

105TH CONGRESS
1ST SESSION

S. 795

To improve the quality of health plans and health care that is provided through the Federal Government and to protect health care consumers.

IN THE SENATE OF THE UNITED STATES

MAY 22, 1997

Mr. LIEBERMAN (for himself, Mr. JEFFORDS, Mr. CHAFEE, Mr. BREAUX, Ms. COLLINS, and Mr. ROCKEFELLER) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To improve the quality of health plans and health care that is provided through the Federal Government and to protect health care consumers.

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 “Federal Health Care Quality, Consumer Information and
6 Protection Act”.

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

Sec. 1. Short title; table of contents.

Sec. 2. Findings and purposes.

Sec. 3. Definitions.

TITLE I—FEDERAL HEALTH PLAN QUALITY COUNCIL

Sec. 101. Establishment.
 Sec. 102. Members of the Council.
 Sec. 103. Personnel and expenses.
 Sec. 104. Quality Advisory Institute.
 Sec. 105. Powers.
 Sec. 106. Duties.
 Sec. 107. Authorization of appropriations.

TITLE II—COVERAGE OF FEDERAL HEALTH CARE PROGRAMS

Sec. 201. Compliance.
 Sec. 202. Payments for value.

TITLE III—CERTIFICATION OF FEDERAL HEALTH PLAN
 CONTRACTS

Sec. 301. Requirement.
 Sec. 302. Licensing of certification entities.
 Sec. 303. Certification criteria.
 Sec. 304. Grievance and appeals.

TITLE IV—FEDERAL HEALTH PLAN CONTRACT PERFORMANCE

Sec. 401. Uniform performance criteria.

TITLE V—EXPANSION OF HEALTH CARE QUALITY ACTIVITIES

Sec. 501. Expanded role for the Agency for Health Care Policy and Research.
 Sec. 502. Increase in funding for Outcomes Research.

TITLE VI—MISCELLANEOUS PROVISIONS.

Sec. 601. Effective date.

1 SEC. 2. FINDINGS AND PURPOSES.

2 (a) FINDINGS.—Congress finds that—

3 (1) the Federal Government has unique influ-
 4 ence in the health care marketplace due to its role
 5 as the largest purchaser of health care services;

6 (2) there are wide variations in the quality of
 7 care as well as concern with the minimum level of
 8 care offered to participants and beneficiaries in pro-
 9 grams of the Federal Government;

1 (3) participants and beneficiaries lack informa-
2 tion on the quality of health care services provided
3 by health care plans to guide them in selecting a
4 health plan and to support, maintain, and improve
5 their health; and

6 (4) providing information about the quality of
7 health care would assist competition based on qual-
8 ity that will increase the quality of health care serv-
9 ices for all.

10 (b) PURPOSES.—It is the purpose of this Act—

11 (1) to use the purchasing power of the Federal
12 Government to continually improve the quality of
13 health care services for participants and beneficiaries
14 in Federal health care programs by empowering
15 health care professionals and participants and bene-
16 ficiaries through the provision of better information
17 for use in making health care decisions;

18 (2) to provide a mechanism for the development
19 of health care benchmarks to be used to compare
20 one Federal health plan contract with another;

21 (3) to provide for the dissemination of compara-
22 tive information to participants and beneficiaries to
23 assist them in their selection of health plans;

24 (4) to provide for the establishment of a Fed-
25 eral Health Plan Quality Council to develop certifi-

1 cation criteria for Federal health plan contractors
2 and to otherwise promote the protection of partici-
3 pants and beneficiaries in Federal health care pro-
4 grams;

5 (5) to provide for ongoing research into better
6 health care measurement systems;

7 (6) to provide uniformity across Federal agen-
8 cies and health plans for participants and bene-
9 ficiaries in Federal health care programs with re-
10 spect to minimum criteria and comparative bench-
11 marks used to evaluate health care quality;

12 (7) to provide a basis for valuing health care
13 services provided by different health plans for par-
14 ticipants and beneficiaries in Federal health care
15 programs; and

16 (8) to increase coordination among private and
17 public purchasers of health care services and patient
18 and consumer representatives to develop an in-
19 creased level of public involvement in improving the
20 quality of health care and health status.

21 **SEC. 3. DEFINITIONS.**

22 In this Act:

23 (1) COUNCIL.—The term “Council” means the
24 Federal Health Plan Quality Council established
25 under section 101.

1 (2) FEDERAL HEALTH PLAN CONTRACTOR.—

2 The term “Federal health plan contractor” means
3 any entity that contracts with a Federal agency (or
4 a State or local entity in the case of contracts under
5 title XIX of the Social Security Act), as authorized
6 under any Federal program, to provide or pay the
7 cost of medical care, or to otherwise provide health
8 insurance coverage through such program (referred
9 to as a “Federal health plan contract”), including—

10 (A) health insurance coverage under the
11 Federal Employee Health Benefit Program
12 under title 5, United States Code;

13 (B) coverage provided by an eligible orga-
14 nization under section 1876 of the Social Secu-
15 rity Act (42 U.S.C. 1395mm) or an entity oper-
16 ating under a waiver from the provisions of the
17 medicare program under title XVIII of such Act
18 and providing items and services to individuals
19 eligible for such program on a capitated basis;

20 (C) coverage through a health maintenance
21 organization or other entity that contracts with
22 the State to provide medical assistance to indi-
23 viduals under the medicaid program under title
24 XIX of the Social Security Act (42 U.S.C. 1396
25 et seq.);

1 (D) coverage through a health mainte-
2 nance organization or other entity that con-
3 tracts with the Secretary of Defense to provide
4 medical assistance to individuals under the
5 TRICARE program established under the au-
6 thority of chapter 55 of title 10, United States
7 Code; and

8 (E) coverage through a health maintenance
9 organization or other entity that contracts with
10 the Secretary of Veterans Affairs to provide
11 medical assistance to individuals under a veter-
12 ans health care program under chapter 17 of
13 title 38, United States Code.

14 (3) HEALTH CARE PROVIDER.—The term
15 “health care provider” means anyone licensed or cer-
16 tified under State law to provide health care services
17 who is operating within the scope of such license.

18 (4) INSTITUTE.—The term “Institute” means
19 the Quality Advisory Institute established under sec-
20 tion 104.

21 (5) LICENSED CERTIFYING ENTITY.—The term
22 “licensed certifying entity” means an entity licensed
23 by the Council to provide certification services under
24 title III.

1 (6) MEDICAL CARE.—The term “medical care”
2 means amounts paid for—

3 (A) the diagnosis, cure, mitigation, treat-
4 ment, or prevention of disease, or for the pur-
5 pose of affecting any structure or function of
6 the body;

7 (B) transportation primarily for and essen-
8 tial to medical care referred to in subparagraph
9 (A); and

10 (C) insurance covering medical care re-
11 ferred to in subparagraphs (A) and (B).

12 (7) STATE.—The term “State” means each of
13 the several States, the District of Columbia, Puerto
14 Rico, the Virgin Islands, Guam, American Samoa,
15 and the Northern Mariana Islands.

16 **TITLE I—FEDERAL HEALTH**
17 **PLAN QUALITY COUNCIL**

18 **SEC. 101. ESTABLISHMENT.**

19 (a) IN GENERAL.—There is established an independ-
20 ent council to be known as the “Federal Health Plan
21 Quality Council”.

22 (b) GENERAL DUTIES.—The Council shall—

23 (1)(A) monitor, oversee, and ensure the effec-
24 tive evaluation of health care programs financed
25 under the authority of the Federal Government, to

1 the extent authorized under this Act, through the
2 development of—

3 (i) health plan or health system certifi-
4 cation criteria;

5 (ii) comparative information concerning
6 the quality of care and the dissemination of this
7 information in accordance with this Act; and

8 (iii) payments for performance based or ex-
9 plicit quality standards; and

10 (B) endorse and direct the participation of the
11 Federal Government in regional health care account-
12 ability initiatives that develop comparative informa-
13 tion concerning the quality of care, disseminate qual-
14 ity information, and support quality initiatives;

15 (2) provide advice to the President and Con-
16 gress concerning the protection and quality of the
17 health of all participants and beneficiaries under
18 Federal health plan contracts; and

19 (3) perform any other duties necessary to carry
20 out this Act.

21 **SEC. 102. MEMBERS OF THE COUNCIL.**

22 (a) APPOINTMENT.—The Council shall be composed
23 of at least 9 members of which—

24 (1) at least 4 members shall be the Federal
25 trustees described in subsection (b)(1); and

1 (2) 5 members shall be public trustees ap-
2 pointed under subsection (b)(2) (in this section re-
3 ferred to as the “public trustees”).

4 (b) MEMBERSHIP.—

5 (1) FEDERAL TRUSTEES.—The agency adminis-
6 trator of each of the health care programs described
7 in section 3(2)(C) (or their designees) shall serve on
8 the Council as a permanent Federal trustee. Such
9 trustees shall include—

10 (A) the Secretary of Health and Human
11 Service;

12 (B) the Secretary of Defense;

13 (C) the Secretary of Veterans Affairs; and

14 (D) the Director of the Office of Personnel
15 Management.

16 (2) PUBLIC TRUSTEES.—The public trustees
17 shall be appointed by the President by and with the
18 advice and consent of the Senate, and shall have ex-
19 pertise pertaining to—

20 (A) the measurement of the quality of
21 health care;

22 (B) the purchase of health care in the pri-
23 vate market;

24 (C) medical ethics;

1 (D) the delivery and provision of health
2 care; and

3 (E) the needs of participants and bene-
4 ficiaries in health care plans described in sec-
5 tion 3(2).

6 (3) TERMS AND VACANCIES.—

7 (A) TERMS.—Except as otherwise provided
8 in this paragraph, the public trustees shall be
9 appointed for a term of 3 years.

10 (B) INITIAL TRUSTEES.—Of the public
11 trustees first appointed to the Council—

12 (i) 2 trustees shall be appointed for a
13 term of 1 year;

14 (ii) 2 trustees shall be appointed for a
15 term of 2 years; and

16 (iii) 1 trustee shall be appointed for a
17 term of 3 years;

18 as designated by the President at the time of
19 nomination of each such trustee.

20 (C) LIMITATION.—At the expiration of the
21 term of office of a public trustee, that trustee
22 shall continue to hold office until a successor
23 for such trustee is appointed and has qualified,
24 except that such trustee shall not continue to
25 serve beyond the expiration of the next session

1 of Congress subsequent to the expiration of the
2 fixed term of office.

3 (D) VACANCIES.—A vacancy in the mem-
4 bership of the Council shall not affect the pow-
5 ers of the Council and shall be filled in the
6 same manner as the original appointment, ex-
7 cept that any trustee appointed to fill a vacancy
8 that occurs prior to the expiration of the term
9 for which the predecessor of the trustee was ap-
10 pointed shall be appointed for the remainder of
11 such term.

12 (e) CHAIRPERSON AND VICE CHAIRPERSON.—The
13 Majority Leader of the Senate and the Speaker of the
14 House of Representatives, in consultation with the Minor-
15 ity Leader of the Senate and the Minority Leader of the
16 House of Representatives, shall select a Chairperson and
17 Vice Chairperson from among the public trustees of the
18 Council. A public trustee may not serve as Chairperson
19 for more than 6 years.

20 (d) MEETINGS.—

21 (1) INITIAL MEETING.—Not later than 90 days
22 after the date on which all public trustees of the
23 Council have been appointed, the Council shall hold
24 its first meeting.

1 (2) MEETINGS.—The Council shall meet at the
2 call of the Chairperson but in no case less than
3 quarterly.

4 (3) QUORUM.—A majority of the trustees of the
5 Council shall constitute a quorum, but a lesser num-
6 ber of trustees may hold hearings.

7 (e) COMPENSATION OF PUBLIC TRUSTEES.—Section
8 5315 of title 5, United States Code, is amended by adding
9 at the end the following:

10 “Public Trustee, Federal Health Plan Quality
11 Council”.

12 (f) CONFLICT OF INTEREST.—No public trustee of
13 the Council shall engage in any other business, vocation,
14 or employment than that of serving as a public trustee
15 of the Council, nor shall any such trustee participate, di-
16 rectly or indirectly, in any operations or transactions of
17 a character subject to regulation by the Council pursuant
18 to this Act.

19 **SEC. 103. PERSONNEL AND EXPENSES.**

20 (a) STAFF.—The Council may appoint and fix the
21 compensation of such officers and other experts and em-
22 ployees as may be necessary for carrying out the functions
23 of the Council under this Act and shall fix the salaries
24 of such officers, experts, and employees in accordance with

1 chapter 51 and subchapter III of chapter 53 of title 5,
2 United States Code.

3 (b) DETAIL OF GOVERNMENT EMPLOYEES.—Any
4 Federal Government employee may be detailed to the
5 Council without reimbursement (other than the regular
6 compensation of the employee), and such detail shall be
7 without interruption or loss of civil service status or privi-
8 lege.

9 (c) CONTRACTING AUTHORITY.—Notwithstanding
10 any other provision of law, the Council may enter directly
11 into contracts with entities as the Council determines nec-
12 essary to carry out the functions of the Council under this
13 Act.

14 (d) PROCUREMENT OF TEMPORARY AND INTERMIT-
15 TENT SERVICES.—The Chairperson of the Council may
16 procure temporary and intermittent services under section
17 3109(b) of title 5, United States Code, at rates for individ-
18 uals which do not exceed the daily equivalent of the annual
19 rate of basic pay prescribed for level V of the Executive
20 Schedule under section 5316 of such title.

21 (e) LEASING AUTHORITY.—Notwithstanding any
22 other provision of law, the Council may enter directly into
23 leases for real property for office, meeting, storage, and
24 such other space as may be necessary to carry out the
25 functions of the Council under this Act, and shall be ex-

1 empty from any General Services Administration space
2 management regulations or directives.

3 (f) ACCEPTANCE OF PAYMENTS.—

4 (1) IN GENERAL.—Notwithstanding any other
5 provision of law, in accordance with regulations
6 which the Council shall prescribe to prevent conflicts
7 of interest, the Council may accept payment and re-
8 imbursement, in cash or in kind, from non-Federal
9 agencies, organizations, and individuals for travel,
10 subsistence, and other necessary expenses incurred
11 by trustees of the Council in attending meetings and
12 conferences concerning the functions or activities of
13 the Council.

14 (2) CREDIT OF ACCOUNT.—Any payment or re-
15 imbursement accepted shall be credited to the appro-
16 priated funds of the Council.

17 (3) AMOUNT.—The amount of travel, subsist-
18 ence, and other necessary expenses for trustees and
19 employees paid or reimbursed under this subsection
20 may exceed per diem amounts established in official
21 travel regulations, but the Council may include in its
22 regulations under this subsection a limitation on
23 such amounts.

1 **SEC. 104. QUALITY ADVISORY INSTITUTE.**

2 (a) ESTABLISHMENT.—There is established an Insti-
3 tute to be known as the “Quality Advisory Institute” to
4 make recommendations to the Council concerning licens-
5 ing and certification criteria and comparative measure-
6 ment methods under this Act.

7 (b) MEMBERSHIP.—

8 (1) COMPOSITION.—The Institute shall be com-
9 posed of 5 members to be appointed by the Council
10 from among individuals who have demonstrable ex-
11 pertise in—

12 (A) health care quality measurement;

13 (B) health plan certification criteria set-
14 ting;

15 (C) the analysis of information that is use-
16 ful to consumers in making choices regarding
17 health coverage options, health plans, health
18 care providers, and decisions regarding health
19 treatments; and

20 (D) the analysis of health plan operations.

21 (2) TERMS AND VACANCIES.—The members of
22 the Institute shall be appointed for 5 year terms
23 with the terms of the initial members staggered as
24 determined appropriate by the Council. Vacancies
25 shall be filled in a manner provided for by the Coun-
26 cil.

1 (c) DUTIES.—The Institute shall—

2 (1) not later than 1 year after the date on
3 which all members of the Institute are appointed
4 under subsection (b)(2), provide advice to the Coun-
5 cil concerning the initial set of criteria for the cer-
6 tification of Federal health plan contracts and for
7 comparative measurements necessary to provide
8 consumer information concerning the quality of
9 health care;

10 (2) analyze the use of the criteria and compara-
11 tive measurements implemented by the Council
12 under this Act and recommend modifications in such
13 criteria and measurements as needed;

14 (3) enter into contracts with other entities for
15 the development of such criteria and measurements
16 and to otherwise carry out its duties under this sec-
17 tion;

18 (4) recommend the implementation of compara-
19 tive measurement requirements under this Act at
20 differing intervals throughout the United States so
21 as to account for regional differences and to permit
22 computability and coordination with private sector
23 purchasing efforts;

24 (5) develop recommendations for making risk-
25 adjustment payments and risk-adjusted quality

1 bonus payments to Federal health plan contracts;
2 and

3 (6) carry out any other activities determined
4 appropriate by the Institute to carry out its duties
5 under this section.

6 **SEC. 105. POWERS.**

7 (a) HEARINGS.—The Council may hold such hear-
8 ings, sit and act at such times and places, take such testi-
9 mony, and receive such evidence as the Council considers
10 advisable to carry out the purposes of this Act.

11 (b) INFORMATION FROM FEDERAL AGENCIES.—The
12 Council may secure directly from any Federal department
13 or agency such information as the Council considers nec-
14 essary to carry out the provisions of this Act. Upon re-
15 quest of the Chairperson of the Council, the head of such
16 department or agency shall furnish such information to
17 the Council.

18 (c) POSTAL SERVICES.—The Council may use the
19 United States mails in the same manner and under the
20 same conditions as other departments and agencies of the
21 Federal Government.

22 (d) GIFTS.—The Council may accept, use, and dis-
23 pose of gifts or donations of services or property.

24 (e) ESTABLISHMENT OF COMMITTEES.—The Council
25 may establish such advisory committees as the Council de-

1 termines are necessary to carry out its duties under this
2 Act, including those intended to facilitate input and co-
3 ordination with large private sector purchasers and pur-
4 chasing coalitions.

5 **SEC. 106. DUTIES.**

6 (a) IN GENERAL.—The Council shall—

7 (1) adopt, adapt, or develop criteria in accord-
8 ance with title III to be used in the licensing of cer-
9 tifying entities and in the certification of Federal
10 health plan contracts, including any minimum cri-
11 teria needed for the operation of Federal health plan
12 contracts during the transition period described in
13 section 301(c);

14 (2) issue licenses to certifying entities that meet
15 the criteria developed under paragraph (1) for the
16 purpose of enabling such entities to certify Federal
17 health plan contracts in accordance with this Act;

18 (3) select from existing comparative health care
19 measures, where such measures exist, and develop
20 additional comparative health care measures to
21 guide consumer choice and to improve the delivery
22 of quality health care in accordance with title IV;

23 (4) develop procedures for the dissemination of
24 certification and comparative quality information
25 provided to the Council under this Act by Federal

1 health plan contracts, through the Agency for
2 Health Care Policy and Research;

3 (5) contract with an independent entity for the
4 conduct of audits concerning certification and qual-
5 ity measurement and require that as part of the cer-
6 tification process performed by licensed certification
7 entities that there include an on-site evaluation,
8 using performance-based standards, of the providers
9 of clinical care under the health plans described in
10 section 3(2);

11 (6) at least quarterly, meet jointly with the
12 Agency for Health Care Policy and Research to re-
13 view innovative health outcomes measures, new
14 measurement processes, and other matters deter-
15 mined appropriate by the Council;

16 (7) at least annually, meet with the Institute
17 concerning certification criteria and the collection
18 and dissemination of comparative information;

19 (8) not later than January 1, 1999, and each
20 January 1 thereafter, prepare and submit to the
21 Federal officials responsible for administering the
22 health care programs described in section 3(2) and
23 to Congress, a report concerning the activities of the
24 Council for the previous year;

1 (9) advise the President and Congress concern-
2 ing health insurance and health care provided under
3 the authority of a Federal program and make rec-
4 ommendations concerning measures that may be im-
5 plemented to protect the health of all participants
6 and beneficiaries in Federal health care programs;
7 and

8 (10) carry out other activities determined ap-
9 propriate by the Council.

10 (b) **RULE OF CONSTRUCTION.**—Nothing in this sec-
11 tion shall be construed to limit the authority of the Fed-
12 eral official responsible for administering each of the
13 health care programs described in section 3(2) with re-
14 spect to requirements other than those applied under this
15 Act with respect to Federal health plan contracts.

16 **SEC. 107. AUTHORIZATION OF APPROPRIATIONS.**

17 (a) **IN GENERAL.**—There are authorized to be appro-
18 priated to the Council such sums as may be necessary to
19 carry out this Act.

20 (b) **AVAILABILITY.**—Any amounts appropriated
21 under subsection (a) shall remain available, without fiscal
22 year limitation, until expended.

1 **TITLE II—COVERAGE OF FED-**
2 **ERAL HEALTH CARE PRO-**
3 **GRAMS**

4 **SEC. 201. COMPLIANCE.**

5 (a) IN GENERAL.—Not later than the effective date
6 of this Act, the Federal official responsible for administer-
7 ing each health care program described in section 3(2)
8 shall ensure that—

9 (1) health insurance coverage under any such
10 program is available and provided only through Fed-
11 eral health plan contracts that have been certified in
12 accordance with title III; and

13 (2) information concerning each such program
14 is collected, available and disseminated in accordance
15 with title IV.

16 (b) CONTRACTS OR REIMBURSEMENTS.—In carrying
17 out subsection (a), the Federal official involved—

18 (1) may not enter into a contract with a Fed-
19 eral health plan contractor for the provision of
20 health care under the program involved unless the
21 Federal health plan contract involved is certified and
22 provides comparative information in accordance with
23 this Act;

24 (2) may not reimburse a Federal health plan
25 contract for care provided under the program in-

1 volved unless such Federal health plan contract is
2 certified and provides comparative information in ac-
3 cordance with this Act; and

4 (3) shall, after providing notice to the Federal
5 health plan contract and an opportunity for the Fed-
6 eral health plan contract to be certified, and in ac-
7 cordance with any applicable grievance and appeals
8 procedures under section 304, terminate any con-
9 tract with a Federal health plan contractor under
10 the program if such contract is not certified in ac-
11 cordance with this Act.

12 **SEC. 202. PAYMENTS FOR VALUE.**

13 (a) ESTABLISHMENT OF PROGRAM.—The Council
14 shall establish a program under which payments are made
15 to various Federal health plan contracts to reward such
16 contracts for meeting or exceeding quality targets.

17 (b) PERFORMANCE MEASURES.—In carrying out the
18 program under subsection (a), the Council shall establish
19 broad categories of quality targets and performance meas-
20 ures. Such targets and measures shall be designed to per-
21 mit the Council to determine whether a Federal health
22 plan contract is being operated in a manner consistent
23 with this Act.

24 (c) USE OF FUNDS.—The Council shall use amounts
25 allocated under subsection (e) (or an amendment made by

1 such subsection) to make annual payments to those Fed-
2 eral health plan contracts that have been determined by
3 the Council to meet or exceed the quality targets and per-
4 formance measures established under subsection (b). Any
5 amounts allocated under subsection (e) (or an amendment
6 made by such subsection) for a fiscal year and remaining
7 available after payments are made under subsection (d),
8 shall be used for deficit reduction.

9 (d) AMOUNT OF PAYMENT.—

10 (1) FORMULA.—The amount of any payment
11 made to a Federal health plan contract under this
12 section shall be determined in accordance with a for-
13 mula to be developed by the Council. The formula
14 shall ensure that a payment made to a Federal
15 health plan contract under this section be in an
16 amount equal to—

17 (A) with respect to a contract that is de-
18 termined to be in the first quintile, 1 percent of
19 the amount allocated by the contract under sub-
20 section (e) (or an amendment made by such
21 subsection);

22 (B) with respect to a contract that is de-
23 termined to be in the second quintile, .75 per-
24 cent of the amount allocated by the contract

1 under subsection (e) (or an amendment made
2 by such subsection);

3 (C) with respect to a contract that is de-
4 termined to be in the third quintile, .50 percent
5 of the amount allocated by the contract under
6 subsection (e) (or an amendment made by such
7 subsection); and

8 (D) with respect to a contract that deter-
9 mined to be in the fourth quintile, .25 percent
10 of the amount allocated by the contract under
11 subsection (e) (or an amendment made by such
12 subsection).

13 (2) NO PAYMENT.—A Federal health plan con-
14 tract that is determined by the Council to be in the
15 fifth quintile shall not be eligible to receive a pay-
16 ment under this section.

17 (3) DETERMINATION OF QUINTILES.—Not later
18 than April 30 of each calendar year, the Council
19 shall rank each Federal health plan contract based
20 on the performance of the contract during the pre-
21 ceding year as determined using the quality targets
22 and performance measures established under sub-
23 section (b). Such rankings shall be divided into
24 quintiles with the first quintile containing the high-
25 est ranking contracts and the fifth quintile contain-

1 ing the lowest ranking contracts. Each such quintile
2 shall contain contracts that in the aggregate cover
3 an equal number of participants and beneficiaries as
4 compared to another quintile.

5 (4) LIMITATION.—

6 (A) IN GENERAL.—In no case shall the
7 formula developed by the Council under para-
8 graph (1) permit the Council to make payments
9 under this section to a class of Federal health
10 plan contracts in an amount that exceeds the
11 total amount allocated by such class of con-
12 tracts under subsection (e) for the year in-
13 volved.

14 (B) CLASS OF CONTRACTS.—For purposes
15 of subparagraph (A), the Federal health plan
16 contracts described in each of subparagraphs
17 (A) through (E) of section 3(2) shall be consid-
18 ered to be in a separate class of Federal health
19 plan contracts.

20 (e) ALLOCATION OF PREMIUM AMOUNTS.—

21 (1) FEDERAL HEALTH PLAN CONTRACTS.—A
22 Federal health plan contract not covered under
23 paragraphs (2) through (5) (or an amendment made
24 by such paragraph) that is certified under title III
25 shall annually allocate an amount equal to .50 per-

1 cent of all Federally-related health plan contract
2 premium amounts received during the year involved
3 to the Council.

4 (2) MEDICARE MANAGED CARE PLANS.—Sec-
5 tion 1876 of the Social Security Act (42 U.S.C.
6 1395mm) is amended—

7 (A) in subsection (a)(1)(C), by striking
8 “The annual” and inserting “Subject to sub-
9 section (k), the annual”; and

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

11 “(k) WITHHOLDING OF PAYMENTS TO ENCOURAGE
12 QUALITY PERFORMANCE.—

13 “(1) WITHHOLDING.—The Secretary shall with-
14 hold .50 percent from any payment that an eligible
15 organization under this section receives with respect
16 to an individual enrolled under this section with the
17 organization.

18 “(2) DISBURSEMENT.—From the total amount
19 withheld under paragraph (1), the Secretary shall
20 make payments to eligible organizations under this
21 section in accordance with the formula established
22 by the Federal Health Plan Quality Council under
23 section 202(d) of the Federal Health Insurance
24 Quality, Consumer Information and Protection Act.
25 Any payments that an eligible organization receives

1 under this paragraph shall be taken into account in
2 determining the average payment amount of the or-
3 ganization as part of the organization's adjusted
4 community rate calculation.”.

5 (3) MEDICAID.—

6 (A) IN GENERAL.—Section 1902(a) of the
7 Social Security Act (42 U.S.C. 1396a(a)) is
8 amended—

9 (i) by striking “and” at the end of
10 paragraph (62);

11 (ii) by striking the period at the end
12 of paragraph (63) and inserting “; and”;
13 and

14 (iii) by inserting after paragraph (63)
15 the following new paragraph:

16 “(64) provide for the withholding of .50 percent
17 from any payment that any health maintenance or-
18 ganization or other entity that contracts with the
19 State to provide medical assistance to individuals
20 under this title receives with respect to such medical
21 assistance and that, from the total amount withheld,
22 the State shall make payments to such organizations
23 or entities in accordance with the formula estab-
24 lished by the Federal Health Plan Quality Council
25 under section 202(d) of the Federal Health Insur-

1 ance Quality, Consumer Information and Protection
2 Act.”.

3 (B) APPLICABILITY.—The amendments
4 made by subparagraph (A) shall apply to con-
5 tracts entered into under title XIX of the Social
6 Security Act (42 U.S.C. 1396 et seq.) or under
7 a waiver of such title of such Act.

8 (4) TRICARE.—The Secretary of Defense shall
9 provide for the withholding of .50 percent from any
10 payment that any health maintenance organization
11 or other entity that contracts with the Secretary of
12 Defense to provide medical assistance to individuals
13 under the authority of chapter 55 of title 10, United
14 States Code, principally section 1097 of such title,
15 and from the total amount withheld, the Secretary
16 of Defense shall make payments to such organiza-
17 tions or entities in accordance with the formula es-
18 tablished by the Council under section 202(d).

19 (5) VETERANS AFFAIRS.—The Secretary of
20 Veterans Affairs shall provide for the withholding of
21 .50 percent from any payment that any health main-
22 tenance organization or other entity that contracts
23 with the Secretary of Veterans Affairs to provide
24 medical assistance to individuals under the authority
25 of title 38, United States Code, and from the total

1 amount withheld, the Secretary of Veterans Affairs
2 shall make payments to such organizations or enti-
3 ties in accordance with the formula established by
4 the Council under section 202(d).

5 **TITLE III—CERTIFICATION OF**
6 **FEDERAL HEALTH PLAN CON-**
7 **TRACTS**

8 **SEC. 301. REQUIREMENT.**

9 (a) IN GENERAL.—To be eligible to enter into a con-
10 tract with the Federal Government to enroll individuals
11 for health insurance coverage provided under a Federal
12 program, an entity shall participate in the certification
13 process and be certified in accordance with this title.

14 (b) EFFECT OF MERGERS OR PURCHASE.—

15 (1) CERTIFIED CONTRACTS.—Where two or
16 more Federal health plan contractors offering cer-
17 tified Federal health plan contracts are merged or
18 where one such contractor is purchased by another
19 contractor, the resulting contractor may continue to
20 operate and enroll individuals for coverage under the
21 Federal health plan contract as if the Federal health
22 plan contract involved were certified. The certifi-
23 cation of any resulting Federal health plan contract
24 shall be reviewed by the applicable certifying entity

1 to ensure the continued compliance of the contract
2 with the certification criteria.

3 (2) NONCERTIFIED CONTRACTS.—The certifi-
4 cation of a Federal health plan contract shall be ter-
5 minated upon the merger of the Federal health plan
6 contractor involved or the purchase of the contractor
7 by another entity that does not offer any certified
8 Federal health plans. Any Federal health plan con-
9 tracts offered through the resulting contractor may
10 reapply for certification after the completion of the
11 merger or purchase.

12 (c) TRANSITION FOR NEW CONTRACTS.—

13 (1) IN GENERAL.—A Federal health plan con-
14 tract that has not provided health insurance cov-
15 erage to individuals prior to the effective date of this
16 Act shall be permitted to contract with the Federal
17 Government and operate and enroll individuals
18 under the contract without being certified for the 2-
19 year period beginning on the date on which such
20 contract enrolls the first individual under the con-
21 tract. The contract must be certified in order to con-
22 tinue to provide coverage under the contract after
23 such period.

24 (2) LIMITATION.—A new contract described in
25 paragraph (1) shall, during the period referred to in

1 paragraph (1) prior to certification, comply with the
2 following requirements.

3 (A) The minimum criteria developed by the
4 Council under section 106(1).

5 (B) The information collection and dis-
6 semination requirements described in section
7 303(b)(3).

8 **SEC. 302. LICENSING OF CERTIFICATION ENTITIES.**

9 (a) IN GENERAL.—The Council shall develop proce-
10 dures for the licensing of entities to certify Federal health
11 plan contracts under this Act.

12 (b) REQUIREMENTS.—The procedures developed
13 under subsection (a) shall ensure that—

14 (1) to be licensed under this section a certifi-
15 cation entity shall apply the requirements of this Act
16 to Federal health plan contracts seeking certifi-
17 cation;

18 (2) a certification entity has procedures in place
19 to suspend or revoke the certification of a Federal
20 health plan contract that is failing to comply with
21 the certification requirements; and

22 (3) the Council will give priority to licensing en-
23 tities that are accrediting health plans that contract
24 with the Federal Government on the date of enact-
25 ment of this Act.

1 **SEC. 303. CERTIFICATION CRITERIA.**

2 (a) ESTABLISHMENT.—The Council shall establish
3 minimum criteria under this section (as may be appro-
4 priate with respect to each type of health plan arrange-
5 ment involved) to be used by licensed certifying entities
6 in the certification of Federal health plan contracts under
7 this title.

8 (b) REQUIREMENTS.—Criteria established by the
9 Council under subsection (a) shall require that, in order
10 to be certified, a Federal health plan contract shall comply
11 at a minimum with the following:

12 (1) QUALITY IMPROVEMENT PLAN.—The Fed-
13 eral health plan contract shall implement a total
14 quality improvement plan that is designed to im-
15 prove the clinical and administrative processes of the
16 contract on an ongoing basis and demonstrate that
17 improvements in the quality of contract services
18 have occurred as a result of such plan.

19 (2) PROVIDER CREDENTIALS.—The Federal
20 health plan contract shall compile and annually pro-
21 vide to the licensed certifying entity documentation
22 concerning the credentials of the hospitals and
23 health care providers reimbursed under the contract.

24 (3) ACCESS TO INFORMATION.—

25 (A) COMPARATIVE INFORMATION.—The
26 Federal health plan contract, using data sup-

1 plied by the Council and in accordance with sec-
2 tion 401(e), shall implement a program to pro-
3 vide participants and beneficiaries with access
4 to appropriate comparative information in a
5 manner that enables such participants and
6 beneficiaries to make informed health care deci-
7 sions by comparing the various health plans
8 that participants and beneficiaries are eligible
9 to enroll in. Such comparative information shall
10 be in a standardized form that is adopted by
11 the Council and is understandable to a reason-
12 able layperson and shall include participant,
13 beneficiary, and provider satisfaction data that
14 is derived from the conduct of a period (not less
15 than annually) survey by an independent orga-
16 nization of those enrolled in the plan and those
17 who have disenrolled during the preceding 12-
18 month period.

19 (B) PLAN SPECIFIC INFORMATION.—As
20 part of the program implemented under sub-
21 paragraph (A), the Federal health plan contract
22 shall provide specific information concerning
23 the contract that shall include—

24 (i) information concerning the quality
25 of health care providers that may be reim-

1 bursed under, or that are employed by the
2 contract, and the existence of any condi-
3 tion of employment that prohibits provid-
4 ers and other health professionals from
5 fully informing the patient of all treatment
6 options;

7 (ii) information concerning the service
8 area of the contract and the qualifications
9 and availability within the service area of
10 health care providers under the contract;

11 (iii) information on procedures for fil-
12 ing grievances and appealing the denial of
13 services;

14 (iv) information concerning the rights
15 and responsibilities of participants and
16 beneficiaries under the contract;

17 (v) information concerning the bene-
18 fits offered under the contract, including
19 any limitations or cost-sharing applicable,
20 and the premiums, co-payments or other
21 out-of-pocket costs that participants and
22 beneficiaries may be liable for;

23 (vi) information concerning the avail-
24 ability and location of benefit counseling
25 services and contract-specific disenrollment

1 statistics presented as a percentage of the
2 total number of participants and bene-
3 ficiaries who are disenrolled from the con-
4 tract and information about physician
5 disenrollment—

6 (I) during the 90-day period be-
7 ginning on the date of their enroll-
8 ment in the contract; and

9 (II) during the most recent 12-
10 month period;

11 (vii) information concerning the proce-
12 dures through which the contract monitors
13 and improves the quality of services pro-
14 vided by the contract and services provided
15 by health care providers under the con-
16 tract;

17 (viii) information to assist health care
18 professionals in delivering better health
19 care and methods to assess health care
20 professionals' perceptions on issues regard-
21 ing quality of care; and

22 (ix) information concerning selection
23 standards for participating providers.

24 (4) OTHER REQUIREMENTS.—The Federal
25 health plan contract shall comply with other require-

1 ments authorized under this Act and implemented
2 by the Council.

3 (5) AVAILABILITY.—A Federal health plan con-
4 tract shall at least annually provide notice to partici-
5 pants and beneficiaries of the availability of com-
6 parative information and the manner by which such
7 individuals may obtain such information.

8 **SEC. 304. GRIEVANCE AND APPEALS.**

9 The Council shall develop grievance and appeals pro-
10 cedures under which a Federal health plan contract that
11 is denied certification under this title may appeal such de-
12 nial to the Council.

13 **TITLE IV—FEDERAL HEALTH**
14 **PLAN CONTRACT PERFORM-**
15 **ANCE**

16 **SEC. 401. UNIFORM PERFORMANCE CRITERIA.**

17 (a) COMPARATIVE HEALTH MEASURES.—The Coun-
18 cil, based on the data and information provided by the
19 Agency for Health Care Policy and Research under this
20 section, shall develop or select measures to be used by indi-
21 viduals to compare the overall quality of Federal health
22 plan contracts. In developing or selecting such measures,
23 the Council shall provide for the publication and distribu-
24 tion of comparative materials for use by individuals seek-
25 ing to enroll in a Federal health plan contract.

1 (b) SUBMISSION OF DATA.—To be certified under
2 this Act, a Federal health plan contract shall, at such in-
3 tervals as determined appropriate by the Council, compile
4 and submit to the Agency for Health Care Policy and Re-
5 search data (in a manner that does not disclose the iden-
6 tity of patients) concerning the process and outcomes per-
7 formance of the contract.

8 (c) DATA.—The data that a Federal health plan con-
9 tract is required to submit under subsection (b) shall in-
10 clude—

11 (1) outcomes and process data and information
12 concerning the effectiveness of care provided under
13 the health plan contract, including process and out-
14 comes measures which reflect the clinical health,
15 well-being, and functional status of participants and
16 beneficiaries;

17 (2) enrollment and disenrollment data (includ-
18 ing short- and long-term rates);

19 (3) grievance and appeals data (including the
20 average and median lengths of time for the resolu-
21 tion of appeals); and

22 (4) such other data or information as may be
23 required by the Council to carry out the role of the
24 Council.

1 (d) PROVISION OF DATA TO COUNCIL.—The Agency
 2 for Health Care Policy and Research shall annually pre-
 3 pare and submit to the Council a summary of the data
 4 provided to the Agency by Federal health plan contracts
 5 under this section.

6 (e) REASONABLE EFFORTS.—Reasonable efforts
 7 shall be made to ensure that data under this section is
 8 valid, timely and standardized prior to making such data
 9 public.

10 **TITLE V—EXPANSION OF**
 11 **HEALTH CARE QUALITY AC-**
 12 **TIVITIES**

13 **SEC. 501. EXPANDED ROLE FOR THE AGENCY FOR HEALTH**
 14 **CARE POLICY AND RESEARCH.**

15 Part B of title IX of the Public Health Service Act
 16 (42 U.S.C. 299b et seq.) is amended by adding at the end
 17 the following:

18 **“SEC. 915. NATIONAL HEALTH CARE QUALITY INFORMA-**
 19 **TION.**

20 “(a) PURPOSE.—It is the purpose of this section to
 21 expand the duties and responsibilities of the Agency to in-
 22 clude the collection, analysis, and dissemination of health
 23 care quality information both generally and with a focus
 24 on health plans.

1 “(b) DUTIES.—In carrying out this section, the
2 Agency shall—

3 “(1) review measures of health care quality and
4 other measures of health care processes and out-
5 comes;

6 “(2) coordinate activities under paragraph (1)
7 with the National Committee on Quality Assurance,
8 the Joint Commission on the Accreditation of Health
9 Organizations, the Foundation for Accountability,
10 the Quality Advisory Institute established under sec-
11 tion 104 of the Federal Health Care Quality,
12 Consumer Information and Protection Act, the
13 American Accreditation Health Care Commission,
14 the National Committee on Vital and Health Statis-
15 tics, State and local governments, and consumer ad-
16 vocacy groups;

17 “(3) develop methods for integrating risk as-
18 sessment and risk adjustment methodology that are
19 used to measure the quality of health care into data
20 information sets for purposes of making quality of
21 care comparisons and determinations under the re-
22 imbursement formula under section 202(d);

23 “(4) ensure the comparability of process and
24 outcome measures through the development of data

1 dictionaries and of standardized data collection
2 methods;

3 “(5) compile comparative quality data on health
4 plans that is designed to facilitate the purchase of
5 health insurance by participants and beneficiaries;

6 “(6) in consultation with the Council, dissemi-
7 nate data under paragraph (4) to Federal, State,
8 and local governmental purchasers, employees, Fed-
9 eral, State, and local program beneficiaries, health
10 insurance issuers, and the general public;

11 “(7) establish a directory of best operational
12 practices for use by systems of health care; and

13 “(8) coordinate with other Federal entities with
14 experience in health care and with State and local
15 governments.”.

16 **SEC. 502. INCREASE IN FUNDING FOR OUTCOMES RE-**
17 **SEARCH.**

18 (a) HEALTH PLAN PERFORMANCE, RESEARCH, AND
19 DATA.—Section 902(a) of the Public Health Service Act
20 (42 U.S.C. 299a(a)) is amended—

21 (1) in paragraph (7), by striking “and” at the
22 end;

23 (2) in paragraph (8), by striking the period and
24 inserting “; and”; and

25 (3) by adding at the end the following:

1 “(9) health plan performance, research, and
2 data.”.

3 (b) FUNDING.—Section 926 of the Public Health
4 Service Act (42 U.S.C. 299c-5) is amended by adding at
5 the end the following:

6 “(f) HEALTH PLAN PERFORMANCE, RESEARCH, AND
7 DATA.—For the purpose of carrying out section
8 902(a)(9), there is authorized to be appropriated
9 \$20,000,000 for fiscal year 1998, and such sums as may
10 be necessary for each of the fiscal years 1999 through
11 2002.”.

12 **TITLE VI—MISCELLANEOUS**
13 **PROVISIONS.**

14 **SEC. 601. EFFECTIVE DATE.**

15 (a) FEDERAL HEALTH PLAN CONTRACTS.—Except
16 as provided in subsection (b), the provisions of this Act
17 shall apply to Federal health plan contracts on January
18 1, 1999.

19 (b) AMENDMENTS.—

20 (1) IN GENERAL.—The amendments made by
21 section 202 shall take effect on January 1, 1999.

22 (2) AGENCY FOR HEALTH CARE POLICY AND
23 RESEARCH.—The amendments made by title V shall
24 take effect on the date of enactment of this Act.

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