

105TH CONGRESS  
1ST SESSION

# H. R. 1770

To prevent fraud, abuse, and waste in the Medicare and Medicaid Programs,  
and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JUNE 3, 1997

Mr. STARK (for himself, Mr. McDERMOTT, and Mr. WEYGAND) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committees on Commerce and the Judiciary, 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

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## A BILL

To prevent fraud, abuse, and waste in the Medicare and  
Medicaid Programs, 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; REF-**  
4 **ERENCES IN ACT.**

5 (a) SHORT TITLE.—This Act may be cited as the  
6 “Medicare and Medicaid Fraud, Abuse, and Waste Pre-  
7 vention Amendments of 1997”.

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

Sec. 1. Short title; table of contents; references in Act.

TITLE I—ACCOUNTABILITY OF SERVICE PROVIDERS

PART A—SANCTION AUTHORITY

- Sec. 101. Exclusion of entity controlled by family member of a sanctioned individual.
- Sec. 102. Civil money penalties (CMPs) for kickbacks.
- Sec. 103. CMPs for persons that contract with excluded individuals.
- Sec. 104. CMPs for services ordered or prescribed by an excluded individual or entity.
- Sec. 105. CMPs for false certification of eligibility to receive partial hospitalization and hospice services.
- Sec. 106. Extension of subpoena and injunction authority.
- Sec. 107. Kickback penalties for knowing violations.
- Sec. 108. Elimination of exception of Federal Employees Health Benefits Program from definition of Federal health care program.
- Sec. 109. Amounts of CMPs.
- Sec. 110. Liability of physicians in specialty hospitals.
- Sec. 111. Expansion of criminal penalties for kickbacks.

PART B—PROVIDER ENROLLMENT PROCESS

- Sec. 121. Requirements to disclose employer identification numbers (EINs) and social security numbers (SSNs).
- Sec. 122. Fees for agreements with Medicare providers and suppliers.
- Sec. 123. Authority to refuse to enter into Medicare or Medicaid agreements with individuals or entities convicted of felonies.
- Sec. 124. Fees and requirements for issuance of standard health care identifiers.

TITLE II—PROVIDER REIMBURSEMENT AND RELATED MATTERS

PART A—COVERAGE AND PAYMENT LIMITS

- Sec. 201. No home health benefits based solely on drawing blood.
- Sec. 202. Monthly certification for hospice care after first six months.
- Sec. 203. Payment for home hospice care on basis of geographic location of home.
- Sec. 204. Limitation on hospice care liability for individuals not in fact terminally ill.
- Sec. 205. Medicare capital asset sales price equal to book value.
- Sec. 206. Repeal of moratorium on bad debt policy.

PART B—BANKRUPTCY PROVISIONS

- Sec. 221. Application of certain provisions of the bankruptcy code.

TITLE III—MEDICARE MENTAL HEALTH PARTIAL  
 HOSPITALIZATION SERVICES

- Sec. 301. Services not to be furnished in residential settings.

- Sec. 302. Additional requirements for community mental health centers.  
 Sec. 303. Prospective payment system.

#### TITLE IV—MEDICARE RURAL HEALTH CLINICS

- Sec. 401. Per-visit payment limits for provider-based clinics.  
 Sec. 402. Assurance of quality services.  
 Sec. 403. Waiver of certain staffing requirements limited to clinics in program.  
 Sec. 404. Refinement of shortage area requirements.  
 Sec. 405. Decreased beneficiary cost sharing for RHC services.  
 Sec. 406. Prospective payment system for RHC services.

1           (c) REFERENCE TO SOCIAL SECURITY ACT.—Except  
 2 as otherwise specifically provided, whenever in this act an  
 3 amendment is expressed in terms of an amendment to or  
 4 repeal of a section or other provision, the reference is con-  
 5 sidered to be made to that section or other provision of  
 6 the Social Security Act.

## 7           **TITLE I—ACCOUNTABILITY OF** 8   **SERVICE PROVIDERS**

### 9   **PART A—SANCTION AUTHORITY**

#### 10       **SEC. 101. EXCLUSION OF ENTITY CONTROLLED BY FAMILY** 11   **MEMBER OF A SANCTIONED INDIVIDUAL.**

12           Section 1128 (42 U.S.C. 1320a-7) is amended—

13                           (1) in subsection (b)(8), by inserting “, or an  
 14 immediate family member of such person (as defined  
 15 in section 1128(j)), or a member of the household of  
 16 such person (as defined in section 1128(k))” after  
 17 “the Secretary determines that a person”; and

18                           (2) by adding after subsection (i) the following  
 19 new subsections:

1       “(j) DEFINITION OF IMMEDIATE FAMILY MEM-  
2 BER.—For purposes of subsection (b)(8), the term ‘imme-  
3 diate family member’ means a husband or wife; natural  
4 or adoptive parent, child, or sibling; stepparent, stepchild,  
5 stepbrother, or stepsister; father-, mother-, daughter-,  
6 son-, brother-, or sister-in-law; grandparent or grandchild;  
7 or spouse of a grandparent or grandchild.

8       “(k) DEFINITION OF MEMBER OF THE HOUSE-  
9 HOLD.—For purposes of subsection (b)(8), the term  
10 ‘member of the household’ means any person sharing a  
11 common abode as part of a single family unit, including  
12 domestic employees and others who live together as a fam-  
13 ily unit, but not including a roomer or boarder.”.

14 **SEC. 102. CIVIL MONEY PENALTIES (CMPS) FOR KICK-**  
15 **BACKS.**

16       (a) PERMITTING SECRETARY TO IMPOSE CIVIL MON-  
17 ETARY PENALTY.—Section 1128A(a) (42 U.S.C. 1320a-  
18 7a(a)) is amended—

19           (1) by striking “or” at the end of paragraph  
20           (4);

21           (2) by adding “or” at the end of paragraph (5);  
22           and

23           (3) by adding after paragraph (5) the following  
24           new paragraph:

1           “(6) commits an act described in paragraph (1)  
2           or (2) of section 1128B(b);”.

3           (b) DESCRIPTION OF CIVIL MONETARY PENALTY AP-  
4           PLICABLE.—Section 1128A(a) (42 U.S.C. 1320a–7a(a)) is  
5           amended—

6           (1) by striking “occurs).” in the matter follow-  
7           ing paragraph (6) and inserting “occurs; or, in cases  
8           under paragraph (6), \$50,000 for each such viola-  
9           tion).”; and

10          (2) by striking “claim.” in the matter following  
11          paragraph (6) and inserting “claim (or, in cases  
12          under paragraph (6), damages of not more than  
13          three times the total amount of remuneration of-  
14          fered, paid, solicited, or received, without regard to  
15          whether a portion of such remuneration was offered,  
16          paid, solicited, or received for a lawful purpose).”.

17       **SEC. 103. CMPS FOR PERSONS THAT CONTRACT WITH EX-**  
18       **CLUDED INDIVIDUALS.**

19          Section 1128A(a) (42 U.S.C. 1320a–7a(a)), as  
20          amended by section 102, is amended—

21          (1) by striking “or” at the end of paragraph  
22          (5);

23          (2) by adding “or” at the end of paragraph (6);  
24          and

1           (3) by adding after paragraph (6) the following  
2 new paragraph:

3           “(7) arranges or contracts (by employment or  
4 otherwise) with an individual or entity that the per-  
5 son knows or should know is excluded from partici-  
6 pation in a Federal health care program (as defined  
7 in section 1128B(f)), for the provision of items or  
8 services for which payment may be made under such  
9 a program;”.

10 **SEC. 104. CMPS FOR SERVICES ORDERED OR PRESCRIBED**  
11 **BY AN EXCLUDED INDIVIDUAL OR ENTITY.**

12           Section 1128A(a)(1) (42 U.S.C. 1320a-7a(a)(1)), as  
13 amended by section 102, is amended—

14           (1) in subparagraph (D)—

15           (A) by inserting “, ordered, or prescribed  
16 by such person” after “other item or service  
17 furnished”;

18           (B) by inserting “(pursuant to this title or  
19 title XVIII)” after “period in which the person  
20 was excluded”;

21           (C) by striking “pursuant to a determina-  
22 tion by the Secretary” and all that follows  
23 through “the provisions of section 1842(j)”;  
24 and

25           (D) by striking “or” at the end; and

1           (2) by redesignating subparagraph (E) as sub-  
2           paragraph (F); and

3           (3) by adding after subparagraph (D) the fol-  
4           lowing new subparagraph:

5                     “(E) is for a medical or other item or serv-  
6                     vice ordered or prescribed by a person excluded  
7                     (pursuant to this title or title XVIII) from the  
8                     program under which the claim was made, and  
9                     the person furnishing such item or service  
10                    knows or should know of such exclusion, or”.

11 **SEC. 105. CMPS FOR FALSE CERTIFICATION OF ELIGI-**  
12                     **BILITY TO RECEIVE PARTIAL HOSPITALIZA-**  
13                     **TION AND HOSPICE SERVICES.**

14           Section 1128A(b)(3) (42 U.S.C. 1320a–7a(b)(3)) is  
15           amended—

16                     (1) in subparagraph (A)(ii), by inserting “, hos-  
17                     pice care, or partial hospitalization services” after  
18                     “home health services”; and

19                     (2) in subparagraph (B), by inserting “, section  
20                     1814(a)(7) in the case of hospice care, or section  
21                     1835(a)(2)(F) in the case of partial hospitalization  
22                     services” after “home health services”.

1 **SEC. 106. EXTENSION OF SUBPOENA AND INJUNCTION AU-**  
2 **THORITY.**

3 (a) SUBPOENA AUTHORITY.—Section 1128A(j)(1)  
4 (42 U.S.C. 1320a–7a(j)(1)) is amended by inserting “and  
5 section 1128” after “with respect to this section”.

6 (b) INJUNCTION AUTHORITY.—Section 1128A(k) (42  
7 U.S.C. 1320a–7a(k)) is amended by inserting “or an ex-  
8 clusion under section 1128,” after “subject to a civil mon-  
9 etary penalty under this section,”.

10 (c) CLARIFYING AMENDMENTS.—Section 1128A(j)  
11 (42 U.S.C. 1320a–7a(j)) is amended—

12 (1) in paragraph (1)—

13 (A) by inserting “, except that, in so ap-  
14 plying such sections, any reference therein to  
15 the Commissioner of Social Security or the So-  
16 cial Security Administration shall be considered  
17 a reference to the Secretary or the Department  
18 of Health and Human Services, respectively”  
19 after “with respect to title II”; and

20 (B) by striking the second sentence; and

21 (2) in paragraph (2), to read as follows:

22 “(2) The Secretary may delegate to the Inspector  
23 General of the Department of Health and Human Services  
24 any or all authority granted under this section or under  
25 section 1128.”.

1 (d) CONFORMING AMENDMENT.—Section 1128 (42  
2 U.S.C. 1320a–7) is amended by adding at the end the fol-  
3 lowing new subsection:

4 “(j) REFERENCE TO LAWS DIRECTLY AFFECTING  
5 THIS SECTION.—For provisions of law concerning the  
6 Secretary’s subpoena and injunction authority under this  
7 section, see section 1128A(j) and (k).”.

8 **SEC. 107. KICKBACK PENALTIES FOR KNOWING VIOLA-**  
9 **TIONS.**

10 Section 1128B(b) (42 U.S.C. 1320a–7b(b)) is  
11 amended by striking “and willfully” each place it occurs.

12 **SEC. 108. ELIMINATION OF EXCEPTION OF FEDERAL EM-**  
13 **PLOYEES HEALTH BENEFITS PROGRAM**  
14 **FROM DEFINITION OF FEDERAL HEALTH**  
15 **CARE PROGRAM.**

16 Section 1128B(f)(1) (42 U.S.C. 1320a–7b(f)(1)) is  
17 amended by striking “(other than the health insurance  
18 program under chapter 89 of title 5, United States  
19 Code)”.

20 **SEC. 109. AMOUNTS OF CMPS.**

21 Section 1842(j)(2) (42 U.S.C. 1395u(j)(2)) is amend-  
22 ed in the second sentence—

23 (1) by striking “(other than the first 2 sen-  
24 tences of subsection (a) and other than subsection  
25 (b))”; and

1           (2) by inserting before the period “(and for the  
2           purpose of so applying section 1128A(a), each viola-  
3           tive act by a person with respect to an item or serv-  
4           ice shall be treated as a claim for payment for that  
5           item or service, and the amount of such claim shall  
6           be considered to be the amount of the request for  
7           payment made by that person with respect to that  
8           item or service)”.

9 **SEC. 110. LIABILITY OF PHYSICIANS IN SPECIALTY HOS-**  
10 **PITALS.**

11           Section 1867(d)(1)(B) (42 U.S.C. 1395dd(d)(1)(B))  
12 is amended—

13           (1) by inserting “or a physician working at or  
14           on-call at a hospital that is subject to the require-  
15           ments of subsection (g),” after “physician on-call for  
16           the care of such an individual,”;

17           (2) by striking “or” at the end of clause (i);  
18           and

19           (3) by adding after clause (ii) the following new  
20           clauses:

21                           “(iii) fails or refuses to appear within  
22                           a reasonable time at a hospital subject to  
23                           the requirements of subsection (g) in order  
24                           to provide an appropriate medical screen-  
25                           ing examination as required by subsection

1 (a), or necessary stabilizing treatment as  
2 required by subsection (b), or

3 “(iv) fails or refuses to accept an ap-  
4 propriate transfer of a patient to a hospital  
5 that has specialized capabilities or facilities  
6 as defined in subsection (g),”.

7 **SEC. 111. EXPANSION OF CRIMINAL PENALTIES FOR KICK-**  
8 **BACKS.**

9 (a) APPLICATION OF CRIMINAL PENALTY AUTHOR-  
10 ITY TO ALL HEALTH CARE BENEFIT PROGRAMS.—Sec-  
11 tion 1128B(b) (42 U.S.C. 1320a–7b(b)) is amended by  
12 striking “Federal health care program” each place it ap-  
13 pears and inserting “health care benefit program”.

14 (b) ATTORNEY GENERAL’S AUTHORITY TO SEEK  
15 CIVIL PENALTIES.—Section 1128B (42 U.S.C. 1320a–7b)  
16 is further amended by adding at the end the following new  
17 subsection:

18 “(g)(1) The Attorney General may bring an action  
19 in the district courts to impose upon any person who car-  
20 ries out any activity in violation of this section with re-  
21 spect to a Federal health care program a civil penalty of  
22 \$25,000 to \$50,000 for each such violation, and damages  
23 of three times the total remuneration offered, paid, solie-  
24 ited, or received.

1 “(2) A violation exists under paragraph (1) is one  
2 or more purposes of the remuneration is unlawful, and the  
3 damages shall be the full amount of such remuneration.

4 “(3) The procedures for actions under paragraph (1)  
5 with regard to subpoenas, statute of limitations, standard  
6 of proof, and collateral estoppel shall be governed by 31  
7 U.S.C. 3731, and the Federal Rules of Civil Procedure  
8 shall apply to actions brought under this section.

9 “(4) This provision does not affect the availability of  
10 other criminal and civil remedies for such violations.”.

11 (c) ATTORNEY GENERAL’S INJUNCTION AUTHOR-  
12 ITY.—Section 1128B (42 U.S.C. 1320a–7b) is further  
13 amended by adding at the end the following new sub-  
14 section:

15 “(h) If the Attorney General has reason to believe  
16 that a person is engaging in conduct constituting an of-  
17 fense under subsection (b) or (g), the Attorney General  
18 may petition an appropriate United States district court  
19 for an order prohibiting that person from engaging in such  
20 conduct. The court may issue an order prohibiting that  
21 person from engaging in such conduct if the court finds  
22 that the conduct constitutes such an offense. The filing  
23 of a petition under this section does not preclude any other  
24 remedy which is available by law to the United States or  
25 any other person.”.

1 (d) DEFINITION.—Section 1128B(f) (42 U.S.C.  
2 1320a–7b(f)) is amended—

3 (1) by redesignating paragraphs (1) and (2) as  
4 subparagraphs (A) and (B);

5 (2) by striking “(f)” and inserting “(f)(1)”; and

6 (3) by adding at the end the following new  
7 paragraph:

8 “(2) For purposes of this section, the term “health  
9 care benefit program” has the meaning given such term  
10 in 18 U.S.C. 24(b).”.

11 (e) CONFORMING AMENDMENTS.—

12 (1) Section 1128A(a) (42 U.S.C. 1320a–7a(a))  
13 is amended in the final sentence by striking  
14 “1128B(f)(1)” and inserting “1128B(f)(1)(A)”; and

15 (2) Section 24(a) of title 18 of the United  
16 States Code is amended—

17 (A) by striking the period at the end of  
18 paragraph (2) and adding a semicolon; and

19 (B) by adding after paragraph (2) the fol-  
20 lowing new paragraph:

21 “(3) section 1128B of the Social Security Act.”.

1       **PART B—PROVIDER ENROLLMENT PROCESS**

2       **SEC. 121. REQUIREMENTS TO DISCLOSE EMPLOYER IDENTIFICATION NUMBERS (EINs) AND SOCIAL SECURITY NUMBERS (SSNs).**

3                               **TIFICATION NUMBERS (EINs) AND SOCIAL SE-**  
4                               **CURITY NUMBERS (SSNs).**  
5       (a) DISCLOSING ENTITIES, OWNERS, AND CONTROL-  
6       LING INTERESTS.—Section 1124 (42 U.S.C. 1320a–3) is  
7       amended by adding after subsection (b) the following new  
8       subsection:

9               “(c) REQUIREMENT TO FURNISH SOCIAL SECURITY  
10       NUMBERS AND EMPLOYER IDENTIFICATION NUMBERS.—  
11       No payment may be made to any disclosing entity under  
12       title V, XVIII, or XIX unless such disclosing entity fur-  
13       nishes to the Secretary both the employer identification  
14       number and social security number of—

15                       “(1) the disclosing entity;

16                       “(2) each person with an ownership or control  
17       interest (as defined in subsection (a)(3)); and

18                       “(3) any subcontractor in which the entity di-  
19       rectly or indirectly has a 5 percent or more owner-  
20       ship interest.”.

21       (b) OTHER MEDICARE PROVIDERS.—Section 1124A  
22       (42 U.S.C. 1320a–3a) is amended—

23                       (1) in subsection (a)—

24                               (A) by striking “and” at the end of para-  
25       graph (1);

1 (B) by striking the period at the end of  
2 paragraph (2) and inserting “; and”; and

3 (C) by adding after paragraph (2) the fol-  
4 lowing new paragraph:

5 “(3) including the employer identification num-  
6 ber and social security number of the disclosing part  
7 B provider and any person, managing employee, or  
8 other entity identified under paragraph (1) or (2).”;  
9 and

10 (2) in subsection (c) by inserting “(or, for pur-  
11 poses of subsection (a)(3), any entity receiving pay-  
12 ment)” after “on an assignment-related basis”.

13 (c) VERIFICATION BY SOCIAL SECURITY ADMINIS-  
14 TRATION (SSA).—Section 1124A (42 U.S.C. 1320a–3a)  
15 is amended—

16 (1) by redesignating subsection (c) as sub-  
17 section (d); and

18 (2) by adding after subsection (b) the following  
19 new subsection:

20 “(c) VERIFICATION BY SOCIAL SECURITY ADMINIS-  
21 TRATION.—

22 “(1) TRANSMITTAL BY HHS.—The Secretary  
23 shall transmit to the Social Security Administration  
24 information concerning each social security number  
25 and employer identification number supplied to the

1 Secretary pursuant to subsection (a)(3) or section  
2 1124(e) to the extent necessary for verification of  
3 such information in accordance with paragraph (2).

4 “(2) VERIFICATION BY SSA.—The Social Secu-  
5 rity Administration shall verify the accuracy of, or  
6 correct, the information supplied by the Secretary  
7 pursuant to paragraph (1), and shall report such  
8 verifications or corrections to the Secretary.

9 “(3) FEES FOR SSA VERIFICATION.—The Sec-  
10 retary shall reimburse the Commissioner of Social  
11 Security, at a rate negotiated between the Secretary  
12 and the Commissioner, for the costs incurred by the  
13 Commissioner in performing the verification and cor-  
14 rection services described in this subsection.”.

15 **SEC. 122. FEES FOR AGREEMENTS WITH MEDICARE PRO-**  
16 **VIDERS AND SUPPLIERS.**

17 (a) FEES RELATED TO MEDICARE PROVIDER AND  
18 SUPPLIER ENROLLMENT AND REENROLLMENT.—Section  
19 1866 is amended—

20 (1) in the heading, by adding “AND ENROLL-  
21 MENT OF OTHER PERSONS FURNISHING  
22 SERVICES” after “PROVIDERS OF SERV-  
23 ICES”; and

24 (2) by adding at the end the following new sub-  
25 section:

1 “(j) ENROLLMENT PROCEDURES AND FEES.—

2 “(1) ENROLLMENT.—The Secretary is author-  
3 ized to establish a procedure for enrollment (and  
4 periodic reenrollment) of individuals or entities that  
5 are not providers of services subject to the provisions  
6 of subsection (a) but that furnish health care items  
7 or services under this title.

8 “(2) FEES.—The Secretary is authorized to im-  
9 pose fees for initiation and renewal of provider  
10 agreements and for enrollment and periodic reenroll-  
11 ment of other individuals and entities furnishing  
12 health care items or services under this title, in  
13 amounts up to the full amount which the Secretary  
14 reasonably estimates to be sufficient to cover the  
15 Secretary’s costs related to the process for initiating  
16 and reviewing such agreements and enrollments.  
17 Fees collected pursuant to this paragraph shall be  
18 credited to a special fund of the United States  
19 Treasury, and shall remain available until expended,  
20 to the extent and in such amounts as provided in  
21 advance in appropriations acts, for necessary ex-  
22 penses for these purposes, including costs of estab-  
23 lishing and maintaining procedures and records sys-  
24 tems; processing applications; and background inves-  
25 tigations.”.

1 **SEC. 123. AUTHORITY TO REFUSE TO ENTER INTO MEDI-**  
2 **CARE OR MEDICAID AGREEMENTS WITH IN-**  
3 **DIVIDUALS OR ENTITIES CONVICTED OF**  
4 **FELONIES.**

5 (a) **MEDICARE PART A.**—Section 1866(b)(2) (42  
6 U.S.C. 1395cc(b)(2)) is amended—

7 (1) by striking “or” at the end of subparagraph  
8 (B);

9 (2) by striking the period at the end of sub-  
10 paragraph (C) and inserting “, or”; and

11 (3) by adding after subparagraph (C) the fol-  
12 lowing new subparagraph:

13 “(D) has ascertained that the provider has  
14 been convicted of a felony under Federal or  
15 State law for an offense which the Secretary de-  
16 termines is inconsistent with the best interests  
17 of program beneficiaries.”.

18 (b) **MEDICARE PART B.**—section 1842 (42 U.S.C.  
19 1395u) is amended by adding after subsection (r) the fol-  
20 lowing new subsection:

21 “(s) The Secretary may refuse to enter into an agree-  
22 ment with a physician or supplier under subsection (h)  
23 or may terminate or refuse to renew such agreement, in  
24 the event that such physician or supplier has been con-  
25 victed of a felony under Federal or State law for an of-

1 fense which the Secretary determines is inconsistent with  
2 the best interests of program beneficiaries.”.

3 (c) MEDICAID.—Section 1902(a)(23) (42 U.S.C.  
4 1396(a)) is amended—

5 (1) by relocating the matter that precedes “pro-  
6 vide that, (A)” immediately before the semicolon;

7 (2) by inserting a semicolon immediately after  
8 “1915”;

9 (3) by striking the comma after “Guam” and  
10 inserting a semicolon; and

11 (4) by inserting before the semicolon at the end  
12 “and except that this provision does not require a  
13 State to provide medical assistance for such services  
14 furnished by a person or entity convicted of a felony  
15 under Federal or State law for an offense which the  
16 State agency determines is inconsistent with the best  
17 interests of beneficiaries under the State plan”.

18 **SEC. 124. FEES AND REQUIREMENTS FOR ISSUANCE OF**

19 **STANDARD HEALTH CARE IDENTIFIERS.**

20 Section 1173(b) is amended by adding after para-  
21 graph (2) the following new paragraphs:

22 “(3) REQUIREMENT TO FURNISH SOCIAL SECU-  
23 RITY NUMBERS AND EMPLOYER IDENTIFICATION  
24 NUMBERS.—The Secretary shall, as appropriate, re-  
25 quire such individuals and entities to provide their

1 social security numbers and employer identification  
2 numbers as a condition to receiving such identifiers.

3 “(4) FEES.—The Secretary may impose fees for  
4 issuing such identifiers, in amounts which the Sec-  
5 retary reasonably estimates to be sufficient to cover  
6 all costs to the Secretary associated with such activ-  
7 ity. Physicians subject to fees under section 1842(r)  
8 shall not be subject to fees under this paragraph.  
9 Fees collected pursuant to this paragraph shall be  
10 credited to a special fund of the United States  
11 Treasury, and shall remain available until expended,  
12 to the extent and in such amounts as provided in ad-  
13 vance in appropriations acts, for costs incurred by  
14 the Secretary in issuing such identifiers, including  
15 costs of establishing and maintaining an automated  
16 database and procedures; processing applications;  
17 and verifying information provided.”.

18 **TITLE II—PROVIDER REIM-**  
19 **BURSEMENT AND RELATED**  
20 **MATTERS**

21 **PART A—COVERAGE AND PAYMENT LIMITS**

22 **SEC. 201. NO HOME HEALTH BENEFITS BASED SOLELY ON**  
23 **DRAWING BLOOD.**

24 (a) IN GENERAL.—Sections 1814(a)(2)(C) and  
25 1835(a)(2)(A) (42 U.S.C. 1395f(a)(2)(C) and

1 1395n(a)(2)(A)) are each amended by inserting “(other  
2 than solely venipuncture for the purpose of obtaining a  
3 blood sample)” after “skilled nursing care”.

4 (b) EFFECTIVE DATE.—The amendments made by  
5 subsection (a) apply to home health services furnished  
6 after the sixth month beginning after the date of enact-  
7 ment of this Act.

8 **SEC. 202. MONTHLY CERTIFICATION FOR HOSPICE CARE**  
9 **AFTER FIRST SIX MONTHS.**

10 (a) IN GENERAL.—Sections 1812(a)(4) (42 U.S.C.  
11 1395d(a)(4)) is amended by striking “a subsequent period  
12 of 30 days, and a subsequent extension period” and insert-  
13 ing “and subsequent periods of 30 days each,”.

14 (b) CONFORMING AMENDMENTS.—

15 (1) SECTION 1812(d).—Section 1812(d) (42  
16 U.S.C. 1395d(d)) is amended—

17 (A) in paragraph (1), by striking “only  
18 during two periods of 90 days each” and all  
19 that follows through “with respect to each such  
20 period, if” and inserting “during a particular  
21 period only if, with respect to that period,”; and

22 (B) in the matter in paragraph (2)(B) pre-  
23 ceding clause (i), by striking “90-day or 30-day  
24 period or a subsequent extension”.

1           (2) SECTION 1814(a).—Section 1814(a)(7)(A)  
2           (42 U.S.C. 1395f(a)(7)(A)) is amended—

3                   (A) by adding “and” at the end of clause  
4                   (i);

5                   (B) by striking “, and” at the end of  
6                   clause (ii) and adding a semicolon; and

7                   (C) by striking clause (iii).

8           (c) EFFECTIVE DATE.—The amendments made by  
9 the preceding subsections apply to hospice care furnished  
10 after the sixth month beginning after the date of enact-  
11 ment of this Act.

12 **SEC. 203. PAYMENT FOR HOME HOSPICE CARE BASED ON**  
13 **LOCATION WHERE CARE IS FURNISHED.**

14           (a) IN GENERAL.—Section 1814(i)(2) (42 U.S.C.  
15 1395f(i)(2)) is amended by adding at the end the follow-  
16 ing:

17                   “(D) A hospice program shall submit claims for pay-  
18 ment for hospice care furnished in an individual’s home  
19 under this title only on the basis of the geographic location  
20 at which the service is furnished, as determined by the  
21 Secretary.”.

22           (b) EFFECTIVE DATE.—The amendment made by  
23 subsection (a) applies to cost reporting periods beginning  
24 on or after October 1, 1997.

1 **SEC. 204. LIMITATION ON HOSPICE CARE LIABILITY FOR**  
2 **INDIVIDUALS NOT IN FACT TERMINALLY ILL.**

3 (a) **IN GENERAL.**—Section 1879(g) (42 U.S.C.  
4 1395pp(g)) is amended to read as follows:

5 “(g) A coverage denial described in this subsection  
6 is—

7 “(1) with respect to the provision of home  
8 health services to an individual, a failure to meet the  
9 requirements of section 1814(a)(2)(C) or section  
10 1835(a)(2)(A) in that the individual—

11 “(A) is or was not confined to his home;

12 or

13 “(B) does or did not need skilled nursing  
14 care on an intermittent basis; and

15 “(2) with respect to the provision of hospice  
16 care to an individual, a failure to meet the require-  
17 ment of section 1861(dd)(3)(A).”.

18 (b) **CONFORMING AMENDMENT.**—Section  
19 1879(f)(4)(A) (42 U.S.C. 1395pp(f)(4)(A)) is amended by  
20 striking “subsection (g)” and inserting “subsection  
21 (g)(1)”.

22 (c) **EFFECTIVE DATE.**—The amendments made by  
23 the preceding subsections apply to services furnished after  
24 the date of enactment of this Act.

1 **SEC. 205. MEDICARE CAPITAL ASSET SALES PRICE EQUAL**  
2 **TO BOOK VALUE.**

3 (a) **IN GENERAL.**—Section 1861(v)(1)(o) (42 U.S.C.  
4 1395x(v)(1)(O)) is amended—

5 (1) in clause (i)—

6 (A) by striking “and (if applicable) a re-  
7 turn on equity capital”;

8 (B) by striking “hospital or skilled nursing  
9 facility” and inserting “provider of services”;

10 (C) by striking “clause (iv)” and inserting  
11 “clause (iii)”; and

12 (D) by striking “the lesser of the allowable  
13 acquisition cost” and all that follows up to the  
14 period and inserting “the historical cost of the  
15 asset, as recognized under this title, less depre-  
16 ciation allowed, to the owner of record as of the  
17 date of enactment of the Medicare and Medic-  
18 aid Fraud, Abuse and Waste Prevention  
19 Amendments of 1997 (or, in the case of an  
20 asset not in existence as of that date, the first  
21 owner of record of the asset after that date)”;

22 (2) by striking clause (ii); and

23 (3) by renumbering clauses (iii) and (iv) as (ii)  
24 and (iii), respectively.

25 (b) **EFFECTIVE DATE.**—The amendments made by  
26 subsection (a) apply to changes of ownership that occur

1 after the third month beginning after the date of enact-  
2 ment of this Act.

3 **SEC. 206. REPEAL OF MORATORIUM ON BAD DEBT POLICY.**

4 Section 4008(c) of the Omnibus Budget Reconcili-  
5 ation Act of 1987 (42 U.S.C. 1395f note) is repealed.

6 **PART B—BANKRUPTCY PROVISIONS**

7 **SEC. 221. APPLICATION OF CERTAIN PROVISIONS OF THE**  
8 **BANKRUPTCY CODE.**

9 (a) RESTRICTED APPLICABILITY OF BANKRUPTCY  
10 STAY, DISCHARGE, AND PREFERENTIAL TRANSFER PRO-  
11 VISIONS TO MEDICARE AND MEDICAID DEBTS.—Title XI  
12 is amended by inserting after section 1143 the following  
13 new section:

14 “APPLICATION OF CERTAIN PROVISIONS OF THE  
15 BANKRUPTCY CODE

16 “SEC. 1144. (a) MEDICARE AND MEDICAID-RELAT-  
17 ED ACTIONS NOT STAYED BY BANKRUPTCY PROCEED-  
18 INGS.—The commencement or continuation of any action  
19 against a debtor under this title or title XVIII or XIX  
20 (other than an action with respect to health care services  
21 for the debtor under title XVIII), including any action or  
22 proceeding to exclude or suspend the debtor from program  
23 participation, assess civil money penalties, recoup or set  
24 off overpayments, or deny or suspend payment of claims  
25 shall not be subject to the provisions of section 362(a) of  
26 title 11 of the United States Code.



1 in the case of claims by a debtor in bankruptcy for pay-  
2 ment under this title, the determination of whether the  
3 claim is allowable, and of the amount payable, shall be  
4 made in accordance with the provisions of this title and  
5 title XI and implementing regulations.

6       “(b) NOTICE TO CREDITOR OF BANKRUPTCY PETI-  
7 TIONER.—In the case of a debt owed to the United States  
8 with respect to items or services provided, or claims for  
9 payment made, under this title (including a debt arising  
10 from an overpayment or a penalty, fine, or assessment  
11 under title XI of this title), the notices to the creditor of  
12 bankruptcy petitions, proceedings, and relief required  
13 under title 11 of the United States Code (including under  
14 section 342 of that title and section 2002(j) of the Federal  
15 Rules of Bankruptcy Procedure) shall be given to the Sec-  
16 retary. Provision of such notice to a fiscal agent of the  
17 Secretary shall not be considered to satisfy this require-  
18 ment.

19       “(c) TURNOVER OF PROPERTY TO THE BANKRUPTCY  
20 ESTATE.—For purposes of section 542(b) of title 11 of  
21 the United States Code, a claim for payment under this  
22 title shall not be considered to be a matured debt payable  
23 to the estate of a debtor until such claim has been allowed  
24 by the Secretary in accordance with procedures under this  
25 title.”.

1 **TITLE III—MEDICARE MENTAL**  
2 **HEALTH PARTIAL HOS-**  
3 **PITALIZATION SERVICES**

4 **SEC. 301. SERVICES NOT TO BE FURNISHED IN RESIDEN-**  
5 **TIAL SETTINGS.**

6 (a) IN GENERAL.—Section 1861(ff)(3)(A) (42  
7 U.S.C. 1395x(ff)(3)(A)) is amended by inserting “other  
8 than in an individual’s home or in an inpatient or residen-  
9 tial setting” before the period.

10 (b) EFFECTIVE DATE.—The amendment made by  
11 subsection (a) applies to services furnished after the sixth  
12 month beginning after the date of enactment of this Act.

13 **SEC. 302. ADDITIONAL REQUIREMENTS FOR COMMUNITY**  
14 **MENTAL HEALTH CENTERS.**

15 (a) CRITERIA FOR PROVIDING SERVICES.—Section  
16 1861(ff)(3)(B) (42 U.S.C. 1395x(ff)(3)(B)) is amended  
17 by striking “entity—” and all that follows and inserting  
18 the following:

19 “entity that—

20 “(i) provides the community mental health serv-  
21 ices specified in section 1913(c)(1) of the Public  
22 Health Service Act;

23 “(ii) meets applicable certification or licensing  
24 requirements for community mental health centers  
25 in the State in which it is located;

1           “(iii) is providing a significant share of its serv-  
2           ices to individuals who are not eligible for benefits  
3           under this title; and

4           “(iv) meets such additional conditions as the  
5           Secretary may specify in the interest of the health  
6           and safety of individuals furnished services, or for  
7           the effective or efficient furnishing of services.”.

8           (b) **EFFECTIVE DATE.**—The amendments made by  
9           subsection (a) apply to services furnished after the sixth  
10          month beginning after the date of enactment of this Act.

11 **SEC. 303. PROSPECTIVE PAYMENT SYSTEM.**

12          (a) **ESTABLISHMENT OF SYSTEM.**—Section 1833 (42  
13          U.S.C. 13951) is amended by inserting after subsection  
14          (o) the following new subsection:

15          “(p) **PROSPECTIVE PAYMENT SYSTEM FOR PARTIAL**  
16          **HOSPITALIZATION SERVICES PROVIDED BY A COMMUNITY**  
17          **MENTAL HEALTH CENTER.**—The Secretary may establish  
18          by regulation a prospective payment system for partial  
19          hospitalization services provided by a community mental  
20          health center. The system shall provide for appropriate  
21          payment levels for efficient centers and take into account  
22          payment levels for similar services furnished by other enti-  
23          ties.”.

24          (b) **COINSURANCE AT 20 PERCENT OF PROSPECTIVE**  
25          **PAYMENT BASIS.**—Section 1866(a)(2)(A) (42 U.S.C.

1 1395cc(a)(2)(A)) is amended by adding at the end the fol-  
2 lowing: “In the case of services described in section  
3 1832(a)(2)(J), clause (ii) of the first sentence of this sub-  
4 paragraph shall be applied by substituting the payment  
5 basis established under section 1833(p) for the reasonable  
6 charges.”.

7 (c) CONFORMING AMENDMENTS.—Section 1833(a)  
8 (42 U.S.C. 1395l(a)) is amended—

9 (1) in the matter in paragraph (2) preceding  
10 subparagraph (A), by striking “and (I)” and insert-  
11 ing “(I), and (J)”;

12 (2) by striking “and” at the end of paragraph  
13 (6);

14 (3) by striking the period at the end of para-  
15 graph (7) and adding “; and”; and

16 (4) by adding at the end the following new  
17 paragraph:

18 “(8) in the case of services described in section  
19 1832(a)(2)(J), 80 percent of the payment basis  
20 under the prospective payment system established  
21 under section 1833(p).”.

22 (d) EFFECTIVE DATE.—The amendments made by  
23 subsections (b) and (c) apply to services furnished after  
24 the first calendar year that ends at least six months after

1 the date on which regulations are issued under section  
2 1833(p) of the Social Security Act (42 U.S.C. 1395l(p)).

3 **TITLE IV—MEDICARE RURAL**  
4 **HEALTH CLINICS**

5 **SEC. 401. PER-VISIT PAYMENT LIMITS FOR PROVIDER-**  
6 **BASED CLINICS.**

7 (a) EXTENSION OF LIMIT.—

8 (1) AMENDMENT.—The matter in section  
9 1833(f) (42 U.S.C. 1395l(f)) preceding paragraph  
10 (1) is amended by striking “independent rural  
11 health clinics” and inserting “rural health clinics  
12 (other than such clinics in rural hospitals with less  
13 than 50 beds)”.

14 (2) EFFECTIVE DATE.—The amendment made  
15 by paragraph (1) applies to services furnished after  
16 1997.

17 (b) TECHNICAL CLARIFICATION.—Section 1833(f)(1)  
18 (42 U.S.C. 1395l(f)(1)) is amended by inserting “per  
19 visit” after “\$46”.

20 **SEC. 402. ASSURANCE OF QUALITY SERVICES.**

21 (a) IN GENERAL.—Subparagraph (I) of the first sen-  
22 tence of section 1861(aa)(2) (42 U.S.C. 1395x(aa)(2)) is  
23 amended to read as follows:

24 “(I) has a quality assessment and performance  
25 improvement program, and appropriate procedures

1 for review of utilization of clinic services, as the Sec-  
2 retary may specify.”.

3 (b) EFFECTIVE DATE.—The amendment made by  
4 subsection (a) shall take effect on January 1, 1998.

5 **SEC. 403. WAIVER OF CERTAIN STAFFING REQUIREMENTS**  
6 **LIMITED TO CLINICS IN PROGRAM.**

7 (a) IN GENERAL.—Section 1861(aa)(7)(B) (42  
8 U.S.C. 1395x(aa)(7)(B)) is amended by inserting “, or if  
9 the facility has not yet been determined to meet the re-  
10 quirements (including subparagraph (J) of the first sen-  
11 tence of paragraph (2)) of a rural health clinic.”.

12 (b) EFFECTIVE DATE.—The amendment made by  
13 subsection (a) applies to waiver requests made after 1997.

14 **SEC. 404. REFINEMENT OF SHORTAGE AREA REQUIRE-**  
15 **MENTS.**

16 (a) DESIGNATION REVIEWED TRIENNIALLY.—Sec-  
17 tion 1861(aa)(2) (42 U.S.C. 1395x(aa)(2)) is amended in  
18 the second sentence, in the matter in clause (i) preceding  
19 subclause (I)—

20 (1) by striking “and that is designated” and in-  
21 serting “and that, within the previous three-year pe-  
22 riod, has been designated”; and

23 (2) by striking “or that is designated” and in-  
24 serting “or designated”.

1 (b) AREA MUST HAVE SHORTAGE OF HEALTH CARE  
2 PRACTITIONERS.—Section 1861(aa)(2) (42 U.S.C.  
3 1395x(aa)(2)), as amended by subsection (a), is further  
4 amended in the second sentence, in the matter in clause  
5 (i) preceding subclause (I)—

6 (1) by striking the comma after “personal  
7 health services”; and

8 (2) by inserting “and in which there are insuffi-  
9 cient numbers of needed health care practitioners  
10 (as determined by the Secretary),” after “Bureau of  
11 the Census”).

12 (c) PREVIOUSLY QUALIFYING CLINICS GRAND-  
13 FATHERED ONLY TO PREVENT SHORTAGE.—Section  
14 1861(aa)(2) (42 U.S.C. 1395x(aa)(2)) is amended in the  
15 third sentence by inserting before the period “if it is deter-  
16 mined, in accordance with criteria established by the Sec-  
17 retary in regulations, to be essential to the delivery of pri-  
18 mary care services that would otherwise be unavailable in  
19 the geographic area served by the clinic”.

20 (d) EFFECTIVE DATES; IMPLEMENTING REGULA-  
21 TIONS.—

22 (1) IN GENERAL.—Except as otherwise pro-  
23 vided, the amendments made by the preceding sub-  
24 sections take effect on January 1 of the first cal-

1       endar year beginning at least one month after enact-  
2       ment of this Act.

3           (2) CURRENT RURAL HEALTH CLINICS.—The  
4       amendments made by the preceding subsections take  
5       effect, with respect to entities that are rural health  
6       clinics under title XVIII of the Social Security Act  
7       on the date of enactment of this Act, on January 1  
8       of the second calendar year following the calendar  
9       year specified in paragraph (1).

10          (3) GRANDFATHERED CLINCS.—

11           (A) IN GENERAL.—The amendment made  
12       by subsection (c) shall take effect on the effec-  
13       tive date of regulations issued by the Secretary  
14       under subparagraph (B).

15           (B) REGULATIONS.—The Secretary shall  
16       issue final regulations implementing subsection  
17       (c) that shall take effect no later than January  
18       1 of the third calendar year beginning at least  
19       one month after enactment of this Act.

20 **SEC. 405. DECREASED BENEFICIARY COST SHARING FOR**  
21 **RHC SERVICES.**

22          (a) IN GENERAL.—Clause (ii) of the second sentence  
23 of section 1861(aa)(2) (42 U.S.C. 1395x(aa)(2)) is  
24 amended by striking “pursuant to subsections (a) and (b)  
25 of section 1833” and inserting “described in section

1 1833(b) or clause (ii) of the first sentence of section  
2 1866(a)(2)(A) (but any coinsurance amount shall not ex-  
3 ceed 20 percent of the limit described in section 1833(f),  
4 and no coinsurance amount shall be imposed for items and  
5 services described in section 1861(s)(10)(A))”.

6 (b) CONFORMING AND TECHNICAL AMENDMENT.—  
7 Section 1833(a)(3) (42 U.S.C. 1395l(a)(3)) is amended  
8 to read as follows:

9 “(3)(A) in the case of rural health clinic serv-  
10 ices, the costs which—

11 “(i) are (I) reasonable and related to the  
12 cost of furnishing such services or (II) based on  
13 such other tests of reasonableness as the Sec-  
14 retary may prescribe in regulations, including  
15 those authorized under section 1861(v)(1)(A);

16 “(ii) do not exceed the limit under sub-  
17 section (f);

18 “(iii) are reduced by any deductible or co-  
19 insurance amount a clinic or center may charge  
20 as described in clause (ii) of the second sen-  
21 tence of section 1861(aa)(2); and

22 “(iv) do not exceed 80 percent of such  
23 costs determined under the preceding clauses  
24 (other than for items and services described in  
25 section 1861(s)(10)(A)); and

1           “(B) in the case of Federally qualified health  
2 center services and services described in subpara-  
3 graph (E) of section 1832(a)(2), the costs which—

4                   “(i) are (I) reasonable and related to the  
5 cost of furnishing such services or (II) based on  
6 such other tests of reasonableness as the Sec-  
7 retary may prescribe in regulations, including  
8 those authorized under section 1861(v)(1)(A);

9                   “(ii) are reduced by the amount a provider  
10 may charge as described in clause (ii) of section  
11 1866(a)(2)(A); and

12                   “(iii) do not exceed 80 percent of such  
13 costs determined under the preceding clauses  
14 (other than for items and services described in  
15 section 1861(s)(10)(A));”.

16       (c) EFFECTIVE DATE.—The amendments made by  
17 the preceding subsections apply to services furnished after  
18 1997.

19 **SEC. 406. PROSPECTIVE PAYMENT SYSTEM FOR RHC SERV-**  
20 **ICES.**

21       (a) ESTABLISHMENT OF SYSTEM.—Section 1833 (42  
22 U.S.C. 1395l) is amended by adding at the end the follow-  
23 ing new subsection:

24       “(t) RURAL HEALTH CLINIC SERVICES.—

1           “(1) ESTABLISHMENT OF PROSPECTIVE PAY-  
2           MENT SYSTEM.—The Secretary shall establish by  
3           regulation (which may be an interim final regula-  
4           tion) a prospective payment system for rural health  
5           clinic services. The regulation shall be issued no  
6           later than June 30, 2000.

7           “(2) ADJUSTMENTS FOR INAPPROPRIATE UTILI-  
8           ZATION.—The Secretary may provide for adjust-  
9           ments to the payment levels under the prospective  
10          payment system to take into account excessive utili-  
11          zation (if any) of rural health clinic services.

12          “(3) ANNUAL UPDATE.—The Secretary shall  
13          provide for an annual update to the payment levels  
14          under the prospective payment system.

15          “(4) BUDGET NEUTRAL PAYMENTS.—The Sec-  
16          retary shall establish the initial payment levels under  
17          paragraph (1) in a manner that results in aggregate  
18          payments (including payments by individuals to  
19          whom services are provided) for the first year, as es-  
20          timated by the Secretary, approximately equal to the  
21          aggregate payments that would have otherwise been  
22          made under this part.”.

23          (b) COINSURANCE AT 20 PERCENT OF PROSPECTIVE  
24          PAYMENT BASIS.—Clause (ii) of the second sentence of  
25          section 1861(aa)(2) (42 U.S.C. 1395x(aa)(2)) (as amend-

1 ed by section 405(a) of this Act) is further amended by  
2 striking “described in section 1833(b) or clause (ii) of the  
3 first sentence of section 1866(a)(2)(A) (but any coinsur-  
4 ance amount shall not exceed 20 percent of the limit de-  
5 scribed in section 1833(f), and” and inserting “described  
6 in section 1833(b) (for any deductible amount) and 20  
7 percent of the payment basis under the prospective pay-  
8 ment system established under section 1833(t) (for any  
9 coinsurance amount, but”.

10 (c) CONFORMING AMENDMENTS.—

11 (1) SEC. 1833(a)(3)(A).—Section  
12 1833(a)(3)(A) (42 U.S.C. 1395l(a)(3)(A)) (as en-  
13 acted by section 405(b) of this Act) is amended by  
14 striking everything after “rural health clinic serv-  
15 ices,” and inserting “80 percent of the payment  
16 basis under the prospective payment system estab-  
17 lished under section 1833(t) (or 100 percent, for  
18 items and services described in section  
19 1861(s)(10)(A)); and”.

20 (2) SEC. 1833(f).—Section 1833(f) (42 U.S.C.  
21 1395l(f)) is repealed.

22 (d) EFFECTIVE DATE.—The amendments made by  
23 subsections (b) and (c) apply to services furnished after  
24 the first calendar year that ends at least six months after

1 the date on which regulations are issued under section  
2 1833(t) of the Social Security Act (42 U.S.C. 1395l(t)).

○