEGRITY**

- Sec. 101. Disclosure of information and surety bond requirements.
- Sec. 102. Requirements to disclose employer identification numbers and social security numbers.
- Sec. 103. Requirement to furnish diagnostic information.
- Sec. 104. Replacement of reasonable charge methodology by fee schedules.
- Sec. 105. Application of inherent reasonableness.
- Sec. 106. Exclusion of entity controlled by family member of a sanctioned individual.
- Sec. 107. Liability of medicare carriers and fiscal intermediaries and States for claims submitted by excluded providers.
- Sec. 108. Authority to refuse to enter into medicare or medicaid agreements with individuals or entities convicted of felonies.
- Sec. 109. Application of certain provisions of the bankruptcy code.
- Sec. 110. Inspector general access to national practitioner data bank.
- Sec. 111. State health care fraud control units.
- Sec. 112. Requirement for annual GAO report.

**TITLE II—SANCTIONS FOR FRAUD AND ABUSE**

- Sec. 201. Civil monetary penalties for kickbacks.
- Sec. 202. Civil monetary penalties for persons that contract with excluded individuals.
- Sec. 203. Civil monetary penalties for services ordered or prescribed by an excluded individual or entity.

## TITLE III—TECHNICAL CLARIFICATIONS AND CORRECTIONS

- Sec. 301. Definition of the term conviction.  
 Sec. 302. Proper reference in advisory opinions.  
 Sec. 303. Ensuring proper implementation of Federal health care program exclusions.

## TITLE IV—COORDINATION OF BENEFITS

- Sec. 401. Permanent extension of certain secondary payer provisions.  
 Sec. 402. Technical changes concerning minimum sizes of group health plans.  
 Sec. 403. Information requirements.  
 Sec. 404. Clarification of time and filing limitations.  
 Sec. 405. Clarification of liability of third party administrators.  
 Sec. 406. Clarification of payment amounts to medicare.

# **TITLE I—PROTECTING PROGRAM INTEGRITY**

## **SEC. 101. DISCLOSURE OF INFORMATION AND SURETY BOND REQUIREMENTS.**

(a) DISCLOSURE OF INFORMATION AND SURETY  
 BOND REQUIREMENT FOR SUPPLIERS OF DURABLE MEDICAL EQUIPMENT.—Section 1834(a) (42 U.S.C. 1395m(a)) is amended by inserting after paragraph (15) the following:

“(16) DISCLOSURE OF INFORMATION.—

“(A) IN GENERAL.—The Secretary shall not provide for the issuance (or renewal) of a provider number for a supplier of durable medical equipment, for purposes of payment under this part for durable medical equipment furnished by the supplier, unless the supplier provides the Secretary on a continuing basis with—

“(i)(I) full and complete information as to the identity of each person with an ownership

or control interest (as defined in section 1124(a)(3)) in the supplier or in any subcontractor (as defined by the Secretary in regulations) in which the supplier directly or indirectly has a 5 percent or more ownership interest, and

“(II) to the extent determined to be feasible under regulations of the Secretary, the name of any disclosing entity (as defined in section 1124(a)(2)) with respect to which a person with such an ownership or control interest in the supplier is a person with such an ownership or control interest in the disclosing entity; and

“(ii) a surety bond in a form specified by the Secretary and in an amount that is not less than \$50,000.”.

(b) SURETY BOND REQUIREMENT FOR HOME HEALTH AGENCIES.—

(1) IN GENERAL.—Section 1861(o)(7) (42 U.S.C. 1395x(o)(7)) is amended by inserting “and including providing the Secretary on a continuing basis with a surety bond in a form specified by the Secretary and in an amount that is not less than \$50,000” after “financial security of the program”.

1           (2) CONFORMING AMENDMENTS.—Section  
 2   1861(v)(1)(H) (42 U.S.C. 1395x(v)(1)(H)) is  
 3   amended by striking “the financial security require-  
 4   ment” and inserting “the financial security and sur-  
 5   ety bond requirements” each place it appears in  
 6   clauses (i) and (ii).

7           (c) AUTHORIZING APPLICATION OF DISCLOSURE AND  
 8   SURETY BOND REQUIREMENTS TO AMBULANCE SERV-  
 9   ICES AND CERTAIN CLINICS.—Section 1834(a)(16) (42  
 10   U.S.C. 1395m(a)(16)) (as added by subsection (a) of this  
 11   section) is amended by adding at the end the following:

12           “(B) APPLICATION TO AMBULANCE SERVICES  
 13   AND CERTAIN CLINICS.—The Secretary, in the Sec-  
 14   retary’s discretion, may impose the requirements of  
 15   the previous sentence with respect to some or all  
 16   classes of suppliers of ambulance services described  
 17   in section 1861(s)(7) and clinics that furnish medi-  
 18   cal and other health services (other than physicians’  
 19   services) under this part.”.

20           (d) EFFECTIVE DATES.—

21           (1) SUBSECTION (a).—The amendment made  
 22   by subsection (a) shall apply to suppliers of durable  
 23   medical equipment with respect to such equipment  
 24   furnished on or after January 1, 1998.

25           (2) SUBSECTION (b).—

1 (A) IN GENERAL.—The amendments made  
 2 by subsection (b) shall apply to home health  
 3 agencies with respect to services furnished on or  
 4 after January 1, 1998.

5 (B) PARTICIPATION AGREEMENTS.—The  
 6 Secretary of Health and Human Services shall  
 7 modify participation agreements under section  
 8 1866(a)(1) of the Social Security Act with re-  
 9 spect to home health agencies to provide for im-  
 10 plementation of such amendments on a timely  
 11 basis.

12 (3) SUBSECTION (c).—The amendment made  
 13 by subsection (c) shall take effect on the date of en-  
 14 actment of this Act and may be applied with respect  
 15 to items and services furnished on or after the date  
 16 specified in paragraph (1).

17 **SEC. 102. REQUIREMENTS TO DISCLOSE EMPLOYER IDEN-**  
 18 **TIFICATION NUMBERS AND SOCIAL SECU-**  
 19 **RITY NUMBERS.**

20 (a) DISCLOSING ENTITIES, OWNERS, AND CONTROL-  
 21 LING INTERESTS.—Section 1124 (42 U.S.C. 1320a–3) is  
 22 amended by adding at the end the following:

23 “(c) REQUIREMENT TO FURNISH SOCIAL SECURITY  
 24 NUMBERS AND EMPLOYER IDENTIFICATION NUMBERS.—  
 25 A payment shall not be made to a disclosing entity under

1 title V, XVIII, or XIX unless the disclosing entity fur-  
 2 nishes to the Secretary the employer identification number  
 3 and social security number of—

4 “(1) the disclosing entity;

5 “(2) each person with an ownership or control  
 6 interest; and

7 “(3) any subcontractor in which the entity di-  
 8 rectly or indirectly has a 5 percent or more owner-  
 9 ship interest.”.

10 (b) OTHER MEDICARE PROVIDERS.—Section 1124A  
 11 (42 U.S.C. 1320a–3a) is amended—

12 (1) in subsection (a)—

13 (A) in paragraph (1), by striking “and” at  
 14 the end;

15 (B) in paragraph (2), by striking the pe-  
 16 riod at the end and inserting “; and”; and

17 (C) by adding at the end the following:

18 “(3) including the employer identification num-  
 19 ber and social security number of the disclosing part  
 20 B provider and any person, managing employee, or  
 21 other entity identified under paragraph (1) or (2).”;  
 22 and

23 (2) in subsection (c)(1) by inserting “(or, for  
 24 purposes of subsection (a)(3), any entity receiving  
 25 payment)” after “on an assignment-related basis”.

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

4           (1) by redesignating subsection (c) as sub-  
5 section (d); and

6           (2) by inserting after subsection (b) the follow-  
7 ing:

8       “(c) VERIFICATION BY SOCIAL SECURITY ADMINIS-  
9 TRATION.—

10           “(1) TRANSMITTAL BY HHS.—The Secretary  
11 shall transmit to the Social Security Administration  
12 information concerning each social security number  
13 and employer identification number supplied to the  
14 Secretary under subsection (a)(3) or section 1124(c)  
15 as necessary for verification of the information re-  
16 quired under paragraph (2).

17           “(2) VERIFICATION BY SSA.—The Social Secu-  
18 rity Administration shall verify the accuracy of and  
19 correct, if necessary, the information supplied by the  
20 Secretary under paragraph (1) and shall report the  
21 verification to the Secretary.

22           “(3) FEES FOR SSA VERIFICATION.—The Sec-  
23 retary shall reimburse the Commissioner of Social  
24 Security, at a rate negotiated between the Secretary  
25 and the Commissioner, for the costs incurred by the

1 Commissioner in performing the verification and cor-  
 2 rection services described in this subsection.”.

3 **SEC. 103. REQUIREMENT TO FURNISH DIAGNOSTIC INFOR-**  
 4 **MATION.**

5 (a) INCLUSION OF NON-PHYSICIAN PRACTITIONERS  
 6 IN REQUIREMENT TO PROVIDE DIAGNOSTIC CODES FOR  
 7 PHYSICIAN SERVICES.—Paragraphs (1) and (2) of section  
 8 1842(p) (42 U.S.C. 1395u(p)) are each amended by in-  
 9 serting “or practitioner described in subsection  
 10 (b)(18)(C)” after “ by a physician”.

11 (b) REQUIREMENT TO PROVIDE DIAGNOSTIC INFOR-  
 12 MATION WHEN ORDERING CERTAIN ITEMS OR SERVICES  
 13 FURNISHED BY ANOTHER ENTITY.—Section 1842(p) (42  
 14 U.S.C. 1395u(p)), as amended by subsection (a), is  
 15 amended by adding at the end the following:

16 “(4) In the case of an item of service (as described  
 17 in paragraph (3), (6), (8), or (9) of subsection 1861(s))  
 18 ordered by a physician or a practitioner described in sub-  
 19 section (b)(18)(C), but furnished by another entity, if the  
 20 Secretary (or fiscal agent of the Secretary) requires the  
 21 entity furnishing the item or service to provide diagnostic  
 22 or other medical information for payment to be made to  
 23 the entity, the physician or practitioner shall provide that  
 24 information to the entity at the time that the item or serv-  
 25 ice is ordered by the physician or practitioner.”.

1 (c) EFFECTIVE DATE.—The amendments made by  
 2 subsections (a) and (b) apply to items and services fur-  
 3 nished on or after January 1, 1998.

4 **SEC. 104. REPLACEMENT OF REASONABLE CHARGE METH-**  
 5 **ODOLOGY BY FEE SCHEDULES.**

6 (a) IN GENERAL.—Section 1833(a)(1) (42 U.S.C.  
 7 1395l(a)(1)) is amended in the matter preceding subpara-  
 8 graph (A) by striking “the reasonable charges for the serv-  
 9 ices” and inserting “the lesser of the actual charges for  
 10 the services and the amounts determined by the applicable  
 11 fee schedules developed by the Secretary for the particular  
 12 services”.

13 (b) CONFORMING AMENDMENTS.—

14 (1) SECTION 1833(a).—Section 1833(a) (42  
 15 U.S.C. 1395l(a)) is amended—

16 (A) in paragraph (1)—

17 (i) in subparagraph (A), by striking  
 18 “reasonable charges for” and inserting  
 19 “payment basis otherwise applicable to”;

20 (ii) in subparagraph (B), by striking  
 21 “reasonable charges” and inserting “fee  
 22 schedule amounts”; and

23 (iii) by inserting after subparagraph  
 24 (F) the following: “(G) with respect to  
 25 services described in clause (i) or (ii) of

1 section 1861(s)(2)(K) (relating to physi-  
 2 cian assistants and nurse practitioners),  
 3 the amounts paid shall be 80 percent of  
 4 the lesser of the actual charge for the serv-  
 5 ices and the applicable amount determined  
 6 under subclause (I) or (II) of section  
 7 1842(b)(12)(A)(ii),”; and  
 8 (B) in paragraph (2)—

9 (i) in subparagraph (B), in the matter  
 10 preceding clause (i), by striking “(C),  
 11 (D),” and inserting “(D)”; and

12 (ii) by striking subparagraph (C).

13 (2) SECTION 1833(l).—Section 1833(l) (42  
 14 U.S.C. 1395l(l)) is amended—

15 (A) in paragraph (3)—

16 (i) by striking subparagraph (B); and

17 (ii) by striking “(3)(A)” and inserting  
 18 “(3)”; and

19 (B) by striking paragraph (6).

20 (3) SECTION 1834.—Section 1834(g)(1)(A)(ii)  
 21 (42 U.S.C. 1395m(g)(1)(A)(ii)) is amended in the  
 22 heading by striking “REASONABLE CHARGES FOR  
 23 PROFESSIONAL” and inserting “PROFESSIONAL”.

24 (4) SECTION 1842(a).—Section 1842(a) (42  
 25 U.S.C. 1395u(a)) is amended—

1 (A) in the matter preceding paragraph (1),  
2 by striking “reasonable charge” and inserting  
3 “fee schedule”; and

4 (B) in paragraph (1)(A), by striking “rea-  
5 sonable charge” and inserting “other”.

6 (5) SECTION 1842(b).—Section 1842(b) (42  
7 U.S.C. 1395u(b)) is amended—

8 (A) in paragraph (3)—

9 (i) in subparagraph (B)—

10 (I) in the matter preceding clause  
11 (i), by striking “assure that,” and all  
12 that follows through “such payment”  
13 and inserting the following: “where  
14 payment under this part for a service  
15 is on a basis other than a cost basis,  
16 such payment”; and

17 (II) in clause (ii), by amending  
18 subclause (I) to read as follows: “(I)  
19 the amount determined by the appli-  
20 cable payment basis under this part is  
21 the full charge for the service,”; and  
22 (ii) by striking the second through the  
23 ninth sentences;

24 (B) by amending paragraph (4) to read as  
25 follows:

1 “(4) In the case of an enteral or parenteral pump  
 2 that is furnished on a rental basis during a period of medi-  
 3 cal need—

4 “(A) monthly rental payments shall not be  
 5 made under this part for more than 15 months dur-  
 6 ing that period, and

7 “(B) after monthly rental payments have been  
 8 made for 15 months during that period, payment  
 9 under this part shall be made for maintenance and  
 10 servicing of the pump in amounts that the Secretary  
 11 determines to be reasonable and necessary to ensure  
 12 the proper operation of the pump.”;

13 (C) in paragraph (7)—

14 (i) in subparagraph (D)—

15 (I) in clause (i), in the matter  
 16 preceding subclause (I), by striking “,  
 17 to the extent that such payment is  
 18 otherwise allowed under this para-  
 19 graph”; and

20 (II) in clause (ii), by striking  
 21 “subparagraph” and inserting “para-  
 22 graph”;

23 (ii) by striking subparagraphs (A),  
 24 (B), and (C);

1 (iii) by striking “(D)(i)” and inserting  
 2 “(7)(A)”;

3 (iv) in subparagraph (A), as redesignated by clause (iii), by—

5 (I) redesignating clauses (ii) and  
 6 (iii) as subparagraphs (B) and (C),  
 7 respectively; and

8 (II) by redesignating subclauses  
 9 (I), (II), and (III) as clauses (i), (ii),  
 10 and (iii), respectively;

11 (D) by striking paragraphs (9) and (10);

12 (E) in paragraph (11)—

13 (i) by striking subparagraphs (B),  
 14 (C), and (D);

15 (ii) by striking “(11)(A)” and insert-  
 16 ing “(11)”, and

17 (iii) by redesignating clauses (i) and  
 18 (ii) as subparagraphs (A) and (B), respec-  
 19 tively;

20 (F) in paragraph (12)(A)(ii)—

21 (i) in the matter preceding subclause  
 22 (I), by striking “prevailing charges deter-  
 23 mined under paragraph (3)” and inserting  
 24 “the amounts determined under section  
 25 1833(a)(1)(G)”;

1 (ii) in subclause (II), by striking “pre-  
 2 vailing charge rate” and all that follows  
 3 through the period and inserting “fee  
 4 schedule amount specified in section 1848  
 5 for such services performed by physi-  
 6 cians.”;

7 (G) by striking paragraphs (14), (15),  
 8 (16), and (17);

9 (H) in paragraph (18)(A), by striking  
 10 “reasonable charge or”; and

11 (I) by redesignating paragraph (18) as  
 12 paragraph (14).

13 (6) ELIMINATION OF REDUNDANT LAN-  
 14 GUAGE.—Section 6112(b) of the Omnibus Reconcili-  
 15 ation Act of 1989 (42 U.S.C. 1395m note; Public  
 16 Law 101-239) is repealed.

17 (7) SECTION 1842(j).—Section 1842(j) (42  
 18 U.S.C. 1395u(j)) is amended—

19 (A) by amending paragraph (1) to read as  
 20 follows:

21 “(j)(1) Sanctions may be applied under paragraph  
 22 (2) as provided in subsections (k), (l), (m), (n), and (p).”;  
 23 and

24 (B) in paragraph (4), by striking “under  
 25 paragraph (1)”.

1           (8) SECTION 1842(n).—Section 1842(n)(1)(A)  
 2           (42 U.S.C. 1395u(n)(1)(A)) is amended by striking  
 3           “reasonable charge (or other applicable limit)” and  
 4           inserting “other applicable limit”.

5           (9) SECTION 1842(q).—Section 1842(q) (42  
 6           U.S.C. 1395u(q)) is amended—

7                     (A) by striking paragraph (1)(B); and

8                     (B) by striking “(q)(1)(A)” and inserting  
 9                     “(q)(1)”.

10          (10) SECTION 1845.—Section 1845(b)(1) (42  
 11          U.S.C. 1395w–1(b)(1)) is amended by striking “ad-  
 12          justments to the reasonable charge levels for physi-  
 13          cians’ services recognized under section 1842(b)  
 14          and”.

15          (11) SECTION 1848.—Section 1848(i)(3) (42  
 16          U.S.C. 1395w–4(i)(3)) is repealed.

17          (12) SECTION 1866.—Section 1866(a)(2)(A)(ii)  
 18          (42 U.S.C. 1395cc(a)(2)(A)(ii)) is amended by strik-  
 19          ing “reasonable charges” through “provider)” and  
 20          inserting “amount customarily charged for the items  
 21          and services by the provider”.

22          (13) SECTION 1881.—Section 1881(b)(3)(A) (42  
 23          U.S.C. 1395rr(b)(3)(A)) is amended by striking “a  
 24          reasonable charge” and all that follows through

1 “section 1848)” and inserting “the basis described  
2 in section 1848”.

3 (14) OBRA–86.—Section 9340 of the Omnibus  
4 Budget Reconciliation Act of 1986 (42 U.S.C.  
5 1395u note; Public Law 99-509) is repealed.

6 (c) EFFECTIVE DATES.—The amendments made by  
7 subsections (a) and (b), to the extent the amendments  
8 substitute fee schedules for reasonable charges, apply to  
9 particular services as of the date specified by the Secretary  
10 of Health and Human Services.

11 (d) INITIAL BUDGET NEUTRALITY.—The Secretary,  
12 in developing a fee schedule for particular services (under  
13 the amendments made by subsections (a) and (b)), shall  
14 set amounts for the first year period to which the fee  
15 schedule applies at such a level that the total payments  
16 under title XVIII of the Social Security Act (42 U.S.C.  
17 1395 et seq.) for those services for that period shall be  
18 approximately equal to the estimated total payments for  
19 those services if the amendments had not been made.

20 **SEC. 105. APPLICATION OF INHERENT REASONABLENESS.**

21 (a) IN GENERAL.—Section 1834(a)(10)(B) (42  
22 U.S.C. 1395m(a)(10)(B)) is amended—

23 (1) in the first sentence, by striking “apply the  
24 provisions” and all that follows through the period  
25 and inserting “describe by regulation the factors to

1 be used in determining the cases (or particular  
 2 items) in which the application of this subsection re-  
 3 sults in the determination of an amount that, by  
 4 reason of its being grossly excessive or grossly defi-  
 5 cient, is not inherently reasonable, and to provide in  
 6 such cases for the factors that will be considered in  
 7 establishing an amount that is realistic and equi-  
 8 table.”; and

9 (2) in the second sentence, by striking “apply-  
 10 ing such provisions” and inserting “applying the  
 11 previous provisions of this subsection”.

12 (b) CONFORMING AMENDMENT.—Section 1834(i)  
 13 (42 U.S.C. 1395m(i)) is amended by adding at the end  
 14 the following:

15 “(3) ADJUSTMENT FOR INHERENT REASON-  
 16 ABLENESS.—The provisions of subsection (a)(10)(B)  
 17 shall apply to payment for surgical dressings under  
 18 this subsection.”.

19 **SEC. 106. EXCLUSION OF ENTITY CONTROLLED BY FAMILY**  
 20 **MEMBER OF A SANCTIONED INDIVIDUAL.**

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

22 (1) in subsection (b)(8), by inserting in the  
 23 matter preceding subparagraph (A) “, an immediate  
 24 family member of such person (as defined in section  
 25 1128(j)), or a member of the household of such per-

1 son (as defined in section 1128(k))” after “the Sec-  
 2 retary determines that a person”; and

3 (2) by adding at the end the following:

4 “(j) DEFINITION OF IMMEDIATE FAMILY MEM-  
 5 BER.—For purposes of subsection (b)(8), the term ‘imme-  
 6 diate family member’ means—

7 “(1) a spouse;

8 “(2) a biological or adoptive parent of the indi-  
 9 vidual and the individual’s spouse;

10 “(3) a child or sibling;

11 “(4) a grandparent or grandchild; or

12 “(5) an individual that is married to any of the  
 13 individuals listed in paragraphs (2) through (5).

14 “(k) DEFINITION OF MEMBER OF THE HOUSE-  
 15 HOLD.—For purposes of subsection (b)(8), the term  
 16 ‘member of the household’ means a person sharing a com-  
 17 mon abode as part of a single family unit, including do-  
 18 mestic employees and others who live together as a family  
 19 unit, but not including a roomer or boarder.”.

20 **SEC. 107. LIABILITY OF MEDICARE CARRIERS AND FISCAL**  
 21 **INTERMEDIARIES AND STATES FOR CLAIMS**  
 22 **SUBMITTED BY EXCLUDED PROVIDERS.**

23 (a) REIMBURSEMENT TO THE SECRETARY FOR  
 24 AMOUNTS PAID TO EXCLUDED PROVIDERS.—

1           (1)       REQUIREMENTS       FOR       FISCAL  
2       INTERMEDIARIES.—

3                   (A)   IN   GENERAL.—Section   1816   (42  
4       U.S.C. 1395h) is amended by adding at the end  
5       the following:

6       “(m) An agreement with an agency or organization  
7   under this section shall require that the agency or organi-  
8   zation reimburse the Secretary for any amounts paid for  
9   a service under this title which is furnished, directed, or  
10   prescribed by an individual or entity during any period  
11   for which the individual or entity is excluded pursuant to  
12   section 1128, 1128A, or 1156 from participation in the  
13   program under this title, if the amounts are paid after  
14   the Secretary notifies the agency or organization of the  
15   exclusion.”.

16                   (B)   CONFORMING   AMENDMENT.—Section  
17       1816(i) (42 U.S.C. 1395h(i)) is amended by  
18       adding at the end the following:

19       “(4) Nothing in this subsection shall be con-  
20   strued to prohibit reimbursement by an agency or  
21   organization under subsection (m).”.

22           (2)   REQUIREMENTS   FOR   CARRIERS.—Section  
23       1842(b)(3) (42 U.S.C. 1395u(b)(3)) is amended—

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

1 (B) by inserting after subparagraph (I) the  
2 following:

3 “(J) will reimburse the Secretary for any  
4 amounts paid for an item or service under this part  
5 which is furnished, directed, or prescribed by an in-  
6 dividual or entity during any period for which the in-  
7 dividual or entity is excluded pursuant to section  
8 1128, 1128A, or 1156 from participation in the pro-  
9 gram under this title, if the amounts are paid after  
10 the Secretary notifies the carrier of the exclusion;  
11 and”.

12 (3) REQUIREMENTS FOR STATES.—Section  
13 1902(a)(39) (42 U.S.C. 1396a(a)(39)) is amended  
14 by striking the semicolon at the end and inserting “,  
15 and provide further for reimbursement to the Sec-  
16 retary of any payments made under the plan for any  
17 item or service furnished, directed, or prescribed by  
18 the excluded individual or entity during such period,  
19 after the Secretary notifies the State of such exclu-  
20 sion;”.

21 (b) CONFORMING REPEAL OF MANDATORY PAYMENT  
22 RULE.—Section 1862(e)(2) (42 U.S.C. 1395y(e)(2)) is  
23 amended to read as follows:

24 “(2) No individual or entity may bill (or collect any  
25 amount from) any individual for any item or service for

1 which payment is denied under paragraph (1). No person  
 2 is liable for payment of any amounts billed for such an  
 3 item or service in violation of the previous sentence.”.

4 **SEC. 108. AUTHORITY TO REFUSE TO ENTER INTO MEDI-**  
 5 **CARE OR MEDICAID AGREEMENTS WITH IN-**  
 6 **DIVIDUALS OR ENTITIES CONVICTED OF**  
 7 **FELONIES.**

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

10 (1) in subparagraph (B), by striking “or” at  
 11 the end;

12 (2) in subparagraph (C), by striking the period  
 13 at the end and inserting “, or”; and

14 (3) by adding at the end the following:

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

20 (b) MEDICARE PART B.—Section 1842 (42 U.S.C.  
 21 1395u) is amended by adding at the end the following:

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

1 victed of a felony under Federal or State law for an of-  
 2 fense which the Secretary determines is inconsistent with  
 3 the best interests of program beneficiaries.”.

4 (c) MEDICAID.—Section 1902(a)(23) (42 U.S.C.  
 5 1396(a)(23)) is amended—

6 (1) by inserting a comma after “1915”; and

7 (2) by inserting after “Guam,” the following:

8 “and except that this provision does not require a State  
 9 to provide medical assistance for such services furnished  
 10 by a person or entity convicted of a felony under Federal  
 11 or State law for an offense which the State agency deter-  
 12 mines is inconsistent with the best interests of bene-  
 13 ficiaries under the State plan,”.

14 **SEC. 109. APPLICATION OF CERTAIN PROVISIONS OF THE**  
 15 **BANKRUPTCY CODE.**

16 (a) RESTRICTED APPLICABILITY OF BANKRUPTCY  
 17 STAY, DISCHARGE, AND PREFERENTIAL TRANSFER PRO-  
 18 VISIONS TO MEDICARE AND MEDICAID DEBTS.—Part A  
 19 of title XI (42 U.S.C. 1301 et seq.) is amended by insert-  
 20 ing after section 1143 the following:

21 “APPLICATION OF CERTAIN PROVISIONS OF THE  
 22 BANKRUPTCY CODE

23 “SEC. 1144. (a) MEDICARE AND MEDICAID-RELAT-  
 24 ED ACTIONS NOT STAYED BY BANKRUPTCY PROCEED-  
 25 INGS.—The commencement or continuation of any action  
 26 against a debtor under this title or title XVIII or XIX

1 (other than an action with respect to health care services  
 2 for the debtor under title XVIII), including any action or  
 3 proceeding to exclude or suspend the debtor from program  
 4 participation, assess civil money penalties, recoup or set  
 5 off overpayments, or deny or suspend payment of claims  
 6 shall not be subject to the provisions of section 362(a) of  
 7 title 11, United States Code.

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

16 “(c) REPAYMENT OF CERTAIN DEBTS CONSIDERED  
 17 FINAL.—Payments made to repay a debt to the United  
 18 States or to a State with respect to items or services pro-  
 19 vided, or claims for payment made, under title XVIII or  
 20 XIX (including repayment of an overpayment (other than  
 21 an overpayment for health care services for the debtor  
 22 under title XVIII)), or to pay a penalty, fine, or assess-  
 23 ment under this title or title XVIII or XIX, shall be con-  
 24 sidered final and not preferential transfers under section  
 25 547 of title 11, United States Code.”.

1 (b) MEDICARE RULES APPLICABLE TO BANKRUPTCY  
 2 PROCEEDINGS.—Title XVIII (42 U.S.C. 1395 et seq.) is  
 3 amended by adding at the end the following:

4 “APPLICATION OF PROVISIONS OF THE BANKRUPTCY  
 5 CODE

6 “SEC. 1894. (a) USE OF MEDICARE STANDARDS AND  
 7 PROCEDURES.—Notwithstanding any provision of title 11,  
 8 United States Code, or any other provision of law, in the  
 9 case of claims by a debtor in bankruptcy for payment  
 10 under this title, the determination of whether the claim  
 11 is allowable and of the amount payable, shall be made in  
 12 accordance with the provisions of this title and title XI  
 13 and implementing regulations.

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

1       “(c) **TURNOVER OF PROPERTY TO THE BANKRUPTCY**  
 2 **ESTATE.**—For purposes of section 542(b) of title 11,  
 3 United States Code, a claim for payment under this title  
 4 shall not be considered to be a matured debt payable to  
 5 the estate of a debtor until such claim has been allowed  
 6 by the Secretary in accordance with procedures under this  
 7 title.”.

8 **SEC. 110. INSPECTOR GENERAL ACCESS TO NATIONAL**  
 9 **PRACTITIONER DATA BANK.**

10       Section 427 of the Health Care Quality Improvement  
 11 Act of 1986 (42 U.S.C. 11137) is amended—

12           (1) in subsection (a), by adding at the end the  
 13 following: “Information reported under this part  
 14 shall also be made available, upon request, to the In-  
 15 spector General of the Departments of Health and  
 16 Human Services, Defense, and Labor, the Office of  
 17 Personnel Management, and the Railroad Retirement  
 18 Board.”; and

19           (2) by amending subsection (b)(4) to read as  
 20 follows:

21           “(4) **FEEES.**—

22           “(A) **IMPOSITION OF FEEES.**—The Sec-  
 23 retary may impose fees for the disclosure of in-  
 24 formation under this part sufficient to recover  
 25 the full costs of carrying out the provisions of

1 this part, including reporting, disclosure, and  
 2 administration, except that a fee may not be  
 3 imposed for requests made by the Inspector  
 4 General of the Department of Health and  
 5 Human Services.

6 “(B) AVAILABILITY OF FEES.—The fees  
 7 shall remain available to the Secretary (or, in  
 8 the Secretary’s discretion, to the agency des-  
 9 ignated in section 424(b)) until expended.”.

10 **SEC. 111. STATE HEALTH CARE FRAUD CONTROL UNITS.**

11 (a) EXTENSION OF CONCURRENT AUTHORITY TO IN-  
 12 VESTIGATE AND PROSECUTE FRAUD IN OTHER FEDERAL  
 13 PROGRAMS.—Section 1903(q)(3) (42 U.S.C. 1396b(q)(3))  
 14 is amended—

15 (1) by striking “in connection with any aspect”  
 16 and inserting “in connection with—

17 “(A) any aspect”;

18 (2) by striking the period at the end and insert-  
 19 ing “; and”; and

20 (3) by adding at the end the following:

21 “(B) in cases where the entity’s function is  
 22 also described by subparagraph (A), and upon  
 23 the approval of the relevant Federal agency,  
 24 any aspect of the provision of health care serv-  
 25 ices and activities of providers of such services

1 under any Federal health care program (as de-  
 2 fined in section 1128B(f)).”.

3 (b) EXTENSION OF AUTHORITY TO INVESTIGATE  
 4 AND PROSECUTE PATIENT ABUSE IN NON-MEDICAID  
 5 BOARD AND CARE FACILITIES.—Section 1903(q)(4) (42  
 6 U.S.C. 1396b(q)(4)) is amended to read as follows:

7 “(4)(A) The entity has—

8 “(i) procedures for reviewing complaints of  
 9 abuse or neglect of patients in health care fa-  
 10 cilities which receive payments under the State  
 11 plan under this title;

12 “(ii) at the option of the entity, procedures  
 13 for reviewing complaints of abuse or neglect of  
 14 patients residing in board and care facilities;  
 15 and

16 “(iii) procedures for acting upon such com-  
 17 plaints under the criminal laws of the State or  
 18 for referring such complaints to other State  
 19 agencies for action.

20 “(B) For purposes of this paragraph, the term  
 21 ‘board and care facility’ means a residential setting  
 22 which receives payment from or on behalf of two or  
 23 more unrelated adults who reside in such facility,  
 24 and for whom one or both of the following is pro-  
 25 vided:

1           “(i) Nursing care services provided by, or  
 2           under the supervision of, a registered nurse, li-  
 3           censed practical nurse, or licensed nursing as-  
 4           sistant.

5           “(ii) Personal care services that assist resi-  
 6           dents with the activities of daily living, includ-  
 7           ing personal hygiene, dressing, bathing, eating,  
 8           toileting, ambulation, transfer, positioning, self-  
 9           medication, body care, travel to medical serv-  
 10          ices, essential shopping, meal preparation, laun-  
 11          dry, and housework.”.

12 **SEC. 112. REQUIREMENT FOR ANNUAL GAO REPORT.**

13          Section 1817(k)(6) (42 U.S.C. 1395i(k)(6)) is  
 14          amended—

15               (1) in the matter preceding subparagraph (A),  
 16          by striking “2000, 2002, and 2004,” and inserting  
 17          “2000 and each subsequent year through 2004”;  
 18          and

19               (2) in subparagraph (A)—

20                       (A) in clause (i), by striking “two fiscal  
 21                       years” and inserting “fiscal year”; and

22                       (B) in clause (ii), by striking “fiscal years”  
 23                       and inserting “fiscal year”.

## TITLE II—SANCTIONS FOR FRAUD AND ABUSE

### SEC. 201. CIVIL MONETARY PENALTIES FOR KICKBACKS.

(a) PERMITTING SECRETARY TO IMPOSE CIVIL MONETARY PENALTY.—Section 1128A(a) (42 U.S.C. 1320a–7a(a)) is amended—

(1) by striking “or” at the end of paragraph

(4);

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

and

(3) by adding after paragraph (5) the following:

“(6) commits an act described in paragraph (1)

or (2) of section 1128B(b);”.

(b) DESCRIPTION OF CIVIL MONETARY PENALTY APPLICABLE.—Section 1128A(a) (42 U.S.C. 1320a–7a(a)) (as amended by subsection (a) of this section) is amended in the matter following paragraph (6)—

(1) by striking “occurs).” and inserting “oc-

curs; in cases under paragraph (6), \$50,000 for each

such act).”; and

(2) by inserting after “of such claim” the fol-

lowing: “(or, in cases under paragraph (6), damages

of not more than 3 times the total amount of remuneration offered, paid, solicited, or received, without

regard to whether a portion of such remuneration

1 was offered, paid, solicited, or received for a lawful  
 2 purpose)”.  
 3

4 **SEC. 202. CIVIL MONETARY PENALTIES FOR PERSONS THAT**  
 5 **CONTRACT WITH EXCLUDED INDIVIDUALS.**

6 Section 1128A(a) (42 U.S.C. 1320a–7a(a)) (as  
 7 amended by section 201(a) of this Act) is amended—

8 (1) by striking “or” at the end of paragraph  
 9 (5);

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

12 (3) by adding after paragraph (6) the following:

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

20 **SEC. 203. CIVIL MONETARY PENALTIES FOR SERVICES OR-**  
 21 **DERED OR PRESCRIBED BY AN EXCLUDED IN-**  
 22 **DIVIDUAL OR ENTITY.**

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

(1) in subparagraph (D)—

1 (A) by inserting “, ordered, or prescribed  
2 by a person” after “other item or service fur-  
3 nished”;

4 (B) by inserting “(under this title or title  
5 XVIII) after “period in which the person was  
6 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)”;  
10 and

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

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

14 (3) by adding 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 (under this title or title XVIII) from the pro-  
19 gram under which the claim was made, and the  
20 person furnishing such item or service knows or  
21 should know of such exclusion, or”.

1 **TITLE III—TECHNICAL CLARI-**  
 2 **FICATIONS AND CORREC-**  
 3 **TIONS**

4 **SEC. 301. DEFINITION OF THE TERM CONVICTION.**

5 Section 1128E(g)(5) (42 U.S.C. 1320a–7e(g)(5)) is  
 6 amended by striking “paragraph (4) of” and inserting  
 7 “paragraphs (1) through (4)”.

8 **SEC. 302. PROPER REFERENCE IN ADVISORY OPINIONS.**

9 Section 1128D(b)(2)(D) (42 U.S.C. 1320a–  
 10 7d(b)(2)(D)) is amended by striking “1128B(b)” and in-  
 11 serting “1128A(b)”.

12 **SEC. 303. ENSURING PROPER IMPLEMENTATION OF FED-**  
 13 **ERAL HEALTH CARE PROGRAM EXCLUSIONS.**

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

15 (1) in subsection (a), by striking “program  
 16 under title XVIII and shall direct that the following  
 17 individuals and entities be excluded from participa-  
 18 tion in any State health care program (as defined in  
 19 subsection (h))” and inserting “Federal health care  
 20 program (as defined in section 1128B(f))”; and

21 (2) in subsection (b), by striking “program  
 22 under title XVIII and may direct that the following  
 23 individuals and entities be excluded from participa-  
 24 tion in any State health care program” and inserting

1 “Federal health care program (as defined in section  
2 1128B(f))”.

## 3 **TITLE IV—COORDINATION OF** 4 **BENEFITS**

### 5 **SEC. 401. PERMANENT EXTENSION OF CERTAIN SECOND-** 6 **ARY PAYER PROVISIONS.**

7 (a) WORKING DISABLED.—Section 1862(b)(1)(B)  
8 (42 U.S.C. 1395y(b)(1)(B)) is amended by striking clause  
9 (iii).

10 (b) INDIVIDUALS WITH END STAGE RENAL DIS-  
11 EASE.—Section 1862(b)(1)(C) (42 U.S.C.  
12 1395y(b)(1)(C)) is amended—

13 (1) in the first sentence, by striking “12-  
14 month” each place it occurs and inserting “18-  
15 month”; and

16 (2) by striking the second sentence.

17 (c) IRS-SSA-HCFA DATA MATCH.—

18 (1) SOCIAL SECURITY ACT.—Section  
19 1862(b)(5)(C) (42 U.S.C. 1395y(b)(5)(C)) is  
20 amended by striking clause (iii).

21 (2) INTERNAL REVENUE CODE.—Section  
22 6103(l)(12) of the Internal Revenue Code of 1986 is  
23 amended by striking subparagraph (F).

1 **SEC. 402. TECHNICAL CHANGES CONCERNING MINIMUM**  
 2 **SIZES OF GROUP HEALTH PLANS.**

3 (a) PLACEMENT OF “GROUP HEALTH PLAN” DEFINITION IN SOCIAL SECURITY ACT.—

5 (1) DEFINITION.—Section 1862(b)(1)(E) (42  
 6 U.S.C. 1395y(b)(1)(E)) is amended by adding at the  
 7 end the following:

8 “(iv) GROUP HEALTH PLAN DEFINED.—The term ‘group health plan’  
 9 means a plan (including a self-insured  
 10 plan) of, or contributed to by, an employer  
 11 or employee organization to provide health  
 12 care (directly or otherwise) to the employ-  
 13 ees, former employees, the employer, oth-  
 14 ers associated or formerly associated with  
 15 the employer in a business relationship, or  
 16 their families.”.

18 (2) CONFORMING AMENDMENTS.—

19 (A) SECTION 1862(b)(1)(A).—Section  
 20 1862(b)(1)(A) (42 U.S.C. 1395y(b)(1)(A)) is  
 21 amended by striking clause (v).

22 (B) SECTION 1862(b)(1)(C).—Section  
 23 1862(b)(1)(C) (42 U.S.C. 1395y(b)(1)(C)) is  
 24 amended in the matter preceding clause (i) by  
 25 striking “plan (as defined in subparagraph  
 26 (A)(v))—” and inserting “plan—”.

1 (C) SECTIONS 1837 AND 1839.—Subpara-  
 2 graph (A) of the first sentence of section  
 3 1837(i)(1) (42 U.S.C. 1395p(i)(1)), subpara-  
 4 graph (B) of the first sentence of section  
 5 1837(i)(2) (42 U.S.C. 1395p(i)(2)), section  
 6 1837(i)(3)(A) (42 U.S.C. 1395p(i)(3)(A)), and  
 7 paragraph (2) of the second sentence of section  
 8 1839(b) (42 U.S.C. 1395r(b)), are each amend-  
 9 ed by striking “1862(b)(1)(A)(v)” and inserting  
 10 “1862(b)(1)(E)(iv)”.

11 (D) SECTION 5000 OF THE INTERNAL REV-  
 12 ENUE CODE.—Section 5000(b) of the Internal  
 13 Revenue Code of 1986 is amended to read as  
 14 follows:

15 “(b) GROUP HEALTH PLAN.—For purposes of this  
 16 section, the term ‘group health plan’ has the meaning  
 17 given that term in section 1862(b)(1)(E)(iv) of the Social  
 18 Security Act (42 U.S.C. 1395y(b)(1)(E)(iv)).”.

19 (E) SECTION 7701(a) OF THE INTERNAL  
 20 REVENUE CODE.—Section 7701(a) of the Inter-  
 21 nal Revenue Code of 1986 is amended by add-  
 22 ing at the end the following:

23 “(47) GROUP HEALTH PLAN.—The term ‘group  
 24 health plan’ means a plan (including a self-insured  
 25 plan) of, or contributed to by, an employer (includ-

ing a self-employed person) or employee organization to provide health care (directly or otherwise) to the employees, former employees, the employer, others associated or formerly associated with the employer in a business relationship, or their families.”.

(F) SECTIONS 4980B, 9805, AND 6103 OF THE INTERNAL REVENUE CODE.—Sections 4980B, 9805, and 6103(l)(12)(E)(ii) of the Internal Revenue Code of 1986 are amended by striking “5000(b)(1)” each place it occurs and inserting “7701(a)(47)”.

(b) CONSOLIDATION OF SIZE REQUIREMENTS.—

(1) IN GENERAL.—Section 1862(b)(1)(E) (42 U.S.C. 1395y(b)(1)(E)) (as amended by subsection (a)(1) of this section) is amended by adding at the end the following:

“(v) EXCLUSION OF GROUP HEALTH PLANS OF SMALL AND MEDIUM EMPLOYERS.—

“(I) Subparagraph (A) does not apply to a group health plan unless the plan involves at least one employer that has 20 or more employees in each of 20 or more calendar weeks in

1 the current or preceding calendar  
2 year.

3 “(II) Subparagraph (B) does not  
4 apply to a group health plan unless  
5 the plan involves at least one employer  
6 that has 100 or more employees in  
7 each of 20 or more calendar weeks in  
8 the current or preceding calendar  
9 year.”.

10 (2) CONFORMING AMENDMENTS.—

11 (A) SECTION 1862(b)(1)(A).—Section  
12 1862(b)(1)(A) (42 U.S.C. 1395y(b)(1)(A)) (as  
13 amended by subsection (a)(2)(A) of this sec-  
14 tion) is amended—

15 (i) by striking clauses (ii) and (iii),  
16 and  
17 (ii) by redesignating clause (iv) as  
18 clause (ii).

19 (B) SECTION 1862(b)(1)(B).—Section  
20 1862(b)(1)(B) (42 U.S.C. 1395y(b)(1)(B)) is  
21 amended—

22 (i) in the heading, by striking  
23 “LARGE”,  
24 (ii) in clause (i), by striking “large  
25 group health plan (as defined in clause

1 (iv))” and inserting “group health plan”,  
 2 and

3 (iii) by striking clause (iv).

4 (C) SECTION 1862(b)(2).—The second sen-  
 5 tence of section 1862(b)(2)(A) (42 U.S.C.  
 6 1395y(b)(2)(A)) is amended by striking “or  
 7 large group health plan”.

8 (D) SECTION 1862(b)(3).—Section  
 9 1862(b)(3)(C) (42 U.S.C. 1395y(b)(3)(C)) is  
 10 amended—

11 (i) in the heading, by striking “OR A  
 12 LARGE GROUP HEALTH PLAN”, and

13 (ii) in the first sentence, by striking  
 14 “or a large group health plan”.

15 (E) SECTION 1837(i)(1).—Section  
 16 1837(i)(1) (42 U.S.C. 1395p(i)(1)) is amend-  
 17 ed—

18 (i) in the first sentence, in subpara-  
 19 graph (A), by striking “(or the individual’s  
 20 spouse’s) current employment status” and  
 21 inserting “current employment status (or  
 22 the current employment status of a family  
 23 member of the individual)”; and

24 (ii) by striking the second sentence.

1 (F) SECTION 1837(i)(2).—Section  
 2 1837(i)(2) (42 U.S.C. 1395p(i)(2)) is amend-  
 3 ed—

4 (i) in the first sentence, in subpara-  
 5 graph (B), by striking “(or the individual’s  
 6 spouse’s) current employment status” and  
 7 inserting “current employment status (or  
 8 the current employment status of a family  
 9 member of the individual)”; and

10 (ii) by striking the second sentence.

11 (G) SECTION 1837(i)(3).—Section  
 12 1837(i)(3) (42 U.S.C. 1395p(i)(3)) is amend-  
 13 ed—

14 (i) by striking subparagraph (B), and

15 (ii) by striking “(3)(A)” and inserting  
 16 “(3)”.

17 (H) SECTION 1839(b).—Paragraph (2) of  
 18 the second sentence of section 1839(b) (42  
 19 U.S.C. 1395r(b)) is amended by striking “by  
 20 reason of the individual’s” and all that follows  
 21 through “section 1862(b)(1)(B)(iv))”.

22 (I) SECTION 5000 OF THE INTERNAL REVE-  
 23 NUE CODE.—Section 5000(c) of the Internal  
 24 Revenue Code of 1986 is amended by striking  
 25 “or large group health plan” and all that fol-

1           lows up to the period and inserting “that at any  
 2           time during a calendar year does not comply  
 3           with any applicable requirement of paragraph  
 4           (1) or (2) of section 1862(b) of the Social Secu-  
 5           rity Act”.

6   **SEC. 403. INFORMATION REQUIREMENTS.**

7           (a) INFORMATION FROM GROUP HEALTH PLANS.—

8   Section 1862(b) (42 U.S.C. 1395y(b)) is amended by add-  
 9   ing at the end the following:

10           “(7) INFORMATION FROM GROUP HEALTH  
 11   PLANS.—

12           “(A) PROVISION OF INFORMATION BY  
 13   GROUP HEALTH PLANS.—The administrator of  
 14   a group health plan (other than a plan exempt,  
 15   under paragraph (1)(E)(v), from the require-  
 16   ments of paragraph (1)) shall provide to the  
 17   Secretary any or all of the information elements  
 18   listed in subparagraph (C) in the manner and  
 19   at times (but not more frequently than 4 times  
 20   per year) the Secretary may specify, with re-  
 21   spect to each individual covered under the plan  
 22   and entitled to benefits under this title.

23           “(B) PROVISION OF INFORMATION BY EM-  
 24   PLOYERS AND EMPLOYEE ORGANIZATIONS.—An  
 25   employer (or employee organization) that main-

1           tains or participates in a group health plan  
 2           (other than a plan exempt, under paragraph  
 3           (1)(E)(v), from the requirements of paragraph  
 4           (1)) shall provide to the administrator of the  
 5           plan any or all of the information elements list-  
 6           ed in subparagraph (C) in the manner and at  
 7           times (but not more frequently than 4 times per  
 8           year) the Secretary may specify, with respect to  
 9           each individual covered under the plan and enti-  
 10          tled to benefits under this title.

11           “(C) INFORMATION ELEMENTS TO BE PRO-  
 12          VIDED.—The information elements to be pro-  
 13          vided under subparagraph (A) or (B) are:

14                   “(i) ELEMENTS CONCERNING THE IN-  
 15                   DIVIDUAL.—Elements concerning the indi-  
 16                   vidual are as follows:

17                           “(I) The individual’s name.

18                           “(II) The individual’s date of  
 19                           birth.

20                           “(III) The individual’s social se-  
 21                           curity number.

22                           “(IV) The number assigned by  
 23                           the Secretary to the individual for  
 24                           claims under this title.

1           “(V) The family relationship of  
2           the individual to the person who has  
3           or had current employment status  
4           with the employer.

5           “(ii) ELEMENTS CONCERNING THE  
6           FAMILY MEMBER WITH CURRENT OR  
7           FORMER EMPLOYMENT STATUS.—Elements  
8           concerning the family member with current  
9           or former employment status are as fol-  
10          lows:

11           “(I) The name of the person in  
12           the individual’s family who has or had  
13           current employment status with the  
14           employer.

15           “(II) That person’s social secu-  
16           rity number.

17           “(III) The number or other iden-  
18           tifier assigned by the plan to that per-  
19           son.

20           “(IV) The periods of coverage for  
21           that person under the plan.

22           “(V) The employment status of  
23           that person (current or former) dur-  
24           ing those periods of coverage.

1 “(VI) The classes (of that per-  
 2 son’s family members) covered under  
 3 the plan.

4 “(iii) PLAN ELEMENTS.—Plan ele-  
 5 ments are as follows:

6 “(I) The nature of the items and  
 7 services covered under the plan.

8 “(II) The name and address to  
 9 which claims under the plan are to be  
 10 sent.

11 “(iv) ELEMENTS CONCERNING THE  
 12 EMPLOYER.—Elements concerning the em-  
 13 ployer are as follows:

14 “(I) The employer’s name.

15 “(II) The employer’s address.

16 “(III) The employer identifica-  
 17 tion number of the employer.

18 “(D) USE OF IDENTIFIERS.—The adminis-  
 19 trator of a group health plan shall utilize an  
 20 identifier for the plan (that the Secretary may  
 21 furnish) in providing information under sub-  
 22 paragraph (A) and in other transactions, as  
 23 may be specified by the Secretary, related to  
 24 the provisions of this subsection.

1                   “(E) APPLICABILITY OF ELECTRONIC  
2 TRANSMISSION REQUIREMENTS.—Part C of  
3 title XI applies to the preceding subparagraphs  
4 of this paragraph.

5                   “(F) PENALTY FOR NONCOMPLIANCE.—  
6 Any entity that knowingly and willfully fails to  
7 comply with a requirement imposed by subpara-  
8 graphs (A), (B), (C), (D), or (E) is subject to  
9 a civil money penalty not to exceed \$1,000 for  
10 each incident of failure. The provisions of sec-  
11 tion 1128A (other than subsections (a) and (b))  
12 apply to a civil money penalty under the pre-  
13 vious sentence in the same manner as those  
14 provisions apply to a penalty or proceeding  
15 under section 1128A(a).”.

16           (b) EFFECTIVE DATE.—The amendment made by  
17 subsection (a) is effective 180 days after the date of enact-  
18 ment of this Act.

19 **SEC. 404. CLARIFICATION OF TIME AND FILING LIMITA-**  
20 **TIONS.**

21           (a) IN GENERAL.—Section 1862(b)(2)(B) (42 U.S.C.  
22 1395y(b)(2)(B)) is amended by adding at the end the fol-  
23 lowing:

24                   “(v) TIME, FILING, AND RELATED  
25 PROVISIONS UNDER PRIMARY PLAN.—Re-

quirements under a primary plan as to the  
 filing of a claim, time limitations for the  
 filing of a claim, information not main-  
 tained by the Secretary, or notification or  
 preadmission review, shall not apply to a  
 claim by the United States under clause  
 (ii) or (iii).”.

(b) EFFECTIVE DATE.—The amendment made by  
 subsection (a) applies to items and services furnished after  
 1997.

**SEC. 405. CLARIFICATION OF LIABILITY OF THIRD PARTY  
 ADMINISTRATORS.**

(a) IN GENERAL.—Section 1862(b)(2)(B)(ii) (42  
 U.S.C. 1395y(b)(2)(B)(ii)) is amended by inserting “, or  
 which determines claims under the primary plan” after  
 “primary plan”.

(b) CLAIMS BETWEEN PARTIES OTHER THAN THE  
 UNITED STATES.—Section 1862(b)(2)(B) (42 U.S.C.  
 1395y(b)(2)(B)) (as amended by section 404 of this Act)  
 is amended by adding at the end the following:

“(vi) CLAIMS BETWEEN PARTIES  
 OTHER THAN THE UNITED STATES.—A  
 claim by the United States under clause  
 (ii) or (iii) shall not preclude claims be-  
 tween other parties.”.

1       (c) EFFECTIVE DATE.—The amendments made by  
 2 this section shall apply to items and services furnished  
 3 after 1997.

4       **SEC. 406. CLARIFICATION OF PAYMENT AMOUNTS TO MEDI-**  
 5                               **CARE.**

6       (a) IN GENERAL.—Section 1862(b)(2)(B)(i) (42  
 7 U.S.C. 1395y(b)(2)(B)(i)) is amended to read as follows:

8                               “(i) REPAYMENT REQUIRED.—

9                               “(I) IN GENERAL.—Any payment  
 10                              under this title, with respect to any  
 11                              item or service for which payment by  
 12                              a primary plan is required under the  
 13                              preceding provisions of this sub-  
 14                              section, shall be conditioned on reim-  
 15                              bursement to the appropriate Trust  
 16                              Fund established by this title when  
 17                              notice or other information is received  
 18                              that payment for that item or service  
 19                              has been or should have been made  
 20                              under those provisions. If reimburse-  
 21                              ment is not made to the appropriate  
 22                              Trust Fund before the expiration of  
 23                              the 60-day period that begins on the  
 24                              date such notice or other information  
 25                              is received, the Secretary may charge

1 interest (beginning with the date on  
 2 which the notice or other information  
 3 is received) on the amount of the re-  
 4 imbursement until reimbursement is  
 5 made (at a rate determined by the  
 6 Secretary in accordance with regula-  
 7 tions of the Secretary of the Treasury  
 8 applicable to charges for late pay-  
 9 ments).

10 “(II) DETERMINATION OF  
 11 AMOUNT OWED.—The amount owed  
 12 by a primary plan under the first sen-  
 13 tence of subclause (I) is the lesser of  
 14 the full primary payment required (if  
 15 that amount is readily determinable)  
 16 and the amount paid under this title  
 17 for that item or service.”.

18 (b) CONFORMING AND TECHNICAL AMENDMENTS.—

19 (1) Subparagraphs (A)(i)(I) and (B)(i) of sec-  
 20 tion 1862(b)(1) (42 U.S.C. 1395y(b)(1)) are each  
 21 amended by inserting “(or eligible to be covered)”  
 22 after “covered”.

23 (2) Section 1862(b)(1)(C)(ii) (42 U.S.C.  
 24 1395y(b)(1)(C)(ii)) is amended by striking “covered  
 25 by such plan”.

1           (3)    Section   1862(b)(2)(A)   (42    U.S.C.  
2    1395y(b)(2)(A)) is amended in the matter preceding  
3    clause (i) by striking “, except as provided in sub-  
4    paragraph (B),”.

5    (c) EFFECTIVE DATE.—The amendments made by  
6    this section shall apply to items and services furnished  
7    after 1997.

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