

104<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# S. 1193

To reduce waste and abuse in the Medicare program.

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IN THE SENATE OF THE UNITED STATES

AUGUST 11 (legislative day, JULY 10), 1995

Mr. HARKIN introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To reduce waste and abuse in 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 “Medicare Waste and  
5 Abuse Reduction Act of 1995”.

6 **SEC. 2. PROHIBITING UNNECESSARY AND WASTEFUL MEDI-**  
7 **CARE PAYMENTS FOR CERTAIN ITEMS.**

8 Notwithstanding any other provision of law, regula-  
9 tion or payment policy, the following categories of charges  
10 shall not be reimbursable under title XVIII of the Social  
11 Security Act:

1 (a) tickets to sporting or other entertainment  
2 events,

3 (b) gifts or donations,

4 (c) costs related to team sports,

5 (d) personal use of automobiles,

6 (e) costs for fines and penalties resulting from  
7 violations of Federal, State or local laws or regula-  
8 tions, and

9 (f) tuition or fees for spouses or dependents of  
10 providers of services, their employees or contractors.

11 **SEC. 3. COMPETITIVE BIDDING TO REDUCE WASTEFUL**  
12 **MEDICARE PAYMENTS FOR DURABLE MEDI-**  
13 **CAL EQUIPMENT AND MEDICAL SUPPLIES.**

14 (a) **GENERAL RULE.**—Part B of title XVIII of the  
15 Social Security Act is amended by inserting after section  
16 1846 the following:

17 “COMPETITION ACQUISITION FOR ITEMS AND SERVICES

18 “SEC. 1847. (a) **ESTABLISHMENT OF BIDDING**  
19 **AREAS.**—

20 “(1) **IN GENERAL.**—The Secretary shall estab-  
21 lish competitive acquisition areas for the purpose of  
22 awarding a contract or contracts for the furnishing  
23 under this part of the items and services described  
24 in subsection (c) on or after January 1, 1996. The  
25 Secretary may establish different competitive acqui-

1       sition areas under this subsection for different class-  
2       es of items and services under this part.

3           “(2) CRITERIA FOR ESTABLISHMENT.—The  
4       competitive acquisition areas established under para-  
5       graph (1) shall—

6           “(A) initially be, or be within, metropolitan  
7       statistical areas;

8           “(B) be chosen based on the availability  
9       and accessibility of suppliers and the probable  
10       savings to be realized by the use of competitive  
11       bidding in the furnishing of items and services  
12       in the area; and

13          “(C) be chosen so as to not reduce access  
14       to such items and services to individuals resid-  
15       ing in rural and other underserved areas.

16       “(b) AWARDING OF CONTRACTS IN AREAS.—

17          “(1) IN GENERAL.—The Secretary shall con-  
18       duct a competition among individuals and entities  
19       supplying items and services under this part for  
20       each competitive acquisition area established under  
21       subsection (a) for each class of items and services.

22          “(2) CONDITIONS FOR AWARDING CONTRACT.—  
23       The Secretary may not award a contract to any indi-  
24       vidual or entity under the competition conducted  
25       pursuant to paragraph (1) to furnish an item or

1 service under this part unless the Secretary finds  
2 that the individual or entity—

3 “(A) meets quality standards specified by  
4 the Secretary for the furnishing of such item or  
5 service; and

6 “(B) offers to furnish a total quantity of  
7 such item or service that is sufficient to meet  
8 the expected need within the competitive acqui-  
9 sition area and to assure that access to such  
10 items and services to individuals residing in  
11 rural and other underserved areas is not re-  
12 duced.

13 “(3) CONTENTS OF CONTRACT.—A contract en-  
14 tered into with an individual or entity under the  
15 competition conducted pursuant to paragraph (1)  
16 shall specify (for all of the items and services within  
17 a class)—

18 “(A) the quantity of items and services the  
19 entity shall provide; and

20 “(B) such other terms and conditions as  
21 the Secretary may require.

22 “(c) SERVICES DESCRIBED.—The items and services  
23 to which the provisions of this section shall apply are as  
24 follows:

1           “(1) Durable medical equipment and medical  
2 supplies.

3           “(2) Oxygen and oxygen equipment.

4           “(3) Such other items and services for which  
5 the Secretary determines that the use of competitive  
6 acquisition under this section will be appropriate and  
7 cost-effective.”.

8           (b) ITEMS AND SERVICES TO BE FURNISHED ONLY  
9 THROUGH COMPETITIVE ACQUISITION.—Section 1862(a)  
10 (42 U.S.C. 1395y(a)), as amended by section 4034(b)(4),  
11 is amended—

12           (1) by striking “or” at the end of paragraph  
13 (14);

14           (2) by striking the period at the end of para-  
15 graph (15) and inserting “; or”; and

16           (3) by inserting after paragraph (15) the fol-  
17 lowing new paragraph:

18           “(16) where such expenses are for an item or  
19 service furnished in a competitive acquisition area  
20 (as established by the Secretary under section  
21 1847(a)) by an individual or entity other than the  
22 supplier with whom the Secretary has entered into  
23 a contract under section 1847(b) for the furnishing  
24 of such item or service in that area, unless the Sec-

1       retary finds that such expenses were incurred in a  
2       case of urgent need.”.

3       (c) REDUCTION IN PAYMENT AMOUNTS IF COMPETI-  
4       TIVE ACQUISITION FAILS TO ACHIEVE MINIMUM REDUC-  
5       TION IN PAYMENTS.—Notwithstanding any other provi-  
6       sion of title XVIII of the Social Security Act, if the estab-  
7       lishment of competitive acquisition areas under section  
8       1847 of such Act (as added by subsection (a)) and the  
9       limitation of coverage for items and services under part  
10      B of such title to items and services furnished by providers  
11      with competitive acquisitions contracts under such section  
12      does not result in a reduction of at least 10 percent (20  
13      percent for oxygen and oxygen equipment) in the projected  
14      payment amount that would have applied to the item or  
15      service under part B if the item or service had not been  
16      furnished through competitive acquisition under such sec-  
17      tion, the Secretary shall reduce the payment amount by  
18      such percentage as the Secretary determines necessary to  
19      result in such a reduction.

20      (d) EFFECTIVE DATE.—The amendments made by  
21      this section shall apply to items and services furnished  
22      under part B of title XVIII of the Social Security Act on  
23      or after January 1, 1996.

1 **SEC. 4. INTERIM REDUCTION IN EXCESSIVE PAYMENTS**  
 2 **FOR OXYGEN.**

3 Section 1834(a)(1)(D) is amended by adding the fol-  
 4 lowing sentence at the end: “With respect to oxygen and  
 5 oxygen equipment furnished between October 1, 1995 and  
 6 January 1, 1996, the Secretary shall reduce the payment  
 7 amount applied under subparagraph (B)(ii) for such items  
 8 by 20 percent.”.

9 **SEC. 5. REDUCING EXCESSIVE BILLINGS FOR CERTAIN**  
 10 **ITEMS.**

11 Section 1834(a)(15)(A) is amended by striking  
 12 “scooters.” and adding “scooters, orthotic body jackets,  
 13 and incontinence supplies.”

14 **SEC. 6. IMPROVED CARRIER AUTHORITY TO REDUCE EX-**  
 15 **CESSIVE MEDICARE PAYMENTS.**

16 (a) GENERAL RULE.—Section 1834(a)(10)(B) is  
 17 amended by striking “paragraphs (8) and (9)” and all  
 18 that follows through the end of the sentence and inserting  
 19 “section 1842(b)(8) to covered items and suppliers of such  
 20 items and payments under this subsection as such provi-  
 21 sions (relating only to determinations of grossly excessive  
 22 payment amounts) apply to items and services and entities  
 23 and a reasonable charge under section 1842(b)”.

24 (b) REPEAL OF OBSOLETE PROVISIONS.—

25 (1) Section 1842(b)(8) is amended—

- 1 (A) by striking subparagraphs (B) and  
2 (C),  
3 (B) by striking the subparagraph designa-  
4 tion “(A)”, and  
5 (C) by redesignating clauses (i) and (ii) as  
6 (A) and (B), respectively.  
7 (2) Section 1842(b)(9) is repealed.

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