

106TH CONGRESS  
1ST SESSION

# H. R. 3461

To amend title XVIII of the Social Security Act to establish additional provisions to combat waste, fraud, and abuse within the Medicare Program, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 18, 1999

Mrs. BIGGERT (for herself and Mr. TRAFICANT) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committees on Commerce, and the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To amend title XVIII of the Social Security Act to establish additional provisions to combat waste, fraud, and abuse within the Medicare Program, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the  
5 “Medicare Fraud Prevention and Enforcement Act of  
6 1999”.

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

- Sec. 1. Short title; table of contents.
- Sec. 2. Site inspections and background checks.
- Sec. 3. Registration of billing agencies.
- Sec. 4. Expanded access to the health integrity protection database (HIPDB).
- Sec. 5. Liability of medicare carriers and fiscal intermediaries for claims submitted by excluded providers.
- Sec. 6. Community mental health centers.
- Sec. 7. Limiting the use of discharge in bankruptcy proceedings for provider liability for health care fraud.
- Sec. 8. Illegal distribution of a medicare or medicaid beneficiary identification or provider number.
- Sec. 9. Treatment of certain Social Security Act crimes as Federal health care offenses.
- Sec. 10. Authority of Office of Inspector General of the Department of Health and Human Services.
- Sec. 11. Universal product numbers on claims forms for reimbursement under the medicare program.

3 **SEC. 2. SITE INSPECTIONS AND BACKGROUND CHECKS.**

4 (a) SITE INSPECTIONS FOR DME SUPPLIERS, COMMUNITY MENTAL HEALTH CENTERS, AND OTHER PROVIDER GROUPS.—Title XVIII of the Social Security Act  
 5 MUNITY MENTAL HEALTH CENTERS, AND OTHER PRO-  
 6 VIDER GROUPS.—Title XVIII of the Social Security Act  
 7 (42 U.S.C. 1395 et seq.) is amended by adding at the end  
 8 the following:

9 “SITE INSPECTIONS FOR DME SUPPLIERS, COMMUNITY  
 10 MENTAL HEALTH CENTERS, AND OTHER PROVIDER  
 11 GROUPS

12 “SEC. 1897. (a) SITE INSPECTIONS.—

13 “(1) IN GENERAL.—The Secretary shall con-  
 14 duct a site inspection for each applicable provider  
 15 (as defined in paragraph (2)) that applies for a pro-  
 16 vider number in order to provide items or services  
 17 under this title. Such site inspection shall be in addi-

1 tion to any other site inspection that the Secretary  
2 would otherwise conduct with regard to an applica-  
3 ble provider.

4 “(2) APPLICABLE PROVIDER DEFINED.—

5 “(A) IN GENERAL.—Except as provided in  
6 subparagraph (B), in this section, the term ‘ap-  
7 plicable provider’ means—

8 “(i) a supplier of durable medical  
9 equipment (including items described in  
10 section 1834(a)(13));

11 “(ii) a supplier of prosthetics,  
12 orthotics, or supplies (including items de-  
13 scribed in paragraphs (8) and (9) of sec-  
14 tion 1861(s));

15 “(iii) a community mental health cen-  
16 ter; or

17 “(iv) any other provider group, as de-  
18 termined by the Secretary.

19 “(B) EXCEPTION.—In this section, the  
20 term ‘applicable provider’ does not include—

21 “(i) a physician that provides durable  
22 medical equipment (as described in sub-  
23 paragraph (A)(i)) or prosthetics, orthotics,  
24 or supplies (as described in subparagraph

1 (A)(ii) to an individual as incident to an  
2 office visit by such individual; or

3 “(ii) a hospital that provides durable  
4 medical equipment (as described in sub-  
5 paragraph (A)(i)) or prosthetics, orthotics,  
6 or supplies (as described in subparagraph  
7 (A)(ii)) to an individual as incident to an  
8 emergency room visit by such individual.

9 “(b) STANDARDS AND REQUIREMENTS.—In con-  
10 ducting the site inspection pursuant to subsection (a), the  
11 Secretary shall ensure that the site being inspected is in  
12 full compliance with all the conditions and standards of  
13 participation and requirements for obtaining medicare bill-  
14 ing privileges under this title.

15 “(c) TIME.—The Secretary shall conduct the site in-  
16 spection for an applicable provider prior to the issuance  
17 of a provider number to such provider.

18 “(d) TIMELY REVIEW.—The Secretary shall provide  
19 for procedures to ensure that the site inspection required  
20 under this section does not unreasonably delay the  
21 issuance of a provider number to an applicable provider.”.

22 (b) BACKGROUND CHECKS.—Title XVIII of the So-  
23 cial Security Act (42 U.S.C. 1395 et seq.) (as amended  
24 by subsection (a)) is amended by adding at the end the  
25 following:

1 “BACKGROUND CHECKS

2 “SEC. 1898. (a) BACKGROUND CHECK REQUIRED.—  
3 Except as provided in subsection (b), the Secretary shall  
4 conduct a background check on any individual or entity  
5 that applies to the Secretary for a provider number for  
6 the purpose of furnishing any item or service under this  
7 title. In performing the background check, the Secretary  
8 shall—

9 “(1) conduct the background check before  
10 issuing a provider number to an individual or entity;

11 “(2) include a search of criminal records in the  
12 background check; and

13 “(3) provide for procedures that ensure the  
14 background check does not unreasonably delay the  
15 issuance of a provider number to an eligible indi-  
16 vidual or entity.

17 “(b) USE OF STATE LICENSING PROCEDURE.—The  
18 Secretary may use the results of a State licensing proce-  
19 dure as a background check under subsection (a) if the  
20 State licensing procedure meets the requirements of sub-  
21 section (a).

22 “(c) ATTORNEY GENERAL REQUIRED TO PROVIDE  
23 INFORMATION.—

24 “(1) IN GENERAL.—Upon request of the Sec-  
25 retary, the Attorney General shall provide the crimi-

1       nal background check information referred to in sub-  
2       section (a)(2) to the Secretary.

3               “(2) RESTRICTION ON USE OF DISCLOSED IN-  
4       FORMATION.—The Secretary may only use the infor-  
5       mation disclosed under subsection (a) for the pur-  
6       pose of carrying out the Secretary’s responsibilities  
7       under this title.

8               “(d) REFUSAL TO ISSUE PROVIDER NUMBER.—

9               “(1) AUTHORITY.—In addition to any other  
10       remedy available to the Secretary, the Secretary may  
11       refuse to issue a provider number to an individual  
12       or entity if the Secretary determines, after a back-  
13       ground check conducted under this section, that  
14       such individual or entity has a history of acts that  
15       indicate issuance of a provider number to such indi-  
16       vidual or entity would be detrimental to the best in-  
17       terests of the program or program beneficiaries.  
18       Such acts may include, but are not limited to—

19               “(A) any bankruptcy;

20               “(B) any act resulting in a civil judgment  
21       against such individual or entity; or

22               “(C) any felony conviction under Federal  
23       or State law.

24               “(2) REPORTING OF REFUSAL TO ISSUE PRO-  
25       VIDER NUMBER TO THE HEALTH INTEGRITY PRO-

1       TECTION DATABASE (HIPDB).—A determination to  
2       refuse to issue a provider number to an individual  
3       or entity as a result of a background check con-  
4       ducted under this section shall be reported to the  
5       health integrity protection database established  
6       under section 1128E in accordance with the proce-  
7       dures for reporting final adverse actions taken  
8       against a health care provider, supplier, or practi-  
9       tioner under that section.”.

10       (c) REGULATIONS; EFFECTIVE DATE.—

11               (1) REGULATIONS.—Not later than 1 year after  
12       the date of enactment of this Act, the Secretary of  
13       Health and Human Services shall promulgate such  
14       regulations as are necessary to implement the  
15       amendments made by subsections (a) and (b).

16               (2) EFFECTIVE DATE.—The amendments made  
17       by subsections (a) and (b) shall apply to applications  
18       received by the Secretary of Health and Human  
19       Services on or after January 1, 2000.

20       (d) USE OF MEDICARE INTEGRITY PROGRAM  
21       FUNDS.—The Secretary of Health and Human Services  
22       may use funds appropriated or transferred for purposes  
23       of carrying out the medicare integrity program established  
24       under section 1893 of the Social Security Act (42 U.S.C.

1 1395ddd) to carry out the provisions of sections 1897 and  
2 1898 of that Act (as added by subsections (a) and (b)).

3 **SEC. 3. REGISTRATION OF BILLING AGENCIES.**

4 (a) REGISTRATION OF BILLING AGENCIES AND INDI-  
5 VIDUALS.—Title XVIII of the Social Security Act (42  
6 U.S.C. 1395 et seq.) (as amended by section 2(b)) is  
7 amended by adding at the end the following:

8 “REGISTRATION OF BILLING AGENCIES AND INDIVIDUALS

9 “SEC. 1899. (a) REGISTRATION.—The Secretary  
10 shall establish procedures for the registration of all appli-  
11 cable persons.

12 “(b) REQUIRED APPLICATION.—Each applicable per-  
13 son shall submit a registration application to the Secretary  
14 at such time, in such manner, and accompanied by such  
15 information as the Secretary may require.

16 “(c) IDENTIFICATION NUMBER.—If the Secretary ap-  
17 proves an application submitted under subsection (b), the  
18 Secretary shall assign a unique identification number to  
19 the applicable person.

20 “(d) REQUIREMENT.—Every claim for reimburse-  
21 ment under this title that is compiled and submitted by  
22 an applicable person shall contain the identification num-  
23 ber that is assigned to the applicable person pursuant to  
24 subsection (c).

25 “(e) TIMELY REVIEW.—The Secretary shall provide  
26 for procedures that ensure the timely consideration and

1 determination regarding approval of applications under  
2 this section.

3 “(f) DEFINITION OF APPLICABLE PERSON.—In this  
4 section, the term ‘applicable person’ means an individual  
5 or an entity that compiles and submits claims for reim-  
6 bursement under this title to the Secretary on behalf of  
7 any individual or entity.”.

8 (b) PERMISSIVE EXCLUSION.—Section 1128(b) of  
9 the Social Security Act (42 U.S.C. 1320a–7(b)) is amend-  
10 ed by adding at the end the following:

11 “(16) FRAUD BY APPLICABLE PERSON.—An ap-  
12 plicable person (as defined in section 1899(f)) that  
13 the Secretary determines knowingly submitted or  
14 caused to be submitted a claim for reimbursement  
15 under title XVIII that the applicable person knows  
16 or should know is false or fraudulent.”.

17 (c) REGULATIONS; EFFECTIVE DATE.—

18 (1) REGULATIONS.—Not later than 1 year after  
19 the date of enactment of this Act, the Secretary of  
20 Health and Human Services shall promulgate such  
21 regulations as are necessary to implement the  
22 amendment made by subsections (a) and (b).

23 (2) EFFECTIVE DATE.—The amendment made  
24 by subsections (a) and (b) shall take effect on Janu-  
25 ary 1, 2000.

1 **SEC. 4. EXPANDED ACCESS TO THE HEALTH INTEGRITY**  
2 **PROTECTION DATABASE (HIPDB).**

3 (a) IN GENERAL.—Section 1128E(d)(1) of the Social  
4 Security Act (42 U.S.C. 1320a–7e(d)(1)) is amended to  
5 read as follows:

6 “(1) AVAILABILITY.—The information in the  
7 database maintained under this section shall be  
8 available to—

9 “(A) Federal and State government agen-  
10 cies and health plans, and any health care pro-  
11 vider, supplier, or practitioner entering an em-  
12 ployment or contractual relationship with an in-  
13 dividual or entity who could potentially be the  
14 subject of a final adverse action, where the con-  
15 tract involves the furnishing of items or services  
16 reimbursed by 1 or more Federal health care  
17 programs (regardless of whether the individual  
18 or entity is paid by the programs directly, or  
19 whether the items or services are reimbursed di-  
20 rectly or indirectly through the claims of a di-  
21 rect provider); and

22 “(B) utilization and quality control peer  
23 review organizations and accreditation entities  
24 as defined by the Secretary, including but not  
25 limited to organizations described in part B of  
26 title XI and in section 1154(a)(4)(C).”.

1 (b) CRIMINAL PENALTY FOR MISUSE OF INFORMA-  
2 TION.—Section 1128B(b) of the Social Security Act (42  
3 U.S.C. 1320a–7b(b)) is amended by adding at the end the  
4 following:

5 “(4) Whoever knowingly uses information maintained  
6 in the health integrity protection database maintained in  
7 accordance with section 1128E for a purpose other than  
8 a purpose authorized under that section shall be impris-  
9 oned for not more than 3 years or fined under title 18,  
10 United States Code, or both.”.

11 (c) EFFECTIVE DATE.—The amendments made by  
12 this section shall take effect on the date of enactment of  
13 this Act.

14 **SEC. 5. LIABILITY OF MEDICARE CARRIERS AND FISCAL**  
15 **INTERMEDIARIES FOR CLAIMS SUBMITTED**  
16 **BY EXCLUDED PROVIDERS.**

17 (a) REIMBURSEMENT TO THE SECRETARY FOR  
18 AMOUNTS PAID TO EXCLUDED PROVIDERS.—

19 (1) REQUIREMENTS FOR FISCAL INTER-  
20 MEDIARIES.—

21 (A) IN GENERAL.—Section 1816 of the So-  
22 cial Security Act (42 U.S.C. 1395h) is amended  
23 by adding at the end the following:

24 “(m) An agreement with an agency or organization  
25 under this section shall require that such agency or orga-

1 nization reimburse the Secretary for any amounts paid by  
2 the agency or organization for a service under this title  
3 which is furnished by an individual or entity during any  
4 period for which the individual or entity is excluded, pur-  
5 suant to section 1128, 1128A, or 1156, from participation  
6 in the health care program under this title if the amounts  
7 are paid after the 60-day period beginning on the date  
8 the Secretary provides notice of the exclusion to the agen-  
9 cy or organization, unless the payment was made as a re-  
10 sult of incorrect information provided by the Secretary or  
11 the individual or entity excluded from participation has  
12 concealed or altered their identity.”.

13 (B) CONFORMING AMENDMENT.—Section  
14 1816(i) of the Social Security Act (42 U.S.C.  
15 1395h(i)) is amended by adding at the end the  
16 following:

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

20 (2) REQUIREMENTS FOR CARRIERS.—Section  
21 1842(b)(3) of the Social Security Act (42 U.S.C.  
22 1395u(b)(3)) is amended—

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

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

3 “(J) will reimburse the Secretary for any  
4 amounts paid by the carrier for an item or service  
5 under this part which is furnished by an individual  
6 or entity during any period for which the individual  
7 or entity is excluded, pursuant to section 1128,  
8 1128A, or 1156, from participation in the health  
9 care program under this title if the amounts are  
10 paid after the 60-day period beginning on the date  
11 the Secretary provides notice of the exclusion to the  
12 carrier, unless the payment was made as a result of  
13 incorrect information provided by the Secretary or  
14 the individual or entity excluded from participation  
15 has concealed or altered their identity; and”.

16 (b) CONFORMING REPEAL OF MANDATORY PAYMENT  
17 RULE.—Section 1862(e) of the Social Security Act (42  
18 U.S.C. 1395y(e)) is amended—

19 (1) in paragraph (1)(B), by striking “and when  
20 the person” and all that follows through “person”;  
21 and

22 (2) by amending paragraph (2) to read as fol-  
23 lows:

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 indi-  
2 vidual is liable for payment of any amounts billed for such  
3 an item or service in violation of the preceding sentence.”.

4 (c) EFFECTIVE DATE.—

5 (1) IN GENERAL.—The amendments made by  
6 this section shall apply to claims for payment sub-  
7 mitted on or after the date of enactment of this Act.

8 (2) CONTRACT MODIFICATION.—The Secretary  
9 of Health and Human Services shall take such steps  
10 as may be necessary to modify contracts and agree-  
11 ments entered into, renewed, or extended prior to  
12 the date of enactment of this Act to conform such  
13 contracts or agreements to the provisions of this sec-  
14 tion.

15 **SEC. 6. COMMUNITY MENTAL HEALTH CENTERS.**

16 (a) IN GENERAL.—Section 1861(ff)(3)(B) of the So-  
17 cial Security Act (42 U.S.C. 1395x(ff)(3)(B)) is amended  
18 by striking “entity” and all that follows and inserting the  
19 following: “entity that—

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

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



1 1320a–7a(a)) is amended by adding at the end the  
2 following: “Notwithstanding any other provision of  
3 law, amounts made payable under this section are  
4 not dischargeable under section 727, 1141, 1228(a)  
5 or (b), or 1328 of title 11, United States Code, or  
6 any other provision of such title.”.

7 (2) RECOVERY OF OVERPAYMENT TO PRO-  
8 VIDERS OF SERVICES UNDER PART A OF MEDI-  
9 CARE.—Section 1815(d) of the Social Security Act  
10 (42 U.S.C. 1395g(d)) is amended—

11 (A) by inserting “(1)” after “(d)”; and

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

13 “(2) Notwithstanding any other provision of law,  
14 amounts due to the Secretary under this section are not  
15 dischargeable under section 727, 1141, 1228(a) or (b), or  
16 1328 of title 11, United States Code, or any other provi-  
17 sion of such title if the overpayment was the result of  
18 fraudulent activity, as may be defined by the Secretary.”.

19 (3) RECOVERY OF OVERPAYMENT OF BENEFITS  
20 UNDER PART B OF MEDICARE.—Section 1833(j) of  
21 the Social Security Act (42 U.S.C. 1395l(j)) is  
22 amended—

23 (A) by inserting “(1)” after “(j)”; and

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

1 “(2) Notwithstanding any other provision of law,  
 2 amounts due to the Secretary under this section are not  
 3 dischargeable under section 727, 1141, 1228(a) or (b), or  
 4 1328 of title 11, United States Code, or any other provi-  
 5 sion of such title if the overpayment was the result of  
 6 fraudulent activity, as may be defined by the Secretary.”.

7 (4) COLLECTION OF PAST-DUE OBLIGATIONS  
 8 ARISING FROM BREACH OF SCHOLARSHIP AND LOAN  
 9 CONTRACT.—Section 1892(a) of the Social Security  
 10 Act (42 U.S.C. 1395ccc(a)) is amended by adding at  
 11 the end the following:

12 “(5) Notwithstanding any other provision of  
 13 law, amounts due to the Secretary under this section  
 14 are not dischargeable under section 727, 1141,  
 15 1228(a) or (b), or 1328 of title 11, United States  
 16 Code, or any other provision of such title.”.

17 (b) EFFECTIVE DATE.—The amendments made by  
 18 subsection (a) shall apply to bankruptcy petitions filed  
 19 after the date of enactment of this Act.

20 **SEC. 8. ILLEGAL DISTRIBUTION OF A MEDICARE OR MED-**  
 21 **ICAID BENEFICIARY IDENTIFICATION OR**  
 22 **PROVIDER NUMBER.**

23 Section 1128B(b) of the Social Security Act (42  
 24 U.S.C. 1320a–7b(b)), as amended by section 4(b), is  
 25 amended by adding at the end the following:

1 “(5) Whoever knowingly, intentionally, and with the  
2 intent to defraud purchases, sells or distributes, or ar-  
3 ranges for the purchase, sale, or distribution of 2 or more  
4 medicare or medicaid beneficiary identification numbers or  
5 provider numbers shall be imprisoned for not more than  
6 3 years or fined under title 18, United States Code (or,  
7 if greater, an amount equal to the monetary loss to the  
8 Federal and any State government as a result of such  
9 acts), or both.”.

10 **SEC. 9. TREATMENT OF CERTAIN SOCIAL SECURITY ACT**

11 **CRIMES AS FEDERAL HEALTH CARE OF-**  
12 **FENSES.**

13 (a) IN GENERAL.—Section 24(a) of title 18, United  
14 States Code, is amended—

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

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

18 “(3) section 1128B of the Social Security Act  
19 (42 U.S.C. 1320a–7b).”.

20 (b) EFFECTIVE DATE.—The amendment made by  
21 subsection (a) shall take effect on the date of enactment  
22 of this Act and apply to acts committed on or after the  
23 date of enactment of this Act.

1 **SEC. 10. AUTHORITY OF OFFICE OF INSPECTOR GENERAL**  
2 **OF THE DEPARTMENT OF HEALTH AND**  
3 **HUMAN SERVICES.**

4 (a) **AUTHORITY.**—Notwithstanding any other provi-  
5 sion of law, upon designation by the Inspector General of  
6 the Department of Health and Human Services, any  
7 criminal investigator of the Office of Inspector General of  
8 such department may, in accordance with guidelines  
9 issued by the Secretary of Health and Human Services  
10 and approved by the Attorney General, while engaged in  
11 activities within the lawful jurisdiction of such Inspector  
12 General—

13 (1) obtain and execute any warrant or other  
14 process issued under the authority of the United  
15 States;

16 (2) make an arrest without a warrant for—

17 (A) any offense against the United States  
18 committed in the presence of such investigator;

19 or

20 (B) any felony offense against the United  
21 States, if such investigator has reasonable cause  
22 to believe that the person to be arrested has  
23 committed or is committing that felony offense;

24 and

1           (3) exercise any other authority necessary to  
2           carry out the authority described in paragraphs (1)  
3           and (2).

4           (b) FUNDS.—The Office of Inspector General of the  
5           Department of Health and Human Services may receive  
6           and expend funds that represent the equitable share from  
7           the forfeiture of property in investigations in which the  
8           Office of Inspector General participated, and that are  
9           transferred to the Office of Inspector General by the De-  
10          partment of Justice, the Department of the Treasury, or  
11          the United States Postal Service. Such equitable sharing  
12          funds shall be deposited in a separate account and shall  
13          remain available until expended.

14   **SEC. 11. UNIVERSAL PRODUCT NUMBERS ON CLAIMS**  
15                           **FORMS FOR REIMBURSEMENT UNDER THE**  
16                           **MEDICARE PROGRAM.**

17          (a) UPNS ON CLAIMS FORMS FOR REIMBURSEMENT  
18          UNDER THE MEDICARE PROGRAM.—

19               (1) ACCOMMODATION OF UPNS ON MEDICARE  
20               CLAIMS FORMS.—Not later than February 1, 2001,  
21               all claims forms developed or used by the Secretary  
22               of Health and Human Services for reimbursement  
23               under the medicare program under title XVIII of the  
24               Social Security Act (42 U.S.C. 1395 et seq.) shall

1 accommodate the use of universal product numbers  
2 for a UPN covered item.

3 (2) REQUIREMENT FOR PAYMENT OF CLAIMS.—  
4 Title XVIII of the Social Security Act (42 U.S.C.  
5 1395 et seq.) is amended by adding at the end the  
6 following:

7 “USE OF UNIVERSAL PRODUCT NUMBERS

8 “SEC. 1899A. (a) IN GENERAL.—No payment shall  
9 be made under this title for any claim for reimbursement  
10 for any UPN covered item unless the claim contains the  
11 universal product number of the UPN covered item.

12 “(b) DEFINITIONS.—In this section:

13 “(1) UPN COVERED ITEM.—

14 “(A) IN GENERAL.—Except as provided in  
15 subparagraph (B), the term ‘UPN covered  
16 item’ means—

17 “(i) a covered item as that term is de-  
18 fined in section 1834(a)(13);

19 “(ii) an item described in paragraph  
20 (8) or (9) of section 1861(s);

21 “(iii) an item described in paragraph  
22 (5) of section 1861(s); and

23 “(iv) any other item for which pay-  
24 ment is made under this title that the Sec-  
25 retary determines to be appropriate.

1           “(B) EXCLUSION.—The term ‘UPN cov-  
2           ered item’ does not include a customized item  
3           for which payment is made under this title.

4           “(2) UNIVERSAL PRODUCT NUMBER.—The  
5           term ‘universal product number’ means a number  
6           that is—

7                   “(A) affixed by the manufacturer to each  
8           individual UPN covered item that uniquely  
9           identifies the item at each packaging level; and

10                   “(B) based on commercially acceptable  
11           identification standards such as, but not limited  
12           to, standards established by the Uniform Code  
13           Council-International Article Numbering Sys-  
14           tem or the Health Industry Business Commu-  
15           nication Council.”.

16           (3) DEVELOPMENT AND IMPLEMENTATION OF  
17           PROCEDURES.—

18                   (A) INFORMATION INCLUDED IN UPN.—  
19           The Secretary of Health and Human Services,  
20           in consultation with manufacturers and entities  
21           with appropriate expertise, shall determine the  
22           relevant descriptive information appropriate for  
23           inclusion in a universal product number for a  
24           UPN covered item.

1           (B) REVIEW OF PROCEDURE.—From the  
2 information obtained by the use of universal  
3 product numbers on claims for reimbursement  
4 under the medicare program, the Secretary of  
5 Health and Human Services, in consultation  
6 with interested parties, shall periodically review  
7 the UPN covered items billed under the Health  
8 Care Financing Administration Common Proce-  
9 dure Coding System and adjust such coding  
10 system to ensure that functionally equivalent  
11 UPN covered items are billed and reimbursed  
12 under the same codes.

13           (4) EFFECTIVE DATE.—The amendment made  
14 by paragraph (2) shall apply to claims for reim-  
15 bursement submitted on and after February 1,  
16 2002.

17           (b) STUDY AND REPORTS TO CONGRESS.—

18           (1) STUDY.—The Secretary of Health and  
19 Human Services shall conduct a study on the results  
20 of the implementation of the provisions in paragraph  
21 (1) and (3) of subsection (a) and the amendment to  
22 the Social Security Act in paragraph (2) of that sub-  
23 section.

24           (2) REPORTS.—

1 (A) PROGRESS REPORT.—Not later than 6  
2 months after the date of enactment of this Act,  
3 the Secretary of Health and Human Services  
4 shall submit a report to Congress that contains  
5 a detailed description of the progress of the  
6 matters studied pursuant to paragraph (1).

7 (B) IMPLEMENTATION.—Not later than 18  
8 months after the date of enactment of this Act,  
9 and annually thereafter for 3 years, the Sec-  
10 retary of Health and Human Services shall sub-  
11 mit a report to Congress that contains a de-  
12 tailed description of the results of the study  
13 conducted pursuant to paragraph (1), together  
14 with the Secretary’s recommendations regard-  
15 ing the use of universal product numbers and  
16 the use of data obtained from the use of such  
17 numbers.

18 (c) DEFINITIONS.—In this section:

19 (1) UPN COVERED ITEM.—The term “UPN  
20 covered item” has the meaning given such term in  
21 section 1899A(b)(1) of the Social Security Act (as  
22 added by subsection (a)(2)).

23 (2) UNIVERSAL PRODUCT NUMBER.—The term  
24 “universal product number” has the meaning given

1       such term in section 1899A(b)(2) of the Social Secu-  
2       rity Act (as added by subsection (a)(2)).

3       (d) AUTHORIZATION OF APPROPRIATIONS.—There  
4       are authorized to be appropriated such sums as may be  
5       necessary for the purpose of carrying out the provisions  
6       in paragraphs (1) and (3) of subsection (a), subsection  
7       (b), and section 1899A of the Social Security Act (as  
8       added by subsection (a)(2)).

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