

105TH CONGRESS
1ST SESSION

S. 865

To provide for improved coordination, communication, and enforcement related to health care fraud, waste, and abuse, to create a point of order against legislation which diverts savings achieved through medicare waste, fraud, and abuse enforcement activities for purposes other than improving the solvency of the Federal Hospital Insurance Trust Fund under title XVIII of the Social Security Act, to ensure the integrity of such trust fund, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 10, 1997

Mr. GRAHAM (for himself, Mr. MACK, and Mr. BAUCUS) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To provide for improved coordination, communication, and enforcement related to health care fraud, waste, and abuse, to create a point of order against legislation which diverts savings achieved through medicare waste, fraud, and abuse enforcement activities for purposes other than improving the solvency of the Federal Hospital Insurance Trust Fund under title XVIII of the Social Security Act, to ensure the integrity of such trust fund, 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,*

1 **SECTION 1. SHORT TITLE; REFERENCES IN ACT; TABLE OF**
 2 **CONTENTS.**

3 (a) **SHORT TITLE.**—This Act may be cited as the
 4 “Medicare Antifraud Act of 1997”.

5 (b) **AMENDMENTS TO SOCIAL SECURITY ACT.**—Ex-
 6 cept as otherwise specifically provided, whenever in this
 7 Act an amendment is expressed in terms of an amendment
 8 to, or repeal of, a section or other provision, the reference
 9 shall be considered to be made to that section or other
 10 provision of the Social Security Act.

11 (c) **TABLE OF CONTENTS.**—The table of contents of
 12 this Act is as follows:

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

TITLE I—PROTECTING PROGRAM INTEGRITY

- Sec. 101. Disclosure of information and surety bond requirements.
- Sec. 102. Requirements to disclose employer identification numbers and social security numbers.
- Sec. 103. Requirement to furnish diagnostic information.
- Sec. 104. Replacement of reasonable charge methodology by fee schedules.
- Sec. 105. Application of inherent reasonableness.
- Sec. 106. Exclusion of entity controlled by family member of a sanctioned individual.
- Sec. 107. Liability of medicare carriers and fiscal intermediaries and States for claims submitted by excluded providers.
- Sec. 108. Authority to refuse to enter into medicare or medicaid agreements with individuals or entities convicted of felonies.
- Sec. 109. Application of certain provisions of the bankruptcy code.
- Sec. 110. Inspector general access to national practitioner data bank.
- Sec. 111. State health care fraud control units.
- Sec. 112. Requirement for annual GAO report.

TITLE II—SANCTIONS FOR FRAUD AND ABUSE

- Sec. 201. Civil monetary penalties for kickbacks.
- Sec. 202. Civil monetary penalties for persons that contract with excluded individuals.
- Sec. 203. Civil monetary penalties for services ordered or prescribed by an excluded individual or entity.

TITLE III—TECHNICAL CLARIFICATIONS AND CORRECTIONS

- Sec. 301. Definition of the term conviction.
 Sec. 302. Proper reference in advisory opinions.
 Sec. 303. Ensuring proper implementation of Federal health care program ex-
 clusions.

TITLE IV—COORDINATION OF BENEFITS

- Sec. 401. Permanent extension of certain secondary payer provisions.
 Sec. 402. Technical changes concerning minimum sizes of group health plans.
 Sec. 403. Information requirements.
 Sec. 404. Clarification of time and filing limitations.
 Sec. 405. Clarification of liability of third party administrators.
 Sec. 406. Clarification of payment amounts to medicare.

1 **TITLE I—PROTECTING**
 2 **PROGRAM INTEGRITY**

3 **SEC. 101. DISCLOSURE OF INFORMATION AND SURETY**
 4 **BOND REQUIREMENTS.**

5 (a) DISCLOSURE OF INFORMATION AND SURETY
 6 BOND REQUIREMENT FOR SUPPLIERS OF DURABLE MED-
 7 ICAL EQUIPMENT.—Section 1834(a) (42 U.S.C.
 8 1395m(a)) is amended by inserting after paragraph (15)
 9 the following:

10 “(16) DISCLOSURE OF INFORMATION.—

11 “(A) IN GENERAL.—The Secretary shall not
 12 provide for the issuance (or renewal) of a provider
 13 number for a supplier of durable medical equipment,
 14 for purposes of payment under this part for durable
 15 medical equipment furnished by the supplier, unless
 16 the supplier provides the Secretary on a continuing
 17 basis with—

18 “(i)(I) full and complete information as to
 19 the identity of each person with an ownership

1 or control interest (as defined in section
2 1124(a)(3)) in the supplier or in any sub-
3 contractor (as defined by the Secretary in regu-
4 lations) in which the supplier directly or indi-
5 rectly has a 5 percent or more ownership inter-
6 est, and

7 “(II) to the extent determined to be fea-
8 sible under regulations of the Secretary, the
9 name of any disclosing entity (as defined in sec-
10 tion 1124(a)(2)) with respect to which a person
11 with such an ownership or control interest in
12 the supplier is a person with such an ownership
13 or control interest in the disclosing entity; and

14 “(ii) a surety bond in a form specified by
15 the Secretary and in an amount that is not less
16 than \$50,000.”.

17 (b) SURETY BOND REQUIREMENT FOR HOME
18 HEALTH AGENCIES.—

19 (1) IN GENERAL.—Section 1861(o)(7) (42
20 U.S.C. 1395x(o)(7)) is amended by inserting “and
21 including providing the Secretary on a continuing
22 basis with a surety bond in a form specified by the
23 Secretary and in an amount that is not less than
24 \$50,000” after “financial security of the program”.

1 (2) CONFORMING AMENDMENTS.—Section
2 1861(v)(1)(H) (42 U.S.C. 1395x(v)(1)(H)) is
3 amended by striking “the financial security require-
4 ment” and inserting “the financial security and sur-
5 ety bond requirements” each place it appears in
6 clauses (i) and (ii).

7 (c) AUTHORIZING APPLICATION OF DISCLOSURE AND
8 SURETY BOND REQUIREMENTS TO AMBULANCE SERV-
9 ICES AND CERTAIN CLINICS.—Section 1834(a)(16) (42
10 U.S.C. 1395m(a)(16)) (as added by subsection (a) of this
11 section) is amended by adding at the end the following:

12 “(B) APPLICATION TO AMBULANCE SERVICES
13 AND CERTAIN CLINICS.—The Secretary, in the Sec-
14 retary’s discretion, may impose the requirements of
15 the previous sentence with respect to some or all
16 classes of suppliers of ambulance services described
17 in section 1861(s)(7) and clinics that furnish medi-
18 cal and other health services (other than physicians’
19 services) under this part.”.

20 (d) EFFECTIVE DATES.—

21 (1) SUBSECTION (a).—The amendment made
22 by subsection (a) shall apply to suppliers of durable
23 medical equipment with respect to such equipment
24 furnished on or after January 1, 1998.

25 (2) SUBSECTION (b).—

1 (A) IN GENERAL.—The amendments made
 2 by subsection (b) shall apply to home health
 3 agencies with respect to services furnished on or
 4 after January 1, 1998.

5 (B) PARTICIPATION AGREEMENTS.—The
 6 Secretary of Health and Human Services shall
 7 modify participation agreements under section
 8 1866(a)(1) of the Social Security Act with re-
 9 spect to home health agencies to provide for im-
 10 plementation of such amendments on a timely
 11 basis.

12 (3) SUBSECTION (c).—The amendment made
 13 by subsection (c) shall take effect on the date of en-
 14 actment of this Act and may be applied with respect
 15 to items and services furnished on or after the date
 16 specified in paragraph (1).

17 **SEC. 102. REQUIREMENTS TO DISCLOSE EMPLOYER IDEN-**
 18 **TIFICATION NUMBERS AND SOCIAL SECU-**
 19 **RITY NUMBERS.**

20 (a) DISCLOSING ENTITIES, OWNERS, AND CONTROL-
 21 LING INTERESTS.—Section 1124 (42 U.S.C. 1320a–3) is
 22 amended by adding at the end the following:

23 “(c) REQUIREMENT TO FURNISH SOCIAL SECURITY
 24 NUMBERS AND EMPLOYER IDENTIFICATION NUMBERS.—
 25 A payment shall not be made to a disclosing entity under

1 title V, XVIII, or XIX unless the disclosing entity fur-
2 nishes to the Secretary the employer identification number
3 and social security number of—

4 “(1) the disclosing entity;

5 “(2) each person with an ownership or control
6 interest; and

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

10 (b) OTHER MEDICARE PROVIDERS.—Section 1124A
11 (42 U.S.C. 1320a–3a) is amended—

12 (1) in subsection (a)—

13 (A) in paragraph (1), by striking “and” at
14 the end;

15 (B) in paragraph (2), by striking the pe-
16 riod at the end and inserting “; and”; and

17 (C) by adding at the end the following:

18 “(3) including the employer identification num-
19 ber and social security number of the disclosing part
20 B provider and any person, managing employee, or
21 other entity identified under paragraph (1) or (2).”;
22 and

23 (2) in subsection (c)(1) by inserting “(or, for
24 purposes of subsection (a)(3), any entity receiving
25 payment)” after “on an assignment-related basis”.

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

4 (1) by redesignating subsection (c) as sub-
5 section (d); and

6 (2) by inserting after subsection (b) the follow-
7 ing:

8 “(c) VERIFICATION BY SOCIAL SECURITY ADMINIS-
9 TRATION.—

10 “(1) TRANSMITTAL BY HHS.—The Secretary
11 shall transmit to the Social Security Administration
12 information concerning each social security number
13 and employer identification number supplied to the
14 Secretary under subsection (a)(3) or section 1124(c)
15 as necessary for verification of the information re-
16 quired under paragraph (2).

17 “(2) VERIFICATION BY SSA.—The Social Secu-
18 rity Administration shall verify the accuracy of and
19 correct, if necessary, the information supplied by the
20 Secretary under paragraph (1) and shall report the
21 verification to the Secretary.

22 “(3) FEES FOR SSA VERIFICATION.—The Sec-
23 retary shall reimburse the Commissioner of Social
24 Security, at a rate negotiated between the Secretary
25 and the Commissioner, for the costs incurred by the

1 Commissioner in performing the verification and cor-
2 rection services described in this subsection.”.

3 **SEC. 103. REQUIREMENT TO FURNISH DIAGNOSTIC INFOR-**
4 **MATION.**

5 (a) INCLUSION OF NON-PHYSICIAN PRACTITIONERS
6 IN REQUIREMENT TO PROVIDE DIAGNOSTIC CODES FOR
7 PHYSICIAN SERVICES.—Paragraphs (1) and (2) of section
8 1842(p) (42 U.S.C. 1395u(p)) are each amended by in-
9 serting “or practitioner described in subsection
10 (b)(18)(C)” after “by a physician”.

11 (b) REQUIREMENT TO PROVIDE DIAGNOSTIC INFOR-
12 MATION WHEN ORDERING CERTAIN ITEMS OR SERVICES
13 FURNISHED BY ANOTHER ENTITY.—Section 1842(p) (42
14 U.S.C. 1395u(p)), as amended by subsection (a), is
15 amended by adding at the end the following:

16 “(4) In the case of an item of service (as described
17 in paragraph (3), (6), (8), or (9) of subsection 1861(s))
18 ordered by a physician or a practitioner described in sub-
19 section (b)(18)(C), but furnished by another entity, if the
20 Secretary (or fiscal agent of the Secretary) requires the
21 entity furnishing the item or service to provide diagnostic
22 or other medical information for payment to be made to
23 the entity, the physician or practitioner shall provide that
24 information to the entity at the time that the item or serv-
25 ice is ordered by the physician or practitioner.”.

1 (c) EFFECTIVE DATE.—The amendments made by
2 subsections (a) and (b) apply to items and services fur-
3 nished on or after January 1, 1998.

4 **SEC. 104. REPLACEMENT OF REASONABLE CHARGE METH-**
5 **ODOLOGY BY FEE SCHEDULES.**

6 (a) IN GENERAL.—Section 1833(a)(1) (42 U.S.C.
7 1395l(a)(1)) is amended in the matter preceding subpara-
8 graph (A) by striking “the reasonable charges for the serv-
9 ices” and inserting “the lesser of the actual charges for
10 the services and the amounts determined by the applicable
11 fee schedules developed by the Secretary for the particular
12 services”.

13 (b) CONFORMING AMENDMENTS.—

14 (1) SECTION 1833(a).—Section 1833(a) (42
15 U.S.C. 1395l(a)) is amended—

16 (A) in paragraph (1)—

17 (i) in subparagraph (A), by striking
18 “reasonable charges for” and inserting
19 “payment basis otherwise applicable to”;

20 (ii) in subparagraph (B), by striking
21 “reasonable charges” and inserting “fee
22 schedule amounts”; and

23 (iii) by inserting after subparagraph
24 (F) the following: “(G) with respect to
25 services described in clause (i) or (ii) of

1 section 1861(s)(2)(K) (relating to physi-
2 cian assistants and nurse practitioners),
3 the amounts paid shall be 80 percent of
4 the lesser of the actual charge for the serv-
5 ices and the applicable amount determined
6 under subclause (I) or (II) of section
7 1842(b)(12)(A)(ii),”; and
8 (B) in paragraph (2)—

9 (i) in subparagraph (B), in the matter
10 preceding clause (i), by striking “(C),
11 (D),” and inserting “(D)”; and

12 (ii) by striking subparagraph (C).

13 (2) SECTION 1833(l).—Section 1833(l) (42
14 U.S.C. 1395l(l)) is amended—

15 (A) in paragraph (3)—

16 (i) by striking subparagraph (B); and

17 (ii) by striking “(3)(A)” and inserting
18 “(3)”; and

19 (B) by striking paragraph (6).

20 (3) SECTION 1834.—Section 1834(g)(1)(A)(ii)
21 (42 U.S.C. 1395m(g)(1)(A)(ii)) is amended in the
22 heading by striking “REASONABLE CHARGES FOR
23 PROFESSIONAL” and inserting “PROFESSIONAL”.

24 (4) SECTION 1842(a).—Section 1842(a) (42
25 U.S.C. 1395u(a)) is amended—

1 (A) in the matter preceding paragraph (1),
2 by striking “reasonable charge” and inserting
3 “fee schedule”; and

4 (B) in paragraph (1)(A), by striking “rea-
5 sonable charge” and inserting “other”.

6 (5) SECTION 1842(b).—Section 1842(b) (42
7 U.S.C. 1395u(b)) is amended—

8 (A) in paragraph (3)—

9 (i) in subparagraph (B)—

10 (I) in the matter preceding clause
11 (i), by striking “assure that,” and all
12 that follows through “such payment”
13 and inserting the following: “where
14 payment under this part for a service
15 is on a basis other than a cost basis,
16 such payment”; and

17 (II) in clause (ii), by amending
18 subclause (I) to read as follows: “(I)
19 the amount determined by the appli-
20 cable payment basis under this part is
21 the full charge for the service,”; and

22 (ii) by striking the second through the
23 ninth sentences;

24 (B) by amending paragraph (4) to read as
25 follows:

1 “(4) In the case of an enteral or parenteral pump
2 that is furnished on a rental basis during a period of medi-
3 cal need—

4 “(A) monthly rental payments shall not be
5 made under this part for more than 15 months dur-
6 ing that period, and

7 “(B) after monthly rental payments have been
8 made for 15 months during that period, payment
9 under this part shall be made for maintenance and
10 servicing of the pump in amounts that the Secretary
11 determines to be reasonable and necessary to ensure
12 the proper operation of the pump.”;

13 (C) in paragraph (7)—

14 (i) in subparagraph (D)—

15 (I) in clause (i), in the matter
16 preceding subclause (I), by striking “,
17 to the extent that such payment is
18 otherwise allowed under this para-
19 graph”; and

20 (II) in clause (ii), by striking
21 “subparagraph” and inserting “para-
22 graph”;

23 (ii) by striking subparagraphs (A),
24 (B), and (C);

- 1 (iii) by striking “(D)(i)” and inserting
2 “(7)(A)”; and
3 (iv) in subparagraph (A), as redesignated by clause (iii), by—
4
5 (I) redesignating clauses (ii) and
6 (iii) as subparagraphs (B) and (C),
7 respectively; and
8 (II) by redesignating subclauses
9 (I), (II), and (III) as clauses (i), (ii),
10 and (iii), respectively;
11 (D) by striking paragraphs (9) and (10);
12 (E) in paragraph (11)—
13 (i) by striking subparagraphs (B),
14 (C), and (D);
15 (ii) by striking “(11)(A)” and inserting
16 “(11)”, and
17 (iii) by redesignating clauses (i) and
18 (ii) as subparagraphs (A) and (B), respectively;
19
20 (F) in paragraph (12)(A)(ii)—
21 (i) in the matter preceding subclause
22 (I), by striking “prevailing charges determined under paragraph (3)” and inserting
23 “the amounts determined under section
24 1833(a)(1)(G)”; and
25

1 (ii) in subclause (II), by striking “pre-
2 vailing charge rate” and all that follows
3 through the period and inserting “fee
4 schedule amount specified in section 1848
5 for such services performed by physi-
6 cians.”;

7 (G) by striking paragraphs (14), (15),
8 (16), and (17);

9 (H) in paragraph (18)(A), by striking
10 “reasonable charge or”; and

11 (I) by redesignating paragraph (18) as
12 paragraph (14).

13 (6) ELIMINATION OF REDUNDANT LAN-
14 GUAGE.—Section 6112(b) of the Omnibus Reconcili-
15 ation Act of 1989 (42 U.S.C. 1395m note; Public
16 Law 101-239) is repealed.

17 (7) SECTION 1842(j).—Section 1842(j) (42
18 U.S.C. 1395u(j)) is amended—

19 (A) by amending paragraph (1) to read as
20 follows:

21 “(j)(1) Sanctions may be applied under paragraph
22 (2) as provided in subsections (k), (l), (m), (n), and (p).”;
23 and

24 (B) in paragraph (4), by striking “under
25 paragraph (1)”.

1 (8) SECTION 1842(n).—Section 1842(n)(1)(A)
2 (42 U.S.C. 1395u(n)(1)(A)) is amended by striking
3 “reasonable charge (or other applicable limit)” and
4 inserting “other applicable limit”.

5 (9) SECTION 1842(q).—Section 1842(q) (42
6 U.S.C. 1395u(q)) is amended—

7 (A) by striking paragraph (1)(B); and

8 (B) by striking “(q)(1)(A)” and inserting
9 “(q)(1)”.

10 (10) SECTION 1845.—Section 1845(b)(1) (42
11 U.S.C. 1395w–1(b)(1)) is amended by striking “ad-
12 justments to the reasonable charge levels for physi-
13 cians’ services recognized under section 1842(b)
14 and”.

15 (11) SECTION 1848.—Section 1848(i)(3) (42
16 U.S.C. 1395w–4(i)(3)) is repealed.

17 (12) SECTION 1866.—Section 1866(a)(2)(A)(ii)
18 (42 U.S.C. 1395cc(a)(2)(A)(ii)) is amended by strik-
19 ing “reasonable charges” through “provider)” and
20 inserting “amount customarily charged for the items
21 and services by the provider”.

22 (13) SECTION 1881.—Section 1881(b)(3)(A) (42
23 U.S.C. 1395rr(b)(3)(A)) is amended by striking “a
24 reasonable charge” and all that follows through

1 “section 1848)” and inserting “the basis described
2 in section 1848”.

3 (14) OBRA–86.—Section 9340 of the Omnibus
4 Budget Reconciliation Act of 1986 (42 U.S.C.
5 1395u note; Public Law 99-509) is repealed.

6 (c) EFFECTIVE DATES.—The amendments made by
7 subsections (a) and (b), to the extent the amendments
8 substitute fee schedules for reasonable charges, apply to
9 particular services as of the date specified by the Secretary
10 of Health and Human Services.

11 (d) INITIAL BUDGET NEUTRALITY.—The Secretary,
12 in developing a fee schedule for particular services (under
13 the amendments made by subsections (a) and (b)), shall
14 set amounts for the first year period to which the fee
15 schedule applies at such a level that the total payments
16 under title XVIII of the Social Security Act (42 U.S.C.
17 1395 et seq.) for those services for that period shall be
18 approximately equal to the estimated total payments for
19 those services if the amendments had not been made.

20 **SEC. 105. APPLICATION OF INHERENT REASONABLENESS.**

21 (a) IN GENERAL.—Section 1834(a)(10)(B) (42
22 U.S.C. 1395m(a)(10)(B)) is amended—

23 (1) in the first sentence, by striking “apply the
24 provisions” and all that follows through the period
25 and inserting “describe by regulation the factors to

1 be used in determining the cases (or particular
2 items) in which the application of this subsection re-
3 sults in the determination of an amount that, by
4 reason of its being grossly excessive or grossly defi-
5 cient, is not inherently reasonable, and to provide in
6 such cases for the factors that will be considered in
7 establishing an amount that is realistic and equi-
8 table.”; and

9 (2) in the second sentence, by striking “apply-
10 ing such provisions” and inserting “applying the
11 previous provisions of this subsection”.

12 (b) CONFORMING AMENDMENT.—Section 1834(i)
13 (42 U.S.C. 1395m(i)) is amended by adding at the end
14 the following:

15 “(3) ADJUSTMENT FOR INHERENT REASON-
16 ABLENESS.—The provisions of subsection (a)(10)(B)
17 shall apply to payment for surgical dressings under
18 this subsection.”.

19 **SEC. 106. EXCLUSION OF ENTITY CONTROLLED BY FAMILY**
20 **MEMBER OF A SANCTIONED INDIVIDUAL.**

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

22 (1) in subsection (b)(8), by inserting in the
23 matter preceding subparagraph (A) “, an immediate
24 family member of such person (as defined in section
25 1128(j)), or a member of the household of such per-

1 son (as defined in section 1128(k))” after “the Sec-
 2 retary determines that a person”; and

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

4 “(j) DEFINITION OF IMMEDIATE FAMILY MEM-
 5 BER.—For purposes of subsection (b)(8), the term ‘imme-
 6 diate family member’ means—

7 “(1) a spouse;

8 “(2) a biological or adoptive parent of the indi-
 9 vidual and the individual’s spouse;

10 “(3) a child or sibling;

11 “(4) a grandparent or grandchild; or

12 “(5) an individual that is married to any of the
 13 individuals listed in paragraphs (2) through (5).

14 “(k) DEFINITION OF MEMBER OF THE HOUSE-
 15 HOLD.—For purposes of subsection (b)(8), the term
 16 ‘member of the household’ means a person sharing a com-
 17 mon abode as part of a single family unit, including do-
 18 mestic employees and others who live together as a family
 19 unit, but not including a roomer or boarder.”.

20 **SEC. 107. LIABILITY OF MEDICARE CARRIERS AND FISCAL**
 21 **INTERMEDIARIES AND STATES FOR CLAIMS**
 22 **SUBMITTED BY EXCLUDED PROVIDERS.**

23 (a) REIMBURSEMENT TO THE SECRETARY FOR
 24 AMOUNTS PAID TO EXCLUDED PROVIDERS.—

1 (1) REQUIREMENTS FOR FISCAL
2 INTERMEDIARIES.—

3 (A) IN GENERAL.—Section 1816 (42
4 U.S.C. 1395h) is amended by adding at the end
5 the following:

6 “(m) An agreement with an agency or organization
7 under this section shall require that the agency or organi-
8 zation reimburse the Secretary for any amounts paid for
9 a service under this title which is furnished, directed, or
10 prescribed by an individual or entity during any period
11 for which the individual or entity is excluded pursuant to
12 section 1128, 1128A, or 1156 from participation in the
13 program under this title, if the amounts are paid after
14 the Secretary notifies the agency or organization of the
15 exclusion.”.

16 (B) CONFORMING AMENDMENT.—Section
17 1816(i) (42 U.S.C. 1395h(i)) is amended by
18 adding at the end the following:

19 “(4) Nothing in this subsection shall be con-
20 strued to prohibit reimbursement by an agency or
21 organization under subsection (m).”.

22 (2) REQUIREMENTS FOR CARRIERS.—Section
23 1842(b)(3) (42 U.S.C. 1395u(b)(3)) is amended—

24 (A) by striking “and” at the end of sub-
25 paragraph (I); and

1 (B) by inserting after subparagraph (I) the
2 following:

3 “(J) will reimburse the Secretary for any
4 amounts paid for an item or service under this part
5 which is furnished, directed, or prescribed by an in-
6 dividual or entity during any period for which the in-
7 dividual or entity is excluded pursuant to section
8 1128, 1128A, or 1156 from participation in the pro-
9 gram under this title, if the amounts are paid after
10 the Secretary notifies the carrier of the exclusion;
11 and”.

12 (3) REQUIREMENTS FOR STATES.—Section
13 1902(a)(39) (42 U.S.C. 1396a(a)(39)) is amended
14 by striking the semicolon at the end and inserting “,
15 and provide further for reimbursement to the Sec-
16 retary of any payments made under the plan for any
17 item or service furnished, directed, or prescribed by
18 the excluded individual or entity during such period,
19 after the Secretary notifies the State of such exclu-
20 sion;”.

21 (b) CONFORMING REPEAL OF MANDATORY PAYMENT
22 RULE.—Section 1862(e)(2) (42 U.S.C. 1395y(e)(2)) is
23 amended to read as follows:

24 “(2) No individual or entity may bill (or collect any
25 amount from) any individual for any item or service for

1 which payment is denied under paragraph (1). No person
 2 is liable for payment of any amounts billed for such an
 3 item or service in violation of the previous sentence.”.

4 **SEC. 108. AUTHORITY TO REFUSE TO ENTER INTO MEDI-**
 5 **CARE OR MEDICAID AGREEMENTS WITH IN-**
 6 **DIVIDUALS OR ENTITIES CONVICTED OF**
 7 **FELONIES.**

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

10 (1) in subparagraph (B), by striking “or” at
 11 the end;

12 (2) in subparagraph (C), by striking the period
 13 at the end and inserting “, or”; and

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

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

20 (b) MEDICARE PART B.—Section 1842 (42 U.S.C.
 21 1395u) is amended by adding at the end the following:

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

1 victed of a felony under Federal or State law for an of-
 2 fense which the Secretary determines is inconsistent with
 3 the best interests of program beneficiaries.”.

4 (c) MEDICAID.—Section 1902(a)(23) (42 U.S.C.
 5 1396(a)(23)) is amended—

6 (1) by inserting a comma after “1915”; and

7 (2) by inserting after “Guam,” the following:

8 “and except that this provision does not require a State
 9 to provide medical assistance for such services furnished
 10 by a person or entity convicted of a felony under Federal
 11 or State law for an offense which the State agency deter-
 12 mines is inconsistent with the best interests of bene-
 13 ficiaries under the State plan,”.

14 **SEC. 109. APPLICATION OF CERTAIN PROVISIONS OF THE**
 15 **BANKRUPTCY CODE.**

16 (a) RESTRICTED APPLICABILITY OF BANKRUPTCY
 17 STAY, DISCHARGE, AND PREFERENTIAL TRANSFER PRO-
 18 VISIONS TO MEDICARE AND MEDICAID DEBTS.—Part A
 19 of title XI (42 U.S.C. 1301 et seq.) is amended by insert-
 20 ing after section 1143 the following:

21 “APPLICATION OF CERTAIN PROVISIONS OF THE
 22 BANKRUPTCY CODE

23 “SEC. 1144. (a) MEDICARE AND MEDICAID-RELAT-
 24 ED ACTIONS NOT STAYED BY BANKRUPTCY PROCEED-
 25 INGS.—The commencement or continuation of any action
 26 against a debtor under this title or title XVIII or XIX

1 (other than an action with respect to health care services
2 for the debtor under title XVIII), including any action or
3 proceeding to exclude or suspend the debtor from program
4 participation, assess civil money penalties, recoup or set
5 off overpayments, or deny or suspend payment of claims
6 shall not be subject to the provisions of section 362(a) of
7 title 11, United States Code.

8 “(b) MEDICARE- AND MEDICAID-RELATED DEBT
9 NOT DISCHARGEABLE IN BANKRUPTCY.—A debt owed to
10 the United States or to a State for an overpayment under
11 title XVIII or XIX (other than an overpayment for health
12 care services for the debtor under title XVIII), or for a
13 penalty, fine, or assessment under this title or title XVIII
14 or XIX, shall not be dischargeable under any provision
15 of title 11, United States Code.

16 “(c) REPAYMENT OF CERTAIN DEBTS CONSIDERED
17 FINAL.—Payments made to repay a debt to the United
18 States or to a State with respect to items or services pro-
19 vided, or claims for payment made, under title XVIII or
20 XIX (including repayment of an overpayment (other than
21 an overpayment for health care services for the debtor
22 under title XVIII)), or to pay a penalty, fine, or assess-
23 ment under this title or title XVIII or XIX, shall be con-
24 sidered final and not preferential transfers under section
25 547 of title 11, United States Code.”.

1 (b) MEDICARE RULES APPLICABLE TO BANKRUPTCY
2 PROCEEDINGS.—Title XVIII (42 U.S.C. 1395 et seq.) is
3 amended by adding at the end the following:

4 “APPLICATION OF PROVISIONS OF THE BANKRUPTCY
5 CODE

6 “SEC. 1894. (a) USE OF MEDICARE STANDARDS AND
7 PROCEDURES.—Notwithstanding any provision of title 11,
8 United States Code, or any other provision of law, in the
9 case of claims by a debtor in bankruptcy for payment
10 under this title, the determination of whether the claim
11 is allowable and of the amount payable, shall be made in
12 accordance with the provisions of this title and title XI
13 and implementing regulations.

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

1 “(c) **TURNOVER OF PROPERTY TO THE BANKRUPTCY**
 2 **ESTATE.**—For purposes of section 542(b) of title 11,
 3 United States Code, a claim for payment under this title
 4 shall not be considered to be a matured debt payable to
 5 the estate of a debtor until such claim has been allowed
 6 by the Secretary in accordance with procedures under this
 7 title.”.

8 **SEC. 110. INSPECTOR GENERAL ACCESS TO NATIONAL**
 9 **PRACTITIONER DATA BANK.**

10 Section 427 of the Health Care Quality Improvement
 11 Act of 1986 (42 U.S.C. 11137) is amended—

12 (1) in subsection (a), by adding at the end the
 13 following: “Information reported under this part
 14 shall also be made available, upon request, to the In-
 15 spector General of the Departments of Health and
 16 Human Services, Defense, and Labor, the Office of
 17 Personnel Management, and the Railroad Retirement
 18 Board.”; and

19 (2) by amending subsection (b)(4) to read as
 20 follows:

21 “(4) **FEEES.**—

22 “(A) **IMPOSITION OF FEES.**—The Sec-
 23 retary may impose fees for the disclosure of in-
 24 formation under this part sufficient to recover
 25 the full costs of carrying out the provisions of

1 this part, including reporting, disclosure, and
 2 administration, except that a fee may not be
 3 imposed for requests made by the Inspector
 4 General of the Department of Health and
 5 Human Services.

6 “(B) AVAILABILITY OF FEES.—The fees
 7 shall remain available to the Secretary (or, in
 8 the Secretary’s discretion, to the agency des-
 9 ignated in section 424(b)) until expended.”.

10 **SEC. 111. STATE HEALTH CARE FRAUD CONTROL UNITS.**

11 (a) EXTENSION OF CONCURRENT AUTHORITY TO IN-
 12 VESTIGATE AND PROSECUTE FRAUD IN OTHER FEDERAL
 13 PROGRAMS.—Section 1903(q)(3) (42 U.S.C. 1396b(q)(3))
 14 is amended—

15 (1) by striking “in connection with any aspect”
 16 and inserting “in connection with—

17 “(A) any aspect”;

18 (2) by striking the period at the end and insert-
 19 ing “; and”; and

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

21 “(B) in cases where the entity’s function is
 22 also described by subparagraph (A), and upon
 23 the approval of the relevant Federal agency,
 24 any aspect of the provision of health care serv-
 25 ices and activities of providers of such services

1 under any Federal health care program (as de-
2 fined in section 1128B(f)).”.

3 (b) EXTENSION OF AUTHORITY TO INVESTIGATE
4 AND PROSECUTE PATIENT ABUSE IN NON-MEDICAID
5 BOARD AND CARE FACILITIES.—Section 1903(q)(4) (42
6 U.S.C. 1396b(q)(4)) is amended to read as follows:

7 “(4)(A) The entity has—

8 “(i) procedures for reviewing complaints of
9 abuse or neglect of patients in health care fa-
10 cilities which receive payments under the State
11 plan under this title;

12 “(ii) at the option of the entity, procedures
13 for reviewing complaints of abuse or neglect of
14 patients residing in board and care facilities;
15 and

16 “(iii) procedures for acting upon such com-
17 plaints under the criminal laws of the State or
18 for referring such complaints to other State
19 agencies for action.

20 “(B) For purposes of this paragraph, the term
21 ‘board and care facility’ means a residential setting
22 which receives payment from or on behalf of two or
23 more unrelated adults who reside in such facility,
24 and for whom one or both of the following is pro-
25 vided:

1 “(i) Nursing care services provided by, or
2 under the supervision of, a registered nurse, li-
3 censed practical nurse, or licensed nursing as-
4 sistant.

5 “(ii) Personal care services that assist resi-
6 dents with the activities of daily living, includ-
7 ing personal hygiene, dressing, bathing, eating,
8 toileting, ambulation, transfer, positioning, self-
9 medication, body care, travel to medical serv-
10 ices, essential shopping, meal preparation, laun-
11 dry, and housework.”.

12 **SEC. 112. REQUIREMENT FOR ANNUAL GAO REPORT.**

13 Section 1817(k)(6) (42 U.S.C. 1395i(k)(6)) is
14 amended—

15 (1) in the matter preceding subparagraph (A),
16 by striking “2000, 2002, and 2004,” and inserting
17 “2000 and each subsequent year through 2004”;
18 and

19 (2) in subparagraph (A)—

20 (A) in clause (i), by striking “two fiscal
21 years” and inserting “fiscal year”; and

22 (B) in clause (ii), by striking “fiscal years”
23 and inserting “fiscal year”.

1 **TITLE II—SANCTIONS FOR**
2 **FRAUD AND ABUSE**

3 **SEC. 201. CIVIL MONETARY PENALTIES FOR KICKBACKS.**

4 (a) PERMITTING SECRETARY TO IMPOSE CIVIL MON-
5 ETARY PENALTY.—Section 1128A(a) (42 U.S.C. 1320a-
6 7a(a)) is amended—

7 (1) by striking “or” at the end of paragraph
8 (4);

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

11 (3) by adding after paragraph (5) the following:

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

14 (b) DESCRIPTION OF CIVIL MONETARY PENALTY AP-
15 PLICABLE.—Section 1128A(a) (42 U.S.C. 1320a-7a(a))
16 (as amended by subsection (a) of this section) is amended
17 in the matter following paragraph (6)—

18 (1) by striking “occurs).” and inserting “oc-
19 curs; in cases under paragraph (6), \$50,000 for each
20 such act.”; and

21 (2) by inserting after “of such claim” the fol-
22 lowing: “(or, in cases under paragraph (6), damages
23 of not more than 3 times the total amount of remu-
24 neration offered, paid, solicited, or received, without
25 regard to whether a portion of such remuneration

1 was offered, paid, solicited, or received for a lawful
 2 purpose)”.
 3

3 **SEC. 202. CIVIL MONETARY PENALTIES FOR PERSONS THAT**
 4 **CONTRACT WITH EXCLUDED INDIVIDUALS.**

5 Section 1128A(a) (42 U.S.C. 1320a–7a(a)) (as
 6 amended by section 201(a) of this Act) is amended—

7 (1) by striking “or” at the end of paragraph
 8 (5);

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

11 (3) by adding after paragraph (6) the following:

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

19 **SEC. 203. CIVIL MONETARY PENALTIES FOR SERVICES OR-**
 20 **DERED OR PRESCRIBED BY AN EXCLUDED IN-**
 21 **DIVIDUAL OR ENTITY.**

22 Section 1128A(a)(1) (42 U.S.C. 1320a–7a(a)(1)) is
 23 amended—

24 (1) in subparagraph (D)—

1 (A) by inserting “, ordered, or prescribed
2 by a person” after “other item or service fur-
3 nished”;

4 (B) by inserting “(under this title or title
5 XVIII) after “period in which the person was
6 excluded”;

7 (C) by striking “pursuant to a determina-
8 tion by the Secretary” and all that follows
9 through “the provisions of section 1842(j)”;
10 and

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

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

14 (3) by adding after subparagraph (D) the fol-
15 lowing:

16 “(E) is for a medical or other item or serv-
17 ice ordered or prescribed by a person excluded
18 (under this title or title XVIII) from the pro-
19 gram under which the claim was made, and the
20 person furnishing such item or service knows or
21 should know of such exclusion, or”.

1 **TITLE III—TECHNICAL CLARI-**
 2 **FICATIONS AND CORREC-**
 3 **TIONS**

4 **SEC. 301. DEFINITION OF THE TERM CONVICTION.**

5 Section 1128E(g)(5) (42 U.S.C. 1320a–7e(g)(5)) is
 6 amended by striking “paragraph (4) of” and inserting
 7 “paragraphs (1) through (4)”.

8 **SEC. 302. PROPER REFERENCE IN ADVISORY OPINIONS.**

9 Section 1128D(b)(2)(D) (42 U.S.C. 1320a–
 10 7d(b)(2)(D)) is amended by striking “1128B(b)” and in-
 11 serting “1128A(b)”.

12 **SEC. 303. ENSURING PROPER IMPLEMENTATION OF FED-**
 13 **ERAL HEALTH CARE PROGRAM EXCLUSIONS.**

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

15 (1) in subsection (a), by striking “program
 16 under title XVIII and shall direct that the following
 17 individuals and entities be excluded from participa-
 18 tion in any State health care program (as defined in
 19 subsection (h))” and inserting “Federal health care
 20 program (as defined in section 1128B(f))”; and

21 (2) in subsection (b), by striking “program
 22 under title XVIII and may direct that the following
 23 individuals and entities be excluded from participa-
 24 tion in any State health care program” and inserting

1 “Federal health care program (as defined in section
2 1128B(f))”.

3 **TITLE IV—COORDINATION OF**
4 **BENEFITS**

5 **SEC. 401. PERMANENT EXTENSION OF CERTAIN SECOND-**
6 **ARY PAYER PROVISIONS.**

7 (a) WORKING DISABLED.—Section 1862(b)(1)(B)
8 (42 U.S.C. 1395y(b)(1)(B)) is amended by striking clause
9 (iii).

10 (b) INDIVIDUALS WITH END STAGE RENAL DIS-
11 EASE.—Section 1862(b)(1)(C) (42 U.S.C.
12 1395y(b)(1)(C)) is amended—

13 (1) in the first sentence, by striking “12-
14 month” each place it occurs and inserting “18-
15 month”; and

16 (2) by striking the second sentence.

17 (c) IRS-SSA-HCFA DATA MATCH.—

18 (1) SOCIAL SECURITY ACT.—Section
19 1862(b)(5)(C) (42 U.S.C. 1395y(b)(5)(C)) is
20 amended by striking clause (iii).

21 (2) INTERNAL REVENUE CODE.—Section
22 6103(l)(12) of the Internal Revenue Code of 1986 is
23 amended by striking subparagraph (F).

1 **SEC. 402. TECHNICAL CHANGES CONCERNING MINIMUM**
2 **SIZES OF GROUP HEALTH PLANS.**

3 (a) **PLACEMENT OF “GROUP HEALTH PLAN” DEFINI-**
4 **ITION IN SOCIAL SECURITY ACT.—**

5 (1) **DEFINITION.—**Section 1862(b)(1)(E) (42
6 U.S.C. 1395y(b)(1)(E)) is amended by adding at the
7 end the following:

8 “(iv) **GROUP HEALTH PLAN DE-**
9 **FINED.—**The term ‘group health plan’
10 means a plan (including a self-insured
11 plan) of, or contributed to by, an employer
12 or employee organization to provide health
13 care (directly or otherwise) to the employ-
14 ees, former employees, the employer, oth-
15 ers associated or formerly associated with
16 the employer in a business relationship, or
17 their families.”.

18 (2) **CONFORMING AMENDMENTS.—**

19 (A) **SECTION 1862(b)(1)(A).—**Section
20 1862(b)(1)(A) (42 U.S.C. 1395y(b)(1)(A)) is
21 amended by striking clause (v).

22 (B) **SECTION 1862(b)(1)(C).—**Section
23 1862(b)(1)(C) (42 U.S.C. 1395y(b)(1)(C)) is
24 amended in the matter preceding clause (i) by
25 striking “plan (as defined in subparagraph
26 (A)(v))—” and inserting “plan—”.

1 (C) SECTIONS 1837 AND 1839.—Subpara-
2 graph (A) of the first sentence of section
3 1837(i)(1) (42 U.S.C. 1395p(i)(1)), subpara-
4 graph (B) of the first sentence of section
5 1837(i)(2) (42 U.S.C. 1395p(i)(2)), section
6 1837(i)(3)(A) (42 U.S.C. 1395p(i)(3)(A)), and
7 paragraph (2) of the second sentence of section
8 1839(b) (42 U.S.C. 1395r(b)), are each amend-
9 ed by striking “1862(b)(1)(A)(v)” and inserting
10 “1862(b)(1)(E)(iv)”.

11 (D) SECTION 5000 OF THE INTERNAL REV-
12 ENUE CODE.—Section 5000(b) of the Internal
13 Revenue Code of 1986 is amended to read as
14 follows:

15 “(b) GROUP HEALTH PLAN.—For purposes of this
16 section, the term ‘group health plan’ has the meaning
17 given that term in section 1862(b)(1)(E)(iv) of the Social
18 Security Act (42 U.S.C. 1395y(b)(1)(E)(iv)).”.

19 (E) SECTION 7701(a) OF THE INTERNAL
20 REVENUE CODE.—Section 7701(a) of the Inter-
21 nal Revenue Code of 1986 is amended by add-
22 ing at the end the following:

23 “(47) GROUP HEALTH PLAN.—The term ‘group
24 health plan’ means a plan (including a self-insured
25 plan) of, or contributed to by, an employer (includ-

1 ing a self-employed person) or employee organization
 2 to provide health care (directly or otherwise) to the
 3 employees, former employees, the employer, others
 4 associated or formerly associated with the employer
 5 in a business relationship, or their families.”.

6 (F) SECTIONS 4980B, 9805, AND 6103 OF
 7 THE INTERNAL REVENUE CODE.—Sections
 8 4980B, 9805, and 6103(l)(12)(E)(ii) of the In-
 9 ternal Revenue Code of 1986 are amended by
 10 striking “5000(b)(1)” each place it occurs and
 11 inserting “7701(a)(47)”.

12 (b) CONSOLIDATION OF SIZE REQUIREMENTS.—

13 (1) IN GENERAL.—Section 1862(b)(1)(E) (42
 14 U.S.C. 1395y(b)(1)(E)) (as amended by subsection
 15 (a)(1) of this section) is amended by adding at the
 16 end the following:

17 “(v) EXCLUSION OF GROUP HEALTH
 18 PLANS OF SMALL AND MEDIUM EMPLOY-
 19 ERS.—

20 “(I) Subparagraph (A) does not
 21 apply to a group health plan unless
 22 the plan involves at least one employer
 23 that has 20 or more employees in
 24 each of 20 or more calendar weeks in

1 the current or preceding calendar
2 year.

3 “(II) Subparagraph (B) does not
4 apply to a group health plan unless
5 the plan involves at least one employer
6 that has 100 or more employees in
7 each of 20 or more calendar weeks in
8 the current or preceding calendar
9 year.”.

10 (2) CONFORMING AMENDMENTS.—

11 (A) SECTION 1862(b)(1)(A).—Section
12 1862(b)(1)(A) (42 U.S.C. 1395y(b)(1)(A)) (as
13 amended by subsection (a)(2)(A) of this sec-
14 tion) is amended—

15 (i) by striking clauses (ii) and (iii),

16 and

17 (ii) by redesignating clause (iv) as
18 clause (ii).

19 (B) SECTION 1862(b)(1)(B).—Section
20 1862(b)(1)(B) (42 U.S.C. 1395y(b)(1)(B)) is
21 amended—

22 (i) in the heading, by striking
23 “LARGE”,

24 (ii) in clause (i), by striking “large
25 group health plan (as defined in clause

1 (iv))” and inserting “group health plan”,
2 and

3 (iii) by striking clause (iv).

4 (C) SECTION 1862(b)(2).—The second sen-
5 tence of section 1862(b)(2)(A) (42 U.S.C.
6 1395y(b)(2)(A)) is amended by striking “or
7 large group health plan”.

8 (D) SECTION 1862(b)(3).—Section
9 1862(b)(3)(C) (42 U.S.C. 1395y(b)(3)(C)) is
10 amended—

11 (i) in the heading, by striking “OR A
12 LARGE GROUP HEALTH PLAN”, and

13 (ii) in the first sentence, by striking
14 “or a large group health plan”.

15 (E) SECTION 1837(i)(1).—Section
16 1837(i)(1) (42 U.S.C. 1395p(i)(1)) is amend-
17 ed—

18 (i) in the first sentence, in subpara-
19 graph (A), by striking “(or the individual’s
20 spouse’s) current employment status” and
21 inserting “current employment status (or
22 the current employment status of a family
23 member of the individual)”; and

24 (ii) by striking the second sentence.

1 (F) SECTION 1837(i)(2).—Section
2 1837(i)(2) (42 U.S.C. 1395p(i)(2)) is amend-
3 ed—

4 (i) in the first sentence, in subpara-
5 graph (B), by striking “(or the individual’s
6 spouse’s) current employment status” and
7 inserting “current employment status (or
8 the current employment status of a family
9 member of the individual)”; and

10 (ii) by striking the second sentence.

11 (G) SECTION 1837(i)(3).—Section
12 1837(i)(3) (42 U.S.C. 1395p(i)(3)) is amend-
13 ed—

14 (i) by striking subparagraph (B), and

15 (ii) by striking “(3)(A)” and inserting
16 “(3)”.

17 (H) SECTION 1839(b).—Paragraph (2) of
18 the second sentence of section 1839(b) (42
19 U.S.C. 1395r(b)) is amended by striking “by
20 reason of the individual’s” and all that follows
21 through “section 1862(b)(1)(B)(iv)”.

22 (I) SECTION 5000 OF THE INTERNAL REVE-
23 NUE CODE.—Section 5000(c) of the Internal
24 Revenue Code of 1986 is amended by striking
25 “or large group health plan” and all that fol-

1 lows up to the period and inserting “that at any
2 time during a calendar year does not comply
3 with any applicable requirement of paragraph
4 (1) or (2) of section 1862(b) of the Social Secu-
5 rity Act”.

6 **SEC. 403. INFORMATION REQUIREMENTS.**

7 (a) INFORMATION FROM GROUP HEALTH PLANS.—
8 Section 1862(b) (42 U.S.C. 1395y(b)) is amended by add-
9 ing at the end the following:

10 “(7) INFORMATION FROM GROUP HEALTH
11 PLANS.—

12 “(A) PROVISION OF INFORMATION BY
13 GROUP HEALTH PLANS.—The administrator of
14 a group health plan (other than a plan exempt,
15 under paragraph (1)(E)(v), from the require-
16 ments of paragraph (1)) shall provide to the
17 Secretary any or all of the information elements
18 listed in subparagraph (C) in the manner and
19 at times (but not more frequently than 4 times
20 per year) the Secretary may specify, with re-
21 spect to each individual covered under the plan
22 and entitled to benefits under this title.

23 “(B) PROVISION OF INFORMATION BY EM-
24 PLOYERS AND EMPLOYEE ORGANIZATIONS.—An
25 employer (or employee organization) that main-

1 tains or participates in a group health plan
2 (other than a plan exempt, under paragraph
3 (1)(E)(v), from the requirements of paragraph
4 (1)) shall provide to the administrator of the
5 plan any or all of the information elements list-
6 ed in subparagraph (C) in the manner and at
7 times (but not more frequently than 4 times per
8 year) the Secretary may specify, with respect to
9 each individual covered under the plan and enti-
10 tled to benefits under this title.

11 “(C) INFORMATION ELEMENTS TO BE PRO-
12 VIDED.—The information elements to be pro-
13 vided under subparagraph (A) or (B) are:

14 “(i) ELEMENTS CONCERNING THE IN-
15 DIVIDUAL.—Elements concerning the indi-
16 vidual are as follows:

17 “(I) The individual’s name.

18 “(II) The individual’s date of
19 birth.

20 “(III) The individual’s social se-
21 curity number.

22 “(IV) The number assigned by
23 the Secretary to the individual for
24 claims under this title.

1 “(V) The family relationship of
2 the individual to the person who has
3 or had current employment status
4 with the employer.

5 “(ii) ELEMENTS CONCERNING THE
6 FAMILY MEMBER WITH CURRENT OR
7 FORMER EMPLOYMENT STATUS.—Elements
8 concerning the family member with current
9 or former employment status are as fol-
10 lows:

11 “(I) The name of the person in
12 the individual’s family who has or had
13 current employment status with the
14 employer.

15 “(II) That person’s social secu-
16 rity number.

17 “(III) The number or other iden-
18 tifier assigned by the plan to that per-
19 son.

20 “(IV) The periods of coverage for
21 that person under the plan.

22 “(V) The employment status of
23 that person (current or former) dur-
24 ing those periods of coverage.

1 “(VI) The classes (of that per-
2 son’s family members) covered under
3 the plan.

4 “(iii) PLAN ELEMENTS.—Plan ele-
5 ments are as follows:

6 “(I) The nature of the items and
7 services covered under the plan.

8 “(II) The name and address to
9 which claims under the plan are to be
10 sent.

11 “(iv) ELEMENTS CONCERNING THE
12 EMPLOYER.—Elements concerning the em-
13 ployer are as follows:

14 “(I) The employer’s name.

15 “(II) The employer’s address.

16 “(III) The employer identifica-
17 tion number of the employer.

18 “(D) USE OF IDENTIFIERS.—The adminis-
19 trator of a group health plan shall utilize an
20 identifier for the plan (that the Secretary may
21 furnish) in providing information under sub-
22 paragraph (A) and in other transactions, as
23 may be specified by the Secretary, related to
24 the provisions of this subsection.

1 “(E) APPLICABILITY OF ELECTRONIC
2 TRANSMISSION REQUIREMENTS.—Part C of
3 title XI applies to the preceding subparagraphs
4 of this paragraph.

5 “(F) PENALTY FOR NONCOMPLIANCE.—
6 Any entity that knowingly and willfully fails to
7 comply with a requirement imposed by subpara-
8 graphs (A), (B), (C), (D), or (E) is subject to
9 a civil money penalty not to exceed \$1,000 for
10 each incident of failure. The provisions of sec-
11 tion 1128A (other than subsections (a) and (b))
12 apply to a civil money penalty under the pre-
13 vious sentence in the same manner as those
14 provisions apply to a penalty or proceeding
15 under section 1128A(a).”.

16 (b) EFFECTIVE DATE.—The amendment made by
17 subsection (a) is effective 180 days after the date of enact-
18 ment of this Act.

19 **SEC. 404. CLARIFICATION OF TIME AND FILING LIMITA-**
20 **TIONS.**

21 (a) IN GENERAL.—Section 1862(b)(2)(B) (42 U.S.C.
22 1395y(b)(2)(B)) is amended by adding at the end the fol-
23 lowing:

24 “(v) TIME, FILING, AND RELATED
25 PROVISIONS UNDER PRIMARY PLAN.—Re-

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to items and services furnished
3 after 1997.

4 **SEC. 406. CLARIFICATION OF PAYMENT AMOUNTS TO MEDI-**
5 **CARE.**

6 (a) IN GENERAL.—Section 1862(b)(2)(B)(i) (42
7 U.S.C. 1395y(b)(2)(B)(i)) is amended to read as follows:

8 “(i) REPAYMENT REQUIRED.—

9 “(I) IN GENERAL.—Any payment
10 under this title, with respect to any
11 item or service for which payment by
12 a primary plan is required under the
13 preceding provisions of this sub-
14 section, shall be conditioned on reim-
15 bursement to the appropriate Trust
16 Fund established by this title when
17 notice or other information is received
18 that payment for that item or service
19 has been or should have been made
20 under those provisions. If reimburse-
21 ment is not made to the appropriate
22 Trust Fund before the expiration of
23 the 60-day period that begins on the
24 date such notice or other information
25 is received, the Secretary may charge

1 interest (beginning with the date on
2 which the notice or other information
3 is received) on the amount of the re-
4 imbursement until reimbursement is
5 made (at a rate determined by the
6 Secretary in accordance with regula-
7 tions of the Secretary of the Treasury
8 applicable to charges for late pay-
9 ments).

10 “(II) DETERMINATION OF
11 AMOUNT OWED.—The amount owed
12 by a primary plan under the first sen-
13 tence of subclause (I) is the lesser of
14 the full primary payment required (if
15 that amount is readily determinable)
16 and the amount paid under this title
17 for that item or service.”.

18 (b) CONFORMING AND TECHNICAL AMENDMENTS.—

19 (1) Subparagraphs (A)(i)(I) and (B)(i) of sec-
20 tion 1862(b)(1) (42 U.S.C. 1395y(b)(1)) are each
21 amended by inserting “(or eligible to be covered)”
22 after “covered”.

23 (2) Section 1862(b)(1)(C)(ii) (42 U.S.C.
24 1395y(b)(1)(C)(ii)) is amended by striking “covered
25 by such plan”.

1 (3) Section 1862(b)(2)(A) (42 U.S.C.
2 1395y(b)(2)(A)) is amended in the matter preceding
3 clause (i) by striking “, except as provided in sub-
4 paragraph (B),”.

5 (c) EFFECTIVE DATE.—The amendments made by
6 this section shall apply to items and services furnished
7 after 1997.

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