

111TH CONGRESS
1ST SESSION

S. 975

To amend title XVIII of the Social Security Act to reduce fraud under the Medicare program.

IN THE SENATE OF THE UNITED STATES

MAY 5, 2009

Mr. MARTINEZ (for himself, Mr. CORNYN, Ms. COLLINS, Mr. NELSON of Florida, Mr. ALEXANDER, Mr. GRAHAM, Mr. VITTER, Mr. DEMINT, and Mr. CORKER) 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 reduce fraud under the Medicare program.

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 “Seniors and Taxpayers
5 Obligation Protection Act of 2009”.

1 **SEC. 2. REQUIRING THE SECRETARY OF HEALTH AND**
2 **HUMAN SERVICES TO CHANGE THE MEDI-**
3 **CARE BENEFICIARY IDENTIFIER USED TO**
4 **IDENTIFY MEDICARE BENEFICIARIES UNDER**
5 **THE MEDICARE PROGRAM.**

6 (a) PROCEDURES.—

7 (1) IN GENERAL.—Not later than 1 year after
8 the date of enactment of this Act, in order to protect
9 beneficiaries from identity theft, the Secretary of
10 Health and Human Services (in this section referred
11 to as the “Secretary”) shall establish and implement
12 procedures to change the Medicare beneficiary iden-
13 tifier used to identify individuals entitled to benefits
14 under part A of title XVIII of the Social Security
15 Act or enrolled under part B of such title so that
16 such an individual’s social security account number
17 is not used.

18 (2) MAINTAINING EXISTING HICN STRUC-
19 TURE.—In order to minimize the impact of the
20 change under paragraph (1) on systems that com-
21 municate with Medicare beneficiary eligibility sys-
22 tems, the procedures under paragraph (1) shall pro-
23 vide that the new Medicare beneficiary identifier
24 maintain the existing Health Insurance Claim Num-
25 ber structure.

1 (3) PROTECTION AGAINST FRAUD.—The proce-
2 dures under paragraph (1) shall provide for a proc-
3 ess for changing the Medicare beneficiary identifier
4 for an individual to a different identifier in the case
5 of the discovery of fraud, including identity theft.

6 (4) PHASE-IN AUTHORITY.—

7 (A) IN GENERAL.—Subject to subpara-
8 graphs (B) and (C), the Secretary may phase in
9 the change under paragraph (1) in such man-
10 ner as the Secretary determines appropriate.

11 (B) LIMIT.—The phase-in period under
12 subparagraph (A) shall not exceed 10 years.

13 (C) NEWLY ENTITLED AND ENROLLED IN-
14 DIVIDUALS.—The Secretary shall ensure that
15 the change under paragraph (1) is implemented
16 not later than January 1, 2010, with respect to
17 any individual who first becomes entitled to
18 benefits under part A of title XVIII of the So-
19 cial Security Act or enrolled under part B of
20 such title on or after such date.

21 (b) EDUCATION AND OUTREACH.—The Secretary
22 shall establish a program of education and outreach for
23 individuals entitled to, or enrolled for, benefits under part
24 A of title XVIII of the Social Security Act or enrolled
25 under part B of such title, providers of services (as defined

1 in subsection (u) of section 1861 of such Act (42 U.S.C.
2 1395x)), and suppliers (as defined in subsection (d) of
3 such section) on the change under paragraph (1).

4 (c) DATA MATCHING.—

5 (1) ACCESS TO CERTAIN INFORMATION.—Sec-
6 tion 205(r) of the Social Security Act (42 U.S.C.
7 405(r)) is amended by adding at the end the fol-
8 lowing new paragraph:

9 “(9)(A) The Commissioner of Social Security
10 shall, upon the request of the Secretary—

11 “(i) enter into an agreement with the Sec-
12 retary for the purpose of matching data in the
13 system of records of the Commissioner with
14 data in the system of records of the Secretary,
15 so long as the requirements of subparagraphs
16 (A) and (B) of paragraph (3) are met, in order
17 to determine—

18 “(I) whether a beneficiary under the
19 program under title XVIII, XIX, or XXI is
20 dead, imprisoned, or otherwise not eligible
21 for benefits under such program; and

22 “(II) whether a provider of services or
23 a supplier under the program under title
24 XVIII, XIX, or XXI is dead, imprisoned,
25 or otherwise not eligible to furnish or re-

1 ceive payment for furnishing items and
2 services under such program; and

3 “(ii) include in such agreement safeguards
4 to assure the maintenance of the confidentiality
5 of any information disclosed and procedures to
6 permit the Secretary to use such information
7 for the purpose described in clause (i).

8 “(B) Information provided pursuant to an
9 agreement under this paragraph shall be provided at
10 such time, in such place, and in such manner as the
11 Commissioner determines appropriate.

12 “(C) Information provided pursuant to an
13 agreement under this paragraph shall include infor-
14 mation regarding whether—

15 “(i) the name (including the first name
16 and any family name or surname), the date of
17 birth (including the month, day, and year), and
18 social security number of an individual provided
19 to the Commissioner match the information
20 contained in the Commissioner’s records, and

21 “(ii) such individual is shown on the
22 records of the Commissioner as being de-
23 ceased.”.

24 (2) INVESTIGATION BASED ON CERTAIN INFOR-
25 MATION.—Title XI of the Social Security Act (42

1 U.S.C. 1301 et seq.) is amended by inserting after
2 section 1128F the following new section:

3 **“SEC. 1128G. ACCESS TO CERTAIN DATA AND INVESTIGA-**
4 **TION OF CLAIMS INVOLVING INDIVIDUALS**
5 **WHO ARE NOT ELIGIBLE FOR BENEFITS OR**
6 **ARE NOT ELIGIBLE PROVIDERS OF SERVICES**
7 **OR SUPPLIERS.**

8 “(a) DATA AGREEMENT.—The Secretary shall enter
9 into an agreement with the Commissioner of Social Secu-
10 rity pursuant to section 205(r)(9).

11 “(b) INVESTIGATION OF CLAIMS INVOLVING CER-
12 TAIN INDIVIDUALS WHO ARE NOT ELIGIBLE FOR BENE-
13 FITS OR ARE NOT ELIGIBLE PROVIDERS OF SERVICES OR
14 SUPPLIERS.—

15 “(1) IN GENERAL.—The Secretary shall, in the
16 case where a provider of services or a supplier under
17 the program under title XVIII, XIX, or XXI sub-
18 mits a claim for payment for items or services fur-
19 nished to an individual who the Secretary deter-
20 mines, as a result of information provided pursuant
21 to such agreement, is not eligible for benefits under
22 such program, or where the Secretary determines, as
23 a result of such information, that such provider of
24 services or supplier is not eligible to furnish or re-
25 ceive payment for furnishing such items or services,

1 conduct an investigation with respect to the provider
2 of services or supplier. If the Secretary determines
3 further action is appropriate, the Secretary shall
4 refer the investigation to the Inspector General of
5 the Department of Health and Human Services.

6 “(2) ASSESSMENT OF IMPLEMENTATION AND
7 EFFECTIVENESS BY THE OIG.—The Inspector Gen-
8 eral of the Department of Health and Human Serv-
9 ices shall test the implementation of the provisions
10 of this section (including the implementation of the
11 agreement under section 205(r)(9)) and conduct
12 such period assessments of such implementation as
13 the Inspector General determines necessary to deter-
14 mine the effectiveness of such implementation.”.

15 (d) AUTHORIZATION OF APPROPRIATIONS.—There
16 are authorized to be appropriated such sums as may be
17 necessary to carry out this section.

18 **SEC. 3. MONTHLY VERIFICATION OF ACCURACY OF CLAIMS**

19 **FOR PAYMENT FOR PHYSICIANS’ SERVICES.**

20 (a) IN GENERAL.—Section 1893 of the Social Secu-
21 rity Act (42 U.S.C. 1395ddd) is amended—

22 (1) in subsection (b), by adding at the end the
23 following new paragraph:

1 “(7) The monthly verification of the accuracy of
2 claims for payment for physicians’ services under the
3 system under subsection (i).”; and

4 (2) by adding at the end the following new sub-
5 section:

6 “(i) MONTHLY VERIFICATION OF ACCURACY OF
7 CLAIMS FOR PAYMENT FOR PHYSICIANS’ SERVICES.—

8 “(1) SYSTEM.—

9 “(A) IN GENERAL.—Not later than 1 year
10 after the date of the enactment of this sub-
11 section, the Secretary shall establish and imple-
12 ment a system to verify (electronically or other-
13 wise, taking into consideration the administra-
14 tive burden of such verification on physicians
15 and group practices) on a monthly basis that
16 the claims for payment under part B for physi-
17 cians’ services furnished in high risk areas
18 are—

19 “(i) for physicians’ services actually
20 furnished by the physician or the physi-
21 cian’s group practice; and

22 “(ii) otherwise accurate.

23 “(B) NO DETERMINATION OF MEDICAL
24 NECESSITY.—In no case shall any verification
25 conducted under the system established under

1 subparagraph (A) include a determination of
2 the medical necessity of the physicians' service.

3 “(2) VERIFICATION.—Under the system, the
4 Secretary, at the end of each month, shall provide
5 the physician or the group practice with a detailed
6 list of such claims for payment that were submitted
7 during the month in order for the physician or the
8 group practice to review and verify the list. In pro-
9 viding the detailed list, the Secretary shall use the
10 provider number of the physician or the group prac-
11 tice.

12 “(3) AUDITS.—The Secretary shall conduct au-
13 dits of the review and verification by physicians and
14 group practices of the detailed list provided under
15 paragraph (2). Such audits shall assess whether the
16 physician or group practice conducted such review
17 and verification in a fraudulent manner. In the case
18 where the Secretary determines such review and
19 verification was conducted in a fraudulent manner,
20 the Secretary shall recoup any payments resulting
21 from the fraudulent review and verification and im-
22 pose a civil money penalty in an amount determined
23 appropriate by the Secretary on the physician or
24 group practice who conducted the fraudulent review
25 and verification. The provisions of section 1128A

1 (other than subsections (a) and (b)) shall apply to
2 a civil money penalty under the previous sentence in
3 the same manner as such provisions apply to a pen-
4 alty or proceeding under section 1128A(a).

5 “(4) HIGH RISK AREAS DEFINED.—In this sub-
6 section, the term ‘high risk area’ means a county
7 designated as a high risk area under subsection
8 (j)(1).

9 “(5) REPORT BY THE SECRETARY.—Not later
10 than 1 year after implementation of the system es-
11 tablished under paragraph (1), the Secretary shall
12 submit a report to Congress on the progress of such
13 implementation. Such report shall include rec-
14 ommendations—

15 “(A) on how to improve such implementa-
16 tion, including whether the system should be ex-
17 panded to include verification of claims for pay-
18 ment under part B for physicians’ services fur-
19 nished in additional areas; and

20 “(B) for such legislation and administra-
21 tive action as the Secretary determines appro-
22 priate.”.

23 (b) AUTHORIZATION OF APPROPRIATIONS.—To carry
24 out the amendments made by this section, there are au-

1 thORIZED to be appropriated such sums as may be nec-
2 ESSARY for each of fiscal years 2010 through 2014.

3 **SEC. 4. DETECTION OF MEDICARE FRAUD AND ABUSE.**

4 (a) IN GENERAL.—Section 1893 of the Social Secu-
5 rity Act (42 U.S.C. 1395ddd), as amended by section 3,
6 is amended—

7 (1) in subsection (b), by adding at the end the
8 following new paragraph:

9 “(8) Implementation of fraud and abuse detec-
10 tion methods under subsection (j).”;

11 (2) in subsection (c), by adding at the end of
12 the flush matter following paragraph (4), the fol-
13 lowing new sentence “In the case of an activity de-
14 scribed in subsection (b)(8), an entity shall only be
15 eligible to enter into a contract under the Program
16 to carry out the activity if the entity is selected
17 through a competitive bidding process in accordance
18 with subsection (j)(3).”; and

19 (3) by adding at the end the following new sub-
20 section:

21 “(j) DETECTION OF MEDICARE FRAUD AND
22 ABUSE.—

23 “(1) ESTABLISHMENT OF SYSTEM TO IDENTIFY
24 COUNTIES MOST VULNERABLE TO FRAUD.—Not
25 later than 6 months after the date of enactment of

1 this subsection, the Secretary shall establish a sys-
2 tem to identify the 50 counties most vulnerable to
3 fraud with respect to items and services furnished by
4 providers of services (other than hospitals and crit-
5 ical access hospitals) and suppliers based on the de-
6 gree of county-specific reimbursement and analysis
7 of payment trends under this title. The Secretary
8 shall designate the counties identified under the pre-
9 ceding sentence as ‘high risk areas’.

10 “(2) FRAUD AND ABUSE DETECTION.—

11 “(A) INITIAL IMPLEMENTATION.—The
12 Secretary shall establish procedures for the im-
13 plementation of fraud and abuse detection
14 methods under this title with respect to items
15 and services furnished by such providers of
16 services and suppliers in high risk areas des-
17 igned under paragraph (1) (and, beginning
18 not later than 18 months after the date of en-
19 actment of this subsection, with respect to
20 items and services furnished by such providers
21 of services and suppliers in areas not so des-
22 igned) including the following:

23 “(i) In the case of a new applicant to
24 be a supplier, a background check, a pre-

1 enrollment site visit, and random unan-
2 nounced site visits after enrollment.

3 “(ii) Not less than 5 years after the
4 date of enactment of this subsection, in the
5 case of a supplier who is not a new appli-
6 cant, re-enrollment under this title, includ-
7 ing a background check and a site-visit as
8 part of the application process for such re-
9 enrollment, and random unannounced site
10 visits after such re-enrollment.

11 “(iii) Data analysis to establish pre-
12 payment claim edits designed to target the
13 claims for payment under this title for
14 such items and services that are most like-
15 ly to be fraudulent.

16 “(iv) Prepayment benefit integrity re-
17 views for claims for payment under this
18 title for such items and services that are
19 suspended as a result of such edits.

20 “(B) REQUIREMENT FOR PARTICIPA-
21 TION.—In no case may a provider of services or
22 supplier who does not meet the requirements
23 under subparagraph (A) (including, in the case
24 of a supplier, the requirement of a background

1 check) participate in the program under this
2 title.

3 “(C) BACKGROUND CHECKS.—The Sec-
4 retary shall determine the extent of the back-
5 ground check conducted under subparagraph
6 (A), including whether—

7 “(i) a fingerprint check is necessary;

8 “(ii) a background check shall be con-
9 ducted with respect to additional employ-
10 ees, board members, contractors or other
11 interested parties of the supplier; and

12 “(iii) any additional national back-
13 ground checks regarding exclusion from
14 participation in Federal programs (such as
15 the program under this title, title XIX, or
16 title XXI), adverse actions taken by State
17 licensing boards, bankruptcies, outstanding
18 taxes, or other indications identified by the
19 Inspector General of the Department of
20 Health and Human Services are necessary.

21 “(D) EXPANDED IMPLEMENTATION.—Not
22 later than 24 months after the date of enact-
23 ment of this subsection, the Secretary shall es-
24 tablish procedures for the implementation of
25 such fraud and abuse detection methods under

1 this title with respect to items and services fur-
2 nished by all providers of services and suppliers,
3 including those not in high risk areas des-
4 ignated under paragraph (1).

5 “(3) COMPETITIVE BIDDING.—In selecting enti-
6 ties to carry out this subsection, the Secretary shall
7 use a competitive bidding process.

8 “(4) REPORT TO CONGRESS.—The Secretary
9 shall submit to Congress an annual report on the ef-
10 fectiveness of activities conducted under this sub-
11 section, including a description of any savings to the
12 program under this title as a result of such activities
13 and the overall administrative cost of such activities
14 and a determination as to the amount of funding
15 needed to carry out this subsection for subsequent
16 fiscal years, together with recommendations for such
17 legislation and administrative action as the Sec-
18 retary determines appropriate.”.

19 (b) AUTHORIZATION OF APPROPRIATIONS.—To carry
20 out the amendments made by this section, there are au-
21 thorized to be appropriated—

22 (1) such sums as may be necessary, not to ex-
23 ceed \$50,000,000, for each of fiscal years 2010
24 through 2014; and

1 (2) such sums as may be necessary, not to ex-
2 ceed an amount the Secretary determines appro-
3 priate in the most recent report submitted to Con-
4 gress under section 1893(j)(4) of the Social Security
5 Act, as added by subsection (a), for each subsequent
6 fiscal year.

7 **SEC. 5. USE OF TECHNOLOGY FOR REAL-TIME DATA RE-**
8 **VIEW.**

9 Title XVIII of the Social Security Act (42 U.S.C.
10 1395 et seq.) is amended by adding at the end the fol-
11 lowing new section:

12 **“SEC. 1899. USE OF TECHNOLOGY FOR REAL-TIME DATA RE-**
13 **VIEW.**

14 “(a) IN GENERAL.—The Secretary of Health and
15 Human Services shall establish procedures for the use of
16 technology (similar to that used with respect to the anal-
17 ysis of credit card charging patterns) to provide real-time
18 data analysis of claims for payment under the Medicare
19 program under title XVIII of the Social Security Act to
20 identify and investigate unusual billing or order practices
21 under the Medicare program that could indicate fraud or
22 abuse.

23 “(b) COMPETITIVE BIDDING.—The procedures estab-
24 lished under subsection (a) shall ensure that the imple-

1 mentation of such technology is conducted through a com-
 2 petitive bidding process.”.

3 **SEC. 6. EDITS ON 855S MEDICARE ENROLLMENT APPLICA-**
 4 **TION.**

5 Section 1834(a) of the Social Security Act (42 U.S.C.
 6 1395m(a)) is amended by adding at the end the following
 7 new paragraph:

8 “(22) CONFIRMATION WITH NATIONAL SUP-
 9 PLIER CLEARINGHOUSE PRIOR TO PAYMENT.—

10 “(A) IN GENERAL.—Not later than 1 year
 11 after the date of enactment of this paragraph,
 12 the Secretary shall establish procedures to re-
 13 quire carriers, prior to paying a claim for pay-
 14 ment for durable medical equipment, pros-
 15 thetics, orthotics, and supplies under this title,
 16 to confirm with the National Supplier Clearing-
 17 house—

18 “(i) that the National Provider Identifi-
 19 fier of the physician or practitioner pre-
 20 scribing or ordering the item or service is
 21 valid and active;

22 “(ii) that the Medicare identification
 23 number of the supplier is valid and active;
 24 and

1 “(iii) that the item or service for
2 which the claim for payment is submitted
3 was properly identified on the CMS–855S
4 Medicare enrollment application.

5 “(B) ONLINE DATABASE FOR IMPLEMEN-
6 TATION.—Not later than 18 months after the
7 date of enactment of this paragraph, the Sec-
8 retary shall establish an online database similar
9 to that used for the National Provider Identifier
10 to enable providers of services, accreditors, car-
11 riers, and the National Supplier Clearinghouse
12 to view information on specialties and the types
13 of items and services each supplier has indi-
14 cated on the CMS–855S Medicare enrollment
15 application submitted by the supplier.

16 “(C) NOTIFICATION OF CLAIM DENIAL
17 AND RESUBMISSION.—In the case where a claim
18 for payment for durable medical equipment,
19 prosthetics, orthotics, and supplies under this
20 title is denied because the item or service fur-
21 nished does not correctly match up with the in-
22 formation on file with the National Supplier
23 Clearinghouse—

24 “(i) the National Supplier Clearing-
25 house shall—

1 “(I) provide the supplier written
2 notification of the reason for such de-
3 nial; and

4 “(II) allow the supplier 60 days
5 to provide the National Supplier
6 Clearinghouse with appropriate certifi-
7 cation, licensing, or accreditation; and

8 “(ii) the Secretary shall waive applica-
9 ble requirements relating to the time frame
10 for the submission of claims for payment
11 under this title in order to permit the re-
12 submission of such claim if payment of
13 such claim would otherwise be allowed
14 under this title.”.

15 **SEC. 7. STRATEGIC PLAN FOR THE DEVELOPMENT OF A SE-**
16 **RIAL NUMBER TRACKING SYSTEM FOR DURA-**
17 **BLE MEDICAL EQUIPMENT.**

18 Section 1834(a) of the Social Security Act (42 U.S.C.
19 1395m(a)), as amended by section 6(a), is amended by
20 adding at the end the following new paragraph:

21 “(23) STRATEGIC PLAN FOR THE DEVELOP-
22 MENT OF A SERIAL NUMBER TRACKING SYSTEM FOR
23 DURABLE MEDICAL EQUIPMENT.—

24 “(A) IN GENERAL.—Not later than 1 year
25 after the date of enactment of this paragraph,

1 the Secretary shall develop a strategic plan for
2 the development and implementation of a serial
3 number tracking system for durable medical
4 equipment.

5 “(B) SERIAL NUMBER TRACKING SYSTEM
6 FOR DURABLE MEDICAL EQUIPMENT.—The
7 plan developed under subparagraph (A) shall
8 include mechanisms to ensure that an item of
9 durable medical equipment which has not been
10 issued a unique identifier under the unique de-
11 vice identification system established under sec-
12 tion 519(f) of the Federal Food, Drug, and
13 Cosmetic Act bears a unique identifier, unless
14 the Secretary already requires an alternative
15 placement or provides an exception for a par-
16 ticular item or type of durable medical equip-
17 ment under such section 519(f).

18 “(C) PROVISION OF UNIQUE IDENTIFIER
19 TO THE SECRETARY.—The plan developed
20 under subparagraph (A) shall include appro-
21 priate mechanisms for manufacturers of items
22 of durable medical equipment to submit to the
23 Secretary unique identifiers issued under sub-
24 paragraph (B) or such section 519(f) with re-
25 spect to such items. The plan shall include

1 mechanisms for the Secretary to provide for the
2 storage of such unique identifier in accordance
3 with subparagraph (F)(i).

4 “(D) REQUIREMENTS FOR MANUFACTURERS AND WHOLESALERS.—The plan developed
5 under subparagraph (A) shall include mechanisms for manufacturers of items of durable
6 medical equipment, or, in the case where a
7 wholesaler provides an item of durable medical
8 equipment to suppliers, wholesalers, to—
9
10

11 “(i) upon issuing an item to a supplier,
12 develop a product description for the
13 item which includes—

14 “(I) the unique identifier of the
15 item;

16 “(II) the specific Healthcare
17 Common Procedure Coding System
18 (HCPCS) code for the item;

19 “(III) the name of the supplier
20 the item was shipped to; and

21 “(IV) the supplier’s Medicare
22 identification number; and

23 “(ii) submit the product description
24 developed under clause (i) to the Secretary
25 for storage in the unique identifier data-

1 base in accordance with subparagraph
2 (F)(i).

3 “(E) REQUIREMENTS FOR SUPPLIERS.—

4 The plan developed under subparagraph (A)
5 shall include mechanisms to ensure that sup-
6 pliers of items of durable medical equipment—

7 “(i) upon issuing the item to a bene-
8 ficiary, note the unique identifier of such
9 item on—

10 “(I) the claim form submitted for
11 such item; and

12 “(II) when appropriate or other-
13 wise required, the detailed product de-
14 scription of the item;

15 “(ii) in the case where the item is
16 issued to a beneficiary on a rental basis,
17 designate the unique identifier with an ‘R’
18 after the number to indicate that the item
19 was rented, and not purchased, by the ben-
20 eficiary; and

21 “(iii) upon return of the item to the
22 supplier, notify the Secretary—

23 “(I) before reissuing that item
24 and resubmitting that number on
25 such a claim form; or

1 “(II) upon resubmitting that
2 number on such a claim form.

3 “(F) RESPONSIBILITIES FOR THE SEC-
4 RETARY.—

5 “(i) MAINTENANCE OF DATABASE OF
6 SERIAL NUMBERS.—The plan developed
7 under subparagraph (A) shall include the
8 responsibility of the Secretary to establish
9 and maintain a database containing the
10 unique identifiers submitted by manufac-
11 turers of items of durable medical equip-
12 ment under subparagraph (C).

13 “(ii) PAYMENT.—

14 “(I) LIMITATION.—Subject to
15 subclause (II), the plan developed
16 under subparagraph (A) shall include
17 mechanisms to ensure that payment
18 may only be made for an item of du-
19 rable medical equipment if the unique
20 identifier on the claim form submitted
21 for such item matches the unique
22 identifier submitted by the manufac-
23 turer of such item under subpara-
24 graph (C).

1 “(II) EXCEPTION TO LIMITATION
2 AFTER VERIFICATION OF RECEIPT.—
3 The plan developed under subpara-
4 graph (A) shall include mechanisms to
5 ensure that in the case where the
6 unique identifier is not on the claim
7 form submitted for such item or does
8 not match the unique identifier sub-
9 mitted by the manufacturer of such
10 item under subparagraph (C), no pay-
11 ment shall be made under this part
12 for the item of durable medical equip-
13 ment until the Secretary has verified
14 that the beneficiary has received such
15 item in accordance with subclause
16 (IV).

17 “(III) DUPLICATIVE UNIQUE
18 IDENTIFIERS.—The plan developed
19 under subparagraph (A) shall include
20 mechanisms to ensure that in the case
21 where a unique identifier is submitted
22 on more than 1 claim form submitted
23 for such an item and there is no indi-
24 cation from the supplier that the item
25 of durable medical equipment has

1 been returned by 1 beneficiary and is
2 now being used by another bene-
3 ficiary, no payment shall be made
4 under this part for such item of dura-
5 ble medical equipment unless the Sec-
6 retary has verified that the beneficiary
7 has received such item in accordance
8 with subclause (IV).

9 “(IV) VERIFICATION.—The plan
10 developed under subparagraph (A)
11 shall include provisions for the Sec-
12 retary to conduct any verification re-
13 quired under subclause (II) or (III)
14 within 30 days after receipt by the
15 Secretary of the relevant claim form.
16 In the case where such verification is
17 not completed within such time pe-
18 riod, the Secretary shall pay such
19 claim, complete the verification, and,
20 in the case where the Secretary has
21 entered into a contract with an entity
22 for the conduct of such verification,
23 recover any payments that would not
24 have been made if the verification had

1 been completed within such time pe-
2 riod from such entity.

3 “(iii) QUALITY CONTROL AUDITS.—

4 The plan developed under subparagraph
5 (A) shall include a requirement that the
6 Secretary conduct quality control audits to
7 identify unusual billing patterns with re-
8 spect to items of durable medical equip-
9 ment for which payment is made under
10 this part and may provide that the Sec-
11 retary conduct unannounced site visits or
12 commission other agencies to conduct such
13 site visits as part of such quality control
14 audits.

15 “(iv) NO USE AS A PRECERTIFICATION
16 MECHANISM.—The plan developed under
17 subparagraph (A) shall include mecha-
18 nisms to ensure that in no case shall a
19 unique identifier issued under subpara-
20 graph (B) or section 519(f) of the Federal
21 Food, Drug, and Cosmetic Act be used as
22 a precertification mechanism for the supply
23 of an item of durable medical equipment or
24 the payment of a claim for such an item
25 under this part.”.

1 **SEC. 8. GAO STUDY AND REPORT ON EFFECTIVENESS OF**
2 **SURETY BOND REQUIREMENTS FOR SUP-**
3 **PLIERS OF DURABLE MEDICAL EQUIPMENT**
4 **IN COMBATING FRAUD.**

5 (a) **STUDY.**—The Comptroller General of the United
6 States shall conduct a study on the effectiveness of the
7 surety bond requirement under section 1834(a)(16) of the
8 Social Security Act (42 U.S.C. 1395m(a)(16)) in com-
9 bating fraud.

10 (b) **REPORT.**—Not later than 18 months after the
11 date of enactment of this Act, the Comptroller General
12 shall submit to Congress a report containing the results
13 of the study conducted under subsection (a), together with
14 recommendations for such legislation and administrative
15 action as the Comptroller General determines appropriate.

○