

111TH CONGRESS
1ST SESSION

S. 2774

To amend title XVIII of the Social Security Act to prevent Medicare payments being lost to fraud, waste, or abuse.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 16, 2009

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 prevent Medicare payments being lost to fraud, waste, or abuse.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Fighting Medicare
5 Payment Fraud Act of 2009”.

1 **SEC. 2. EXTENSION OF NUMBER OF DAYS IN WHICH MEDI-**
 2 **CARE CLAIMS ARE REQUIRED TO BE PAID IN**
 3 **ORDER TO PREVENT OR COMBAT FRAUD,**
 4 **WASTE, OR ABUSE.**

5 (a) PART A CLAIMS.—Section 1816(c)(2) of the So-
 6 cial Security Act (42 U.S.C. 1395h(c)(2)) is amended—

7 (1) in subparagraph (B)(ii)(V), by striking
 8 “with respect” and inserting “subject to subpara-
 9 graph (D), with respect”; and

10 (2) by adding at the end the following new sub-
 11 paragraph:

12 “(D)(i) Upon a determination by the Sec-
 13 retary that there is a likelihood of fraud, waste,
 14 or abuse involving a particular category of pro-
 15 viders of services or suppliers, categories of pro-
 16 viders of services or suppliers in a certain geo-
 17 graphic area, or individual providers of services
 18 or suppliers, the Secretary shall extend the
 19 number of calendar days described in subpara-
 20 graph (B)(ii)(V) to—

21 “(I) up to 365 calendar days with re-
 22 spect to claims submitted by—

23 “(aa) categories of providers of
 24 services or suppliers; or

1 “(bb) categories of providers of
2 services or suppliers in a certain geo-
3 graphic area; or

4 “(II) such time that the Secretary de-
5 termines is necessary to ensure that the
6 claims with respect to individual providers
7 of services or suppliers are clean claims.

8 “(ii) During the extended period of time
9 under subclauses (I) and (II) of clause (ii), the
10 Secretary shall engage in heightened scrutiny of
11 claims, such as prepayment review and other
12 methods the Secretary determines to be appro-
13 priate.

14 “(iii) Not later than 90 days after the date
15 of enactment of this subparagraph and not less
16 than annually thereafter, the Inspector General
17 of the Department of Health and Human Serv-
18 ices shall submit to the Secretary a report con-
19 taining recommendations with respect to the
20 application of this subparagraph and section
21 1842(c)(2)(D). Not later than 60 days after re-
22 ceiving such a report, the Secretary shall sub-
23 mit to the Inspector General a written response
24 to the recommendations contained in the report.

1 “(iv) There shall be no administrative or
 2 judicial review under section 1869, section
 3 1878, or otherwise of the implementation of
 4 this subparagraph by the Secretary.”.

5 (b) PART B CLAIMS.—Section 1842(c)(2) of the So-
 6 cial Security Act (42 U.S.C. 1395u(c)(2)) is amended—

7 (1) in subparagraph (B)(ii)(V), by striking
 8 “with respect” and inserting “subject to subpara-
 9 graph (D), with respect”; and

10 (2) by adding at the end the following new sub-
 11 paragraph:

12 “(D)(i) Upon a determination by the Sec-
 13 retary that there is a likelihood of fraud, waste,
 14 or abuse involving a particular category of pro-
 15 viders of services or suppliers, categories of pro-
 16 viders of services or suppliers in a certain geo-
 17 graphic area, or individual providers of services
 18 or suppliers, the Secretary shall extend the
 19 number of calendar days described in subpara-
 20 graph (B)(ii)(V) to—

21 “(I) up to 365 calendar days with re-
 22 spect to claims submitted by—

23 “(aa) categories of providers of
 24 services or suppliers; or

1 “(bb) categories of providers of
 2 services or suppliers in a certain geo-
 3 graphic area; or

4 “(II) such time that the Secretary de-
 5 termines is necessary to ensure that the
 6 claims with respect to individual providers
 7 of services or suppliers are clean claims.

8 “(ii) During the extended period of time
 9 under subclauses (I) and (II) of clause (ii), the
 10 Secretary shall engage in heightened scrutiny of
 11 claims, such as prepayment review and other
 12 methods the Secretary determines to be appro-
 13 priate.

14 “(iii) There shall be no administrative or
 15 judicial review under section 1869, section
 16 1878, or otherwise of the implementation of
 17 this subparagraph by the Secretary.”.

18 (c) EFFECTIVE DATE.—

19 (1) IN GENERAL.—The amendments made by
 20 this section shall take effect on the day that is 6
 21 months after the date of the enactment of this Act.

22 (2) EXPEDITING IMPLEMENTATION.—The Sec-
 23 retary shall promulgate regulations to carry out the
 24 amendments made by this section which may be ef-
 25 fective and final immediately on an interim basis as

1 of the date of publication of the interim final regula-
2 tion. If the Secretary provides for an interim final
3 regulation, the Secretary shall provide for a period
4 of public comment on such regulation after the date
5 of publication. The Secretary may change or revise
6 such regulation after completion of the period of
7 public comment.

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