

106TH CONGRESS
1ST SESSION

S. 1231

To amend title XVIII of the Social Security Act to establish additional provisions to combat waste, fraud, and abuse within the medicare program, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 17, 1999

Ms. COLLINS (for herself, Mr. DURBIN, and Mr. GRASSLEY) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend title XVIII of the Social Security Act to establish additional provisions to combat waste, fraud, and abuse within the medicare program, and for other purposes.

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

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Medicare Fraud Prevention and Enforcement Act of
6 1999”.

7 (b) TABLE OF CONTENTS.—The table of contents for
8 this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Site inspections and background checks.

- Sec. 3. Registration of billing agencies.
- Sec. 4. Expanded access to the health integrity protection database (HIPDB).
- Sec. 5. Liability of medicare carriers and fiscal intermediaries for claims submitted by excluded providers.
- Sec. 6. Community mental health centers.
- Sec. 7. Limiting the use of discharge in bankruptcy proceedings for provider liability for health care fraud.
- Sec. 8. Illegal distribution of a medicare or medicaid beneficiary identification or provider number.
- Sec. 9. Treatment of certain Social Security Act crimes as Federal health care offenses.
- Sec. 10. Authority of Office of Inspector General of the Department of Health and Human Services.
- Sec. 11. Universal product numbers on claims forms for reimbursement under the medicare program.

1 SEC. 2. SITE INSPECTIONS AND BACKGROUND CHECKS.

2 (a) SITE INSPECTIONS FOR DME SUPPLIERS, COM-
 3 MUNITY MENTAL HEALTH CENTERS, AND OTHER PRO-
 4 VIDER GROUPS.—Title XVIII of the Social Security Act
 5 (42 U.S.C. 1395 et seq.) is amended by adding at the end
 6 the following:

7 “SITE INSPECTIONS FOR DME SUPPLIERS, COMMUNITY
 8 MENTAL HEALTH CENTERS, AND OTHER PROVIDER
 9 GROUPS

10 “SEC. 1897. (a) SITE INSPECTIONS.—

11 “(1) IN GENERAL.—The Secretary shall con-
 12 duct a site inspection for each applicable provider
 13 (as defined in paragraph (2)) that applies for a pro-
 14 vider number in order to provide items or services
 15 under this title. Such site inspection shall be in addi-
 16 tion to any other site inspection that the Secretary
 17 would otherwise conduct with regard to an applica-
 18 ble provider.

1 “(2) APPLICABLE PROVIDER DEFINED.—

2 “(A) IN GENERAL.—Except as provided in
3 subparagraph (B), in this section, the term ‘ap-
4 plicable provider’ means—

5 “(i) a supplier of durable medical
6 equipment (including items described in
7 section 1834(a)(13));

8 “(ii) a supplier of prosthetics,
9 orthotics, or supplies (including items de-
10 scribed in paragraphs (8) and (9) of sec-
11 tion 1861(s));

12 “(iii) a community mental health cen-
13 ter; or

14 “(iv) any other provider group, as de-
15 termined by the Secretary.

16 “(B) EXCEPTION.—In this section, the
17 term ‘applicable provider’ does not include—

18 “(i) a physician that provides durable
19 medical equipment (as described in sub-
20 paragraph (A)(i)) or prosthetics, orthotics,
21 or supplies (as described in subparagraph
22 (A)(ii)) to an individual as incident to an
23 office visit by such individual; or

24 “(ii) a hospital that provides durable
25 medical equipment (as described in sub-

1 paragraph (A)(i)) or prosthetics, orthotics,
 2 or supplies (as described in subparagraph
 3 (A)(ii)) to an individual as incident to an
 4 emergency room visit by such individual.

5 “(b) STANDARDS AND REQUIREMENTS.—In con-
 6 ducting the site inspection pursuant to subsection (a), the
 7 Secretary shall ensure that the site being inspected is in
 8 full compliance with all the conditions and standards of
 9 participation and requirements for obtaining medicare bill-
 10 ing privileges under this title.

11 “(c) TIME.—The Secretary shall conduct the site in-
 12 spection for an applicable provider prior to the issuance
 13 of a provider number to such provider.

14 “(d) TIMELY REVIEW.—The Secretary shall provide
 15 for procedures to ensure that the site inspection required
 16 under this section does not unreasonably delay the
 17 issuance of a provider number to an applicable provider.”.

18 (b) BACKGROUND CHECKS.—Title XVIII of the So-
 19 cial Security Act (42 U.S.C. 1395 et seq.) (as amended
 20 by subsection (a)) is amended by adding at the end the
 21 following:

22 “BACKGROUND CHECKS

23 “SEC. 1898. (a) BACKGROUND CHECK REQUIRED.—
 24 Except as provided in subsection (b), the Secretary shall
 25 conduct a background check on any individual or entity
 26 that applies to the Secretary for a provider number for

1 the purpose of furnishing any item or service under this
2 title. In performing the background check, the Secretary
3 shall—

4 “(1) conduct the background check before
5 issuing a provider number to an individual or entity;

6 “(2) include a search of criminal records in the
7 background check; and

8 “(3) provide for procedures that ensure the
9 background check does not unreasonably delay the
10 issuance of a provider number to an eligible indi-
11 vidual or entity.

12 “(b) USE OF STATE LICENSING PROCEDURE.—The
13 Secretary may use the results of a State licensing proce-
14 dure as a background check under subsection (a) if the
15 State licensing procedure meets the requirements of sub-
16 section (a).

17 “(c) ATTORNEY GENERAL REQUIRED TO PROVIDE
18 INFORMATION.—

19 “(1) IN GENERAL.—Upon request of the Sec-
20 retary, the Attorney General shall provide the crimi-
21 nal background check information referred to in sub-
22 section (a)(2) to the Secretary.

23 “(2) RESTRICTION ON USE OF DISCLOSED IN-
24 FORMATION.—The Secretary may only use the infor-
25 mation disclosed under subsection (a) for the pur-

1 pose of carrying out the Secretary's responsibilities
2 under this title.

3 “(d) REFUSAL TO ISSUE PROVIDER NUMBER.—

4 “(1) AUTHORITY.—In addition to any other
5 remedy available to the Secretary, the Secretary may
6 refuse to issue a provider number to an individual
7 or entity if the Secretary determines, after a back-
8 ground check conducted under this section, that
9 such individual or entity has a history of acts that
10 indicate issuance of a provider number to such indi-
11 vidual or entity would be detrimental to the best in-
12 terests of the program or program beneficiaries.
13 Such acts may include, but are not limited to—

14 “(A) any bankruptcy;

15 “(B) any act resulting in a civil judgment
16 against such individual or entity; or

17 “(C) any felony conviction under Federal
18 or State law.

19 “(2) REPORTING OF REFUSAL TO ISSUE PRO-
20 VIDER NUMBER TO THE HEALTH INTEGRITY PRO-
21 TECTION DATABASE (HIPDB).—A determination to
22 refuse to issue a provider number to an individual
23 or entity as a result of a background check con-
24 ducted under this section shall be reported to the
25 health integrity protection database established

1 under section 1128E in accordance with the proce-
 2 dures for reporting final adverse actions taken
 3 against a health care provider, supplier, or practi-
 4 tioner under that section.”.

5 (c) REGULATIONS; EFFECTIVE DATE.—

6 (1) REGULATIONS.—Not later than 1 year after
 7 the date of enactment of this Act, the Secretary of
 8 Health and Human Services shall promulgate such
 9 regulations as are necessary to implement the
 10 amendments made by subsections (a) and (b).

11 (2) EFFECTIVE DATE.—The amendments made
 12 by subsections (a) and (b) shall apply to applications
 13 received by the Secretary of Health and Human
 14 Services on or after January 1, 2000.

15 (d) USE OF MEDICARE INTEGRITY PROGRAM
 16 FUNDS.—The Secretary of Health and Human Services
 17 may use funds appropriated or transferred for purposes
 18 of carrying out the medicare integrity program established
 19 under section 1893 of the Social Security Act (42 U.S.C.
 20 1395ddd) to carry out the provisions of sections 1897 and
 21 1898 of that Act (as added by subsections (a) and (b)).

22 **SEC. 3. REGISTRATION OF BILLING AGENCIES.**

23 (a) REGISTRATION OF BILLING AGENCIES AND INDIV-
 24 IDUALS.—Title XVIII of the Social Security Act (42

1 U.S.C. 1395 et seq.) (as amended by section 2(b)) is
 2 amended by adding at the end the following:

3 “REGISTRATION OF BILLING AGENCIES AND INDIVIDUALS

4 “SEC. 1899. (a) REGISTRATION.—The Secretary
 5 shall establish procedures for the registration of all appli-
 6 cable persons.

7 “(b) REQUIRED APPLICATION.—Each applicable per-
 8 son shall submit a registration application to the Secretary
 9 at such time, in such manner, and accompanied by such
 10 information as the Secretary may require.

11 “(c) IDENTIFICATION NUMBER.—If the Secretary ap-
 12 proves an application submitted under subsection (b), the
 13 Secretary shall assign a unique identification number to
 14 the applicable person.

15 “(d) REQUIREMENT.—Every claim for reimburse-
 16 ment under this title that is compiled and submitted by
 17 an applicable person shall contain the identification num-
 18 ber that is assigned to the applicable person pursuant to
 19 subsection (c).

20 “(e) TIMELY REVIEW.—The Secretary shall provide
 21 for procedures that ensure the timely consideration and
 22 determination regarding approval of applications under
 23 this section.

24 “(f) DEFINITION OF APPLICABLE PERSON.—In this
 25 section, the term ‘applicable person’ means an individual
 26 or an entity that compiles and submits claims for reim-

1 bursement under this title to the Secretary on behalf of
2 any individual or entity.”.

3 (b) PERMISSIVE EXCLUSION.—Section 1128(b) of
4 the Social Security Act (42 U.S.C. 1320a–7(b)) is amend-
5 ed by adding at the end the following:

6 “(16) FRAUD BY APPLICABLE PERSON.—An ap-
7 plicable person (as defined in section 1899(f)) that
8 the Secretary determines knowingly submitted or
9 caused to be submitted a claim for reimbursement
10 under title XVIII that the applicable person knows
11 or should know is false or fraudulent.”.

12 (c) REGULATIONS; EFFECTIVE DATE.—

13 (1) REGULATIONS.—Not later than 1 year after
14 the date of enactment of this Act, the Secretary of
15 Health and Human Services shall promulgate such
16 regulations as are necessary to implement the
17 amendment made by subsections (a) and (b).

18 (2) EFFECTIVE DATE.—The amendment made
19 by subsections (a) and (b) shall take effect on Janu-
20 ary 1, 2000.

21 **SEC. 4. EXPANDED ACCESS TO THE HEALTH INTEGRITY**
22 **PROTECTION DATABASE (HIPDB).**

23 (a) IN GENERAL.—Section 1128E(d)(1) of the Social
24 Security Act (42 U.S.C. 1320a–7e(d)(1)) is amended to
25 read as follows:

1 “(1) AVAILABILITY.—The information in the
2 database maintained under this section shall be
3 available to—

4 “(A) Federal and State government agen-
5 cies and health plans, and any health care pro-
6 vider, supplier, or practitioner entering an em-
7 ployment or contractual relationship with an in-
8 dividual or entity who could potentially be the
9 subject of a final adverse action, where the con-
10 tract involves the furnishing of items or services
11 reimbursed by 1 or more Federal health care
12 programs (regardless of whether the individual
13 or entity is paid by the programs directly, or
14 whether the items or services are reimbursed di-
15 rectly or indirectly through the claims of a di-
16 rect provider); and

17 “(B) utilization and quality control peer
18 review organizations and accreditation entities
19 as defined by the Secretary, including but not
20 limited to organizations described in part B of
21 title XI and in section 1154(a)(4)(C).”.

22 (b) CRIMINAL PENALTY FOR MISUSE OF INFORMA-
23 TION.—Section 1128B(b) of the Social Security Act (42
24 U.S.C. 1320a–7b(b)) is amended by adding at the end the
25 following:

1 “(4) Whoever knowingly uses information maintained
 2 in the health integrity protection database maintained in
 3 accordance with section 1128E for a purpose other than
 4 a purpose authorized under that section shall be impris-
 5 oned for not more than 3 years or fined under title 18,
 6 United States Code, or both.”.

7 (c) EFFECTIVE DATE.—The amendments made by
 8 this section shall take effect on the date of enactment of
 9 this Act.

10 **SEC. 5. LIABILITY OF MEDICARE CARRIERS AND FISCAL**
 11 **INTERMEDIARIES FOR CLAIMS SUBMITTED**
 12 **BY EXCLUDED PROVIDERS.**

13 (a) REIMBURSEMENT TO THE SECRETARY FOR
 14 AMOUNTS PAID TO EXCLUDED PROVIDERS.—

15 (1) REQUIREMENTS FOR FISCAL INTER-
 16 MEDIARIES.—

17 (A) IN GENERAL.—Section 1816 of the So-
 18 cial Security Act (42 U.S.C. 1395h) is amended
 19 by adding at the end the following:

20 “(m) An agreement with an agency or organization
 21 under this section shall require that such agency or orga-
 22 nization reimburse the Secretary for any amounts paid by
 23 the agency or organization for a service under this title
 24 which is furnished by an individual or entity during any
 25 period for which the individual or entity is excluded, pur-

1 suant to section 1128, 1128A, or 1156, from participation
 2 in the health care program under this title if the amounts
 3 are paid after the 60-day period beginning on the date
 4 the Secretary provides notice of the exclusion to the agen-
 5 cy or organization, unless the payment was made as a re-
 6 sult of incorrect information provided by the Secretary or
 7 the individual or entity excluded from participation has
 8 concealed or altered their identity.”.

9 (B) CONFORMING AMENDMENT.—Section
 10 1816(i) of the Social Security Act (42 U.S.C.
 11 1395h(i)) is amended by adding at the end the
 12 following:

13 “(4) Nothing in this subsection shall be con-
 14 strued to prohibit reimbursement by an agency or
 15 organization pursuant to subsection (m).”.

16 (2) REQUIREMENTS FOR CARRIERS.—Section
 17 1842(b)(3) of the Social Security Act (42 U.S.C.
 18 1395u(b)(3)) is amended—

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

21 (B) by inserting after subparagraph (I) the
 22 following:

23 “(J) will reimburse the Secretary for any
 24 amounts paid by the carrier for an item or service
 25 under this part which is furnished by an individual

1 or entity during any period for which the individual
 2 or entity is excluded, pursuant to section 1128,
 3 1128A, or 1156, from participation in the health
 4 care program under this title if the amounts are
 5 paid after the 60-day period beginning on the date
 6 the Secretary provides notice of the exclusion to the
 7 carrier, unless the payment was made as a result of
 8 incorrect information provided by the Secretary or
 9 the individual or entity excluded from participation
 10 has concealed or altered their identity; and”.

11 (b) CONFORMING REPEAL OF MANDATORY PAYMENT
 12 RULE.—Section 1862(e) of the Social Security Act (42
 13 U.S.C. 1395y(e)) is amended—

14 (1) in paragraph (1)(B), by striking “and when
 15 the person” and all that follows through “person”;
 16 and

17 (2) by amending paragraph (2) to read as fol-
 18 lows:

19 “(2) No individual or entity may bill (or collect any
 20 amount from) any individual for any item or service for
 21 which payment is denied under paragraph (1). No indi-
 22 vidual is liable for payment of any amounts billed for such
 23 an item or service in violation of the preceding sentence.”.

24 (c) EFFECTIVE DATE.—

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

4 (2) CONTRACT MODIFICATION.—The Secretary
 5 of Health and Human Services shall take such steps
 6 as may be necessary to modify contracts and agree-
 7 ments entered into, renewed, or extended prior to
 8 the date of enactment of this Act to conform such
 9 contracts or agreements to the provisions of this sec-
 10 tion.

11 **SEC. 6. COMMUNITY MENTAL HEALTH CENTERS.**

12 (a) IN GENERAL.—Section 1861(ff)(3)(B) of the So-
 13 cial Security Act (42 U.S.C. 1395x(ff)(3)(B)) is amended
 14 by striking “entity” and all that follows and inserting the
 15 following: “entity that—

16 “(i) provides the community mental health serv-
 17 ices specified in paragraph (1) of section 1913(c) of
 18 the Public Health Service Act;

19 “(ii) meets applicable certification or licensing
 20 requirements for community mental health centers
 21 in the State in which it is located;

22 “(iii) provides a significant share of its services
 23 to individuals who are not eligible for benefits under
 24 this title; and

1 “(iv) meets such additional standards or re-
 2 quirements for obtaining medicare billing privileges
 3 as the Secretary may specify to ensure—

4 “(I) the health and safety of beneficiaries
 5 receiving such services; or

6 “(II) the furnishing of such services in an
 7 effective and efficient manner.”.

8 (b) RESTRICTION.—Section 1861(ff)(3)(A) of the So-
 9 cial Security Act (42 U.S.C. 1395x(ff)(3)(A)) is amended
 10 by inserting “other than in an individual’s home or in an
 11 inpatient or residential setting” before the period.

12 (c) EFFECTIVE DATE.—The amendments made by
 13 this section shall apply to items and services furnished
 14 after the sixth month that begins after the date of enact-
 15 ment of this Act.

16 **SEC. 7. LIMITING THE DISCHARGE OF DEBTS IN BANK-**
 17 **RUPTCY PROCEEDINGS IN CASES WHERE A**
 18 **HEALTH CARE PROVIDER OR A SUPPLIER EN-**
 19 **GAGES IN FRAUDULENT ACTIVITY.**

20 (a) IN GENERAL.—

21 (1) CIVIL MONETARY PENALTIES.—Section
 22 1128A(a) of the Social Security Act (42 U.S.C.
 23 1320a–7a(a)) is amended by adding at the end the
 24 following: “Notwithstanding any other provision of
 25 law, amounts made payable under this section are

1 not dischargeable under section 727, 1141, 1228(a)
 2 or (b), or 1328 of title 11, United States Code, or
 3 any other provision of such title.”.

4 (2) RECOVERY OF OVERPAYMENT TO PRO-
 5 VIDERS OF SERVICES UNDER PART A OF MEDI-
 6 CARE.—Section 1815(d) of the Social Security Act
 7 (42 U.S.C. 1395g(d)) is amended—

8 (A) by inserting “(1)” after “(d)”; and

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

10 “(2) Notwithstanding any other provision of law,
 11 amounts due to the Secretary under this section are not
 12 dischargeable under section 727, 1141, 1228(a) or (b), or
 13 1328 of title 11, United States Code, or any other provi-
 14 sion of such title if the overpayment was the result of
 15 fraudulent activity, as may be defined by the Secretary.”.

16 (3) RECOVERY OF OVERPAYMENT OF BENEFITS
 17 UNDER PART B OF MEDICARE.—Section 1833(j) of
 18 the Social Security Act (42 U.S.C. 1395l(j)) is
 19 amended—

20 (A) by inserting “(1)” after “(j)”; and

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

22 “(2) Notwithstanding any other provision of law,
 23 amounts due to the Secretary under this section are not
 24 dischargeable under section 727, 1141, 1228(a) or (b), or
 25 1328 of title 11, United States Code, or any other provi-

1 sion of such title if the overpayment was the result of
 2 fraudulent activity, as may be defined by the Secretary.”.

3 (4) COLLECTION OF PAST-DUE OBLIGATIONS
 4 ARISING FROM BREACH OF SCHOLARSHIP AND LOAN
 5 CONTRACT.—Section 1892(a) of the Social Security
 6 Act (42 U.S.C. 1395ccc(a)) is amended by adding at
 7 the end the following:

8 “(5) Notwithstanding any other provision of
 9 law, amounts due to the Secretary under this section
 10 are not dischargeable under section 727, 1141,
 11 1228(a) or (b), or 1328 of title 11, United States
 12 Code, or any other provision of such title.”.

13 (b) EFFECTIVE DATE.—The amendments made by
 14 subsection (a) shall apply to bankruptcy petitions filed
 15 after the date of enactment of this Act.

16 **SEC. 8. ILLEGAL DISTRIBUTION OF A MEDICARE OR MED-**
 17 **ICAID BENEFICIARY IDENTIFICATION OR**
 18 **PROVIDER NUMBER.**

19 Section 1128B(b) of the Social Security Act (42
 20 U.S.C. 1320a–7b(b)), as amended by section 4(b), is
 21 amended by adding at the end the following:

22 “(5) Whoever knowingly, intentionally, and with the
 23 intent to defraud purchases, sells or distributes, or ar-
 24 ranges for the purchase, sale, or distribution of 2 or more
 25 medicare or medicaid beneficiary identification numbers or

1 provider numbers shall be imprisoned for not more than
 2 3 years or fined under title 18, United States Code (or,
 3 if greater, an amount equal to the monetary loss to the
 4 Federal and any State government as a result of such
 5 acts), or both.”.

6 **SEC. 9. TREATMENT OF CERTAIN SOCIAL SECURITY ACT**
 7 **CRIMES AS FEDERAL HEALTH CARE OF-**
 8 **FENSES.**

9 (a) IN GENERAL.—Section 24(a) of title 18, United
 10 States Code, is amended—

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

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

14 “(3) section 1128B of the Social Security Act
 15 (42 U.S.C. 1320a-7b).”.

16 (b) EFFECTIVE DATE.—The amendment made by
 17 subsection (a) shall take effect on the date of enactment
 18 of this Act and apply to acts committed on or after the
 19 date of enactment of this Act.

20 **SEC. 10. AUTHORITY OF OFFICE OF INSPECTOR GENERAL**
 21 **OF THE DEPARTMENT OF HEALTH AND**
 22 **HUMAN SERVICES.**

23 (a) AUTHORITY.—Notwithstanding any other provi-
 24 sion of law, upon designation by the Inspector General of
 25 the Department of Health and Human Services, any

1 criminal investigator of the Office of Inspector General of
2 such department may, in accordance with guidelines
3 issued by the Secretary of Health and Human Services
4 and approved by the Attorney General, while engaged in
5 activities within the lawful jurisdiction of such Inspector
6 General—

7 (1) obtain and execute any warrant or other
8 process issued under the authority of the United
9 States;

10 (2) make an arrest without a warrant for—

11 (A) any offense against the United States
12 committed in the presence of such investigator;
13 or

14 (B) any felony offense against the United
15 States, if such investigator has reasonable cause
16 to believe that the person to be arrested has
17 committed or is committing that felony offense;
18 and

19 (3) exercise any other authority necessary to
20 carry out the authority described in paragraphs (1)
21 and (2).

22 (b) FUNDS.—The Office of Inspector General of the
23 Department of Health and Human Services may receive
24 and expend funds that represent the equitable share from
25 the forfeiture of property in investigations in which the

1 Office of Inspector General participated, and that are
 2 transferred to the Office of Inspector General by the De-
 3 partment of Justice, the Department of the Treasury, or
 4 the United States Postal Service. Such equitable sharing
 5 funds shall be deposited in a separate account and shall
 6 remain available until expended.

7 **SEC. 11. UNIVERSAL PRODUCT NUMBERS ON CLAIMS**
 8 **FORMS FOR REIMBURSEMENT UNDER THE**
 9 **MEDICARE PROGRAM.**

10 (a) UPNS ON CLAIMS FORMS FOR REIMBURSEMENT
 11 UNDER THE MEDICARE PROGRAM.—

12 (1) ACCOMMODATION OF UPNS ON MEDICARE
 13 CLAIMS FORMS.—Not later than February 1, 2001,
 14 all claims forms developed or used by the Secretary
 15 of Health and Human Services for reimbursement
 16 under the medicare program under title XVIII of the
 17 Social Security Act (42 U.S.C. 1395 et seq.) shall
 18 accommodate the use of universal product numbers
 19 for a UPN covered item.

20 (2) REQUIREMENT FOR PAYMENT OF CLAIMS.—
 21 Title XVIII of the Social Security Act (42 U.S.C.
 22 1395 et seq.) is amended by adding at the end the
 23 following:

24 “USE OF UNIVERSAL PRODUCT NUMBERS

25 “SEC. 1899A. (a) IN GENERAL.—No payment shall
 26 be made under this title for any claim for reimbursement

1 for any UPN covered item unless the claim contains the
 2 universal product number of the UPN covered item.

3 “(b) DEFINITIONS.—In this section:

4 “(1) UPN COVERED ITEM.—

5 “(A) IN GENERAL.—Except as provided in
 6 subparagraph (B), the term ‘UPN covered
 7 item’ means—

8 “(i) a covered item as that term is de-
 9 fined in section 1834(a)(13);

10 “(ii) an item described in paragraph
 11 (8) or (9) of section 1861(s);

12 “(iii) an item described in paragraph
 13 (5) of section 1861(s); and

14 “(iv) any other item for which pay-
 15 ment is made under this title that the Sec-
 16 retary determines to be appropriate.

17 “(B) EXCLUSION.—The term ‘UPN cov-
 18 ered item’ does not include a customized item
 19 for which payment is made under this title.

20 “(2) UNIVERSAL PRODUCT NUMBER.—The
 21 term ‘universal product number’ means a number
 22 that is—

23 “(A) affixed by the manufacturer to each
 24 individual UPN covered item that uniquely
 25 identifies the item at each packaging level; and

1 “(B) based on commercially acceptable
2 identification standards such as, but not limited
3 to, standards established by the Uniform Code
4 Council-International Article Numbering Sys-
5 tem or the Health Industry Business Commu-
6 nication Council.”.

7 (3) DEVELOPMENT AND IMPLEMENTATION OF
8 PROCEDURES.—

9 (A) INFORMATION INCLUDED IN UPN.—

10 The Secretary of Health and Human Services,
11 in consultation with manufacturers and entities
12 with appropriate expertise, shall determine the
13 relevant descriptive information appropriate for
14 inclusion in a universal product number for a
15 UPN covered item.

16 (B) REVIEW OF PROCEDURE.—From the
17 information obtained by the use of universal
18 product numbers on claims for reimbursement
19 under the medicare program, the Secretary of
20 Health and Human Services, in consultation
21 with interested parties, shall periodically review
22 the UPN covered items billed under the Health
23 Care Financing Administration Common Proce-
24 dure Coding System and adjust such coding
25 system to ensure that functionally equivalent

1 UPN covered items are billed and reimbursed
2 under the same codes.

3 (4) EFFECTIVE DATE.—The amendment made
4 by paragraph (2) shall apply to claims for reim-
5 bursement submitted on and after February 1,
6 2002.

7 (b) STUDY AND REPORTS TO CONGRESS.—

8 (1) STUDY.—The Secretary of Health and
9 Human Services shall conduct a study on the results
10 of the implementation of the provisions in paragraph
11 (1) and (3) of subsection (a) and the amendment to
12 the Social Security Act in paragraph (2) of that sub-
13 section.

14 (2) REPORTS.—

15 (A) PROGRESS REPORT.—Not later than 6
16 months after the date of enactment of this Act,
17 the Secretary of Health and Human Services
18 shall submit a report to Congress that contains
19 a detailed description of the progress of the
20 matters studied pursuant to paragraph (1).

21 (B) IMPLEMENTATION.—Not later than 18
22 months after the date of enactment of this Act,
23 and annually thereafter for 3 years, the Sec-
24 retary of Health and Human Services shall sub-
25 mit a report to Congress that contains a de-

1 tailed description of the results of the study
 2 conducted pursuant to paragraph (1), together
 3 with the Secretary’s recommendations regard-
 4 ing the use of universal product numbers and
 5 the use of data obtained from the use of such
 6 numbers.

7 (c) DEFINITIONS.—In this section:

8 (1) UPN COVERED ITEM.—The term “UPN
 9 covered item” has the meaning given such term in
 10 section 1899A(b)(1) of the Social Security Act (as
 11 added by subsection (a)(2)).

12 (2) UNIVERSAL PRODUCT NUMBER.—The term
 13 “universal product number” has the meaning given
 14 such term in section 1899A(b)(2) of the Social Secu-
 15 rity Act (as added by subsection (a)(2)).

16 (d) AUTHORIZATION OF APPROPRIATIONS.—There
 17 are authorized to be appropriated such sums as may be
 18 necessary for the purpose of carrying out the provisions
 19 in paragraphs (1) and (3) of subsection (a), subsection
 20 (b), and section 1899A of the Social Security Act (as
 21 added by subsection (a)(2)).

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