

106TH CONGRESS
1ST SESSION

H. R. 312

To amend title XVIII of the Social Security Act to provide for Medicare contracting reforms, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 6, 1999

Mr. TOWNS introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend title XVIII of the Social Security Act to provide for Medicare contracting reforms, and for other purposes.

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

3 **SECTION 1. SHORT TITLE AND REFERENCES IN ACT.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Medicare Contractor Reform Amendments of 1999”.

6 (b) REFERENCES IN ACT.—Except as otherwise ex-
7 pressly provided, whenever in this Act an amendment or
8 repeal is expressed in terms of an amendment to, or repeal
9 of, a section or other provision, the reference shall be con-

sidered to be made a section or other provision of the Social Security Act.

**SEC. 2. INCREASED FLEXIBILITY IN CONTRACTING FOR
MEDICARE CLAIMS PROCESSING.**

(a) CARRIERS TO INCLUDE ENTITIES THAT ARE NOT INSURANCE COMPANIES.—

(1) Section 1842(a) (42 U.S.C. 1395u(a)) is amended in the matter preceding paragraph (1) by striking “with carriers” and inserting “with agencies and organizations (hereafter in this section referred to as ‘carriers’)”.

(2) Section 1842 (42 U.S.C. 1395u) is amended by striking subsection (f).

(b) CHOICE OF FISCAL INTERMEDIARIES BY PROVIDERS OF SERVICES; SECRETARIAL FLEXIBILITY IN ASSIGNING FUNCTIONS TO INTERMEDIARIES AND CARRIERS.—

(1) Section 1816(a) (42 U.S.C. 1395h(a)) to read as follows:

“(a)(1) The Secretary may enter into contracts with agencies or organizations to perform any or all of the following functions, or parts of those functions (or, to the extent provided in a contract, to secure performance thereof by other organizations):

“(A) Determination (subject to the provisions of section 1878 and to such review by the Secretary

1 as may be provided for by the contracts) the amount
2 of the payments required pursuant to this part to be
3 made to providers of services.

4 “(B) Making payments described in subpara-
5 graph (A).

6 “(C) Provision of consultative services to insti-
7 tutions or agencies to enable them to establish and
8 maintain fiscal records necessary for purposes of
9 this part and otherwise to qualify as providers of
10 services.

11 “(D) Serving as a center for, and communicate
12 to individuals entitled to benefits under this part
13 and to providers of services, any information or in-
14 structions furnished to the agency or organization by
15 the Secretary, and serve as a channel of communica-
16 tion from individuals entitled to benefits under this
17 part and from providers of services to the Secretary.

18 “(E) Making such audits of the records of pro-
19 viders of services as may be necessary to ensure that
20 proper payments are made under this part.

21 “(F) Performance of the functions described
22 under subsection (d).

23 “(G) Performance of such other functions as
24 are necessary to carry out the purposes of this part.

1 “(2) As used in this title and title XI, the term ‘fiscal
2 intermediary’ means an agency or organization with a con-
3 tract under this section.”.

4 (2) Subsections (d) and (e) of section 1816 (42
5 U.S.C. 1395h) are amended to read as follows:

6 “(d) Each provider of services shall have a fiscal
7 intermediary that—

8 “(1) acts as a single point of contact for the
9 provider of services under this part,

10 “(2) makes its services sufficiently available to
11 meet the needs of the provider of services, and

12 “(3) is responsible and accountable for arrang-
13 ing the resolution of issues raised under this part by
14 the provider of services.

15 “(e)(1)(A) The Secretary shall, at least every 5 years,
16 permit each provider of services (other than a home health
17 agency or a hospice program) to choose an agency or orga-
18 nization (from at least 3 proposed by the Secretary, of
19 which at least 1 shall have an office in the geographic area
20 of the provider of services, except as provided by subpara-
21 graph (B)(ii)(II)) as the fiscal intermediary under sub-
22 section (d) for that provider of services. If a contract with
23 that fiscal intermediary is discontinued, the Secretary
24 shall permit the provider of services to choose under the
25 same conditions from 3 other agencies or organizations.

1 “(B)(i) The Secretary, in carrying out subparagraph
2 (A), shall permit a group of hospitals (or a group of an-
3 other class of providers other than home health agencies
4 or hospice programs) under common ownership by, or con-
5 trol of, a particular entity to choose one agency or organi-
6 zation (from at least 3 proposed by the Secretary) as the
7 fiscal intermediary under subsection (d) for all the provid-
8 ers in that group if the conditions specified in clause (ii)
9 are met.

10 “(ii) The conditions specified in this clause are that—

11 “(I) the group includes all the providers of serv-
12 ices of that class that are under common ownership
13 by, or control of, that particular entity, and

14 “(II) all the providers of services in that group
15 agree that none of the agencies or organizations pro-
16 posed by the Secretary is required to have an office
17 in any particular geographic area.

18 “(2) The Secretary, in evaluating the performance of
19 a fiscal intermediary, shall solicit comments from provid-
20 ers of services.”.

21 (3)(A) Section 1816(b)(1)(A) (42 U.S.C.
22 1395h(b)(1)(A)) is amended by striking “after ap-
23 plying the standards, criteria, and procedures” and
24 inserting “after evaluating the ability of the agency

1 or organization to fulfill the contract performance
2 requirements”.

3 (B) The first sentence of section 1816(f)(1) (42
4 U.S.C. 1395h(f)(1)) is amended—

5 (i) by striking “develop standards, criteria,
6 and procedures” and inserting “, after public
7 notice and opportunity for comment, develop
8 contract performance requirements”, and

9 (ii) by striking “, and the Secretary shall
10 establish standards and criteria with respect to
11 the efficient and effective administration of this
12 part”.

13 (C) The second sentence of section
14 1842(b)(2)(A) (42 U.S.C. 1395u(b)(2)(A)) is
15 amended to read as follows: “The Secretary shall,
16 after public notice and opportunity for comment, de-
17 velop contract performance requirements for the effi-
18 cient and effective performance of contract obliga-
19 tions under this section.”.

20 (D) Section 1842(b)(2)(A) (42 U.S.C.
21 1395u(b)(2)(A)) is amended by striking the third
22 sentence.

23 (E) Section 1842(b)(2)(B) (42 U.S.C.
24 1395u(b)(2)(B)) is amended in the matter preceding
25 clause (i) by striking “establish standards” and in-

1 serting “develop contract performance require-
2 ments”.

3 (F) Section 1842(b)(2)(D) (42 U.S.C.
4 1395u(b)(2)(D)) is amended by striking “standards
5 and criteria” each place is appears and inserting
6 “contract performance requirements”.

7 (4)(A) Section 1816(b) (42 U.S.C. 1395h(b)) is
8 amended in the matter preceding paragraph (1) by
9 striking “an agreement” and inserting “a contract”.

10 (B) Paragraphs (1)(B) and (2)(A) of section
11 1816(b) (42 U.S.C. 1395h(b)) are each amended by
12 striking “agreement” and inserting “contract”.

13 (C) Section 1816(c)(1) (42 U.S.C. 1395h(c)(1))
14 is amended—

15 (i) in the first sentence by striking “An
16 agreement” and inserting “A contract”, and

17 (ii) in the last sentence, by striking “an
18 agreement” and inserting “a contract”.

19 (D) Section 1816(c)(2)(A) (42 U.S.C.
20 1395h(c)(2)(A)) is amended in the matter preceding
21 clause (i) by striking “agreement” and inserting
22 “contract”.

23 (E) Section 1816(c)(3)(A) (42 U.S.C.
24 1395h(c)(3)(A)) is amended by striking “agree-
25 ment” and inserting “contract”.

1 (F) The first sentence of section 1816(f)(1) (42
2 U.S.C. 1395h(f)(1)) is amended by striking “an
3 agreement” and inserting “a contract”.

4 (G) Section 1816(h) (42 U.S.C. 1395h(h)) is
5 amended—

6 (i) by striking “An agreement” and insert-
7 ing “A contract”, and

8 (ii) by striking “the agreement” each place
9 it appears and inserting “the contract”.

10 (H) Section 1816(i)(1) (42 U.S.C. 1395h(i)(1))
11 is amended by striking “an agreement” and insert-
12 ing “a contract”.

13 (I) Section 1816(j) (42 U.S.C. 1395h(j)) is
14 amended by striking “An agreement” and inserting
15 “A contract”.

16 (J) Section 1816(k) (42 U.S.C. 1395h(k)) is
17 amended by striking “An agreement” and inserting
18 “A contract”.

19 (K) Section 1816(l) (42 U.S.C. 1395h(l)) is
20 amended by striking “an agreement” and inserting
21 “a contract”.

22 (L) Section 1842(a) (42 U.S.C. 1395u(a)) is
23 amended in the matter preceding paragraph (1) is
24 amended by striking “agreements” and inserting
25 “contracts”.

1 (M) Section 1842(h)(3) (42 U.S.C.
2 1395u(h)(3)) is amended—

3 (i) in subparagraph (A), by striking “an
4 agreement” and inserting “a contract”, and

5 (ii) in subparagraph (B), by striking
6 “agreements” and inserting “contracts”.

7 (N) Section 1842(h)(8) (42 U.S.C.
8 1395u(h)(8)) is amended—

9 (i) by striking “an agreement” and insert-
10 ing “a contract”,

11 (ii) by striking “such agreement” and in-
12 serting “such contract”.

13 (5) Section 1816(f)(1) (42 U.S.C. 1395h(f)(1))
14 is amended by striking the second sentence.

15 (6)(A) Section 1816(c)(2)(A) (42 U.S.C.
16 1395h(c)(2)(A)) is amended in the matter preceding
17 clause (i) by inserting “that provides for making
18 payments under this part” after “this section”.

19 (B) Section 1816(c)(3)(A) (42 U.S.C.
20 1395h(c)(3)(A)) is amended by inserting “that pro-
21 vides for making payments under this part” after
22 “this section”.

23 (C) Section 1816(k) (42 U.S.C. 1395h(k)) is
24 amended by inserting “(as appropriate)” after “sub-
25 mit”.

1 (D) Section 1842(a) (42 U.S.C. 1395u(a)) is
2 amended in the matter preceding paragraph (1) by
3 striking “some or all of the following functions” and
4 inserting “any or all of the following functions, or
5 parts of those functions”.

6 (E) The first sentence of section 1842(b)(2)(C)
7 (42 U.S.C. 1395u(b)((2)(C)) is amended by insert-
8 ing “(as appropriate)” after “carriers”.

9 (F) Section 1842(b)(3) (42 U.S.C.
10 1395u(b)(3)) is amended in the matter preceding
11 subparagraph (A) by inserting “(as appropriate)”
12 after “contract”.

13 (G) Section 1842(b)(7)(A) (42 U.S.C.
14 1395u(b)(7)(A)) is amended in the matter preceding
15 clause (i) by striking “the carrier” and inserting “a
16 carrier”.

17 (H) Section 1842(b)(11)(A) (42 U.S.C.
18 1395u(b)(11)(A)) is amended in the matter preced-
19 ing clause (i) by inserting “(as appropriate)” after
20 “each carrier”.

21 (I) Section 1842(h)(2) (42 U.S.C. 1395u(h)(2))
22 is amended in the first sentence by inserting “(as
23 appropriate)” after “shall”.

1 (J) Section 1842(h)(5)(A) (42 U.S.C.
2 1395u(h)(5)(A)) is amended by inserting “(as ap-
3 propriate)” after “carriers”.

4 (7)(A) Section 1816(c)(2)(C) (42 U.S.C.
5 1395h(c)(2)(C)) is amended by striking “hospital,
6 critical access hospital, skilled nursing facility, home
7 health agency, hospice program, comprehensive out-
8 patient rehabilitation facility, or rehabilitation agen-
9 cy” and inserting “provider of services”.

10 (B) Section 1816(j) (42 U.S.C. 1395h)(j)) is
11 amended in the matter preceding paragraph (1) by
12 striking “for home health services, extended care
13 services, or post-hospital extended care services”.

14 (8) Section 1842(a)(3) (42 U.S.C. 1395u(a)(3))
15 is amended by inserting “(to and from individuals
16 enrolled under this part and to and from physicians
17 and other entities that furnish items and services)”
18 after “communication”.

19 (c) ELIMINATION OF SPECIAL PROVISIONS FOR TER-
20 MINATIONS OF CONTRACTS.—

21 (1) Section 1816(b) (42 U.S.C. 1395h(b)) is
22 amended in the matter preceding paragraph (1) is
23 amended by striking “or renew”.

1 (2) The last sentence of section 1816(c)(1) (42
2 U.S.C. 1395h(c)(1)) is amended by striking “or re-
3 newing”.

4 (3) Section 1816(f)(1) (42 U.S.C. 1395h(f)(1))
5 is amended—

6 (A) by striking “, renew, or terminate”,
7 and

8 (B) by striking “, whether the Secretary
9 should assign or reassign a provider of services
10 to an agency or organization,”.

11 (4) Section 1816 (42 U.S.C. 1395h) is amended
12 by striking subsection (g).

13 (5) The last sentence of section 1842(b)(2)(A)
14 (42 U.S.C. 1395u(b)(2)(A)) is amended by striking
15 “or renewing”.

16 (6) Section 1842(b) (42 U.S.C. 1395u(b)) is
17 amended by striking paragraph (5).

18 (d) REPEAL OF FISCAL INTERMEDIARY REQUIRE-
19 MENTS THAT ARE NOT COST-EFFECTIVE.—Section
20 1816(f)(2) (42 U.S.C. 1395h(f)(2)) is amended to read
21 as follows:

22 “(2) The contract performance requirements
23 developed under paragraph (1) shall include, with
24 respect to claims for services furnished under this
25 part by any provider of services other than a hos-

1 pital, whether such agency or organization is able to
2 process 75 percent of reconsiderations within 60
3 days and 90 percent of reconsiderations within 90
4 days.”.

5 (e) REPEAL OF COST REIMBURSEMENT REQUIRE-
6 MENTS.—

7 (1) The first sentence of section 1816(c)(1) (42
8 U.S.C. 1395h(c)(1)) is amended—

9 (A) by striking the comma after “appro-
10 priate” and inserting “and”, and

11 (B) by striking “subsection (a)” and all
12 that follows through the period and inserting
13 “subsection (a).”.

14 (2) Section 1816(c)(1) (42 U.S.C. 1395h(c)(1))
15 is further amended by striking the second and third
16 sentences.

17 (3) The first sentence of section 1842(c)(1) (42
18 U.S.C. 1395u(c)(1)) is amended—

19 (A) by striking “shall provide” the first
20 place it appears and inserting “may provide”,
21 and

22 (B) by striking “this part” and all that fol-
23 lows through the period and inserting “this
24 part.”.

1 (4) Section 1842(c)(1) (42 U.S.C. 1395u(c)(1))
2 is further amended by striking the second and third
3 sentences.

4 (5) Section 2326 of the Deficit Reduction Act
5 of 1984 is amended by striking subsection (a).

6 (f) COMPETITION REQUIRED FOR NEW CONTRACTS
7 AND IN CASES OF POOR PERFORMANCE.—

8 (1) Section 1816(c) (42 U.S.C. 1395h(c)) is
9 amended by adding at the end the following new
10 paragraph:

11 “(4)(A) A contract with a fiscal intermediary
12 under this section may be renewed from term to
13 term without regard to any provision of law requir-
14 ing competition if the fiscal intermediary has met or
15 exceeded the performance requirements established
16 in the current contract.

17 “(B) Functions may be transferred among fis-
18 cal intermediaries without regard to any provision of
19 law requiring competition.”.

20 (2) Section 1842(b)(1) (42 U.S.C. 1395u(b)(1))
21 is amended to read as follows:

22 “(b)(1)(A) A contract with a carrier under subsection
23 (a) may be renewed from term to term without regard to
24 any provision of law requiring competition if the carrier

1 has met or exceeded the performance requirements estab-
2 lished in the current contract.

3 “(B) Functions may be transferred among carriers
4 without regard to any provision of law requiring competi-
5 tion.”.

6 (g) WAIVER OF COMPETITIVE REQUIREMENTS FOR
7 INITIAL CONTRACTS.—

8 (1) Contracts that have periods that begin dur-
9 ing the 1-year period that begins on the first day of
10 the fourth calendar month that begins after the date
11 of enactment of this Act may be entered into under
12 section 1816(a) of the Social Security Act (42
13 U.S.C. 1395h(a)) without regard to any provision of
14 law requiring competition.

15 (2) The amendments made by subsection (f)
16 apply to contracts that have periods beginning after
17 the end of the 1-year period specified in paragraph
18 (1).

19 (h) EFFECTIVE DATES.—

20 (1) The amendments made by subsection (c)
21 apply to contracts that have periods ending on, or
22 after, the end of the third calendar month that be-
23 gins after the date of enactment of this Act.

24 (2) The amendments made by subsections (a),
25 (b), (d), and (e) apply to contracts that have periods

- 1 beginning after the third calendar month that begins
- 2 after the date of enactment of this Act.

