

109TH CONGRESS
2^D SESSION

S. 3900

To amend title XVIII of the Social Security Act to improve the quality and efficiency of health care, to provide the public with information on provider and supplier performance, and to enhance the education and awareness of consumers for evaluating health care services through the development and release of reports based on Medicare enrollment, claims, survey, and assessment data.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 14, 2006

Mr. GREGG (for himself, Mr. FRIST, Mr. BURR, Mr. CORNYN, and Mr. BENNETT) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend title XVIII of the Social Security Act to improve the quality and efficiency of health care, to provide the public with information on provider and supplier performance, and to enhance the education and awareness of consumers for evaluating health care services through the development and release of reports based on Medicare enrollment, claims, survey, and assessment data.

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.**

2 This Act may be cited as the “Medicare Quality En-
3 hancement Act of 2006”.

4 **SEC. 2. QUALITY AND EFFICIENCY REPORTS BASED ON**
5 **MEDICARE ENROLLMENT, CLAIMS, SURVEY,**
6 **AND ASSESSMENT DATA.**

7 Title XVIII of the Social Security Act is amended by
8 adding at the end the following new section:

9 “QUALITY AND EFFICIENCY REPORTS BASED ON
10 MEDICARE DATA

11 “SEC. 1898. (a) PURPOSE.—The purpose of this sec-
12 tion is to provide for the development of reports based on
13 Medicare data and private data that is publicly available
14 or is provided by the entity making the request for the
15 report in order to—

16 “(1) improve the quality and efficiency of
17 health care;

18 “(2) enhance the education and awareness of
19 consumers for evaluating health care services; and

20 “(3) provide the public with reports on national,
21 regional, and provider- and supplier-specific per-
22 formance, which may be in a provider- or supplier-
23 identifiable format.

24 “(b) PROCEDURES FOR THE DEVELOPMENT OF RE-
25 PORTS.—

1 “(1) IN GENERAL.—Notwithstanding section
2 552(b)(6) or 552a(b) of title 5, United States Code,
3 not later than 12 months after the date of enact-
4 ment of the Medicare Quality Enhancement Act of
5 2006, the Secretary, in accordance with the purpose
6 described in subsection (a), shall establish and im-
7 plement procedures under which an entity may sub-
8 mit a request to a Medicare Quality Reporting Orga-
9 nization for the Organization to develop a report
10 based on—

11 “(A) Medicare data disclosed to the Orga-
12 nization under subsection (c); and

13 “(B) private data that is publicly available
14 or is provided to the Organization by the entity
15 making the request for the report.

16 “(2) DEFINITIONS.—In this section:

17 “(A) MEDICARE DATA.—The term ‘Medi-
18 care data’ means—

19 “(i) enrollment data under this title,
20 including de-identified beneficiary enroll-
21 ment data;

22 “(ii) all claims for reimbursement for
23 all items and services furnished by a pro-
24 vider of services (as defined in section
25 1861(u)) or a supplier (as defined in sec-

1 tion 1861(d)) under part A or B in a re-
2 search identifiable format;

3 “(iii) on and after January 1, 2008,
4 all data relating to enrollment in, and cov-
5 erage for, qualified prescription drug cov-
6 erage under part D; and

7 “(iv) additional data files relating to
8 the program under this title collected by
9 the Secretary for the purpose of nation-
10 wide quality measurement and reporting
11 based on surveys and assessment data de-
12 termined appropriate by the Secretary.

13 “(B) MEDICARE QUALITY REPORTING OR-
14 GANIZATION.—The term ‘Medicare Quality Re-
15 porting Organization’ means an entity with a
16 contract under subsection (d).

17 “(c) ACCESS TO MEDICARE DATA.—

18 “(1) IN GENERAL.—The procedures established
19 under subsection (b)(1) shall provide for the disclo-
20 sure of Medicare data to each Medicare Quality Re-
21 porting Organization.

22 “(2) ALL DATA.—The Secretary shall ensure
23 that all Medicare data files (beginning with files
24 from January 1, 1998) are disclosed under para-
25 graph (1), including the most recent data files avail-

1 able to the Secretary. Not less than every 6 months,
2 the Secretary shall update the information disclosed
3 under paragraph (1) to Medicare Quality Reporting
4 Organizations.

5 “(d) MEDICARE QUALITY REPORTING ORGANIZA-
6 TIONS.—

7 “(1) IN GENERAL.—

8 “(A) IN GENERAL.—Subject to subpara-
9 graph (B), the Secretary shall enter into a con-
10 tract with at least 4 private entities to serve as
11 Medicare Quality Reporting Organizations
12 under which an entity shall—

13 “(i) store the Medicare data that is to
14 be disclosed under subsection (c); and

15 “(ii) develop and release reports pur-
16 suant to subsection (e).

17 “(B) REQUIREMENT.—The Secretary shall
18 enter into contracts with a sufficient number of
19 entities to develop and release such reports in
20 a timely manner.

21 “(2) QUALIFICATIONS.—The Secretary shall
22 enter into a contract with an entity under paragraph
23 (1) only if the Secretary determines that the enti-
24 ty—

1 “(A) has the research capability to conduct
2 and complete reports under this section;

3 “(B) has in place—

4 “(i) an information technology infra-
5 structure to support the entire database of
6 Medicare data; and

7 “(ii) operational standards to provide
8 security for such database;

9 “(C) has experience with, and expertise on,
10 the development of reports on health care qual-
11 ity and efficiency based on Medicare or private
12 sector claims data; and

13 “(D) has a significant business presence in
14 the United States.

15 “(3) CONTRACT REQUIREMENTS.—Each con-
16 tract with an entity under paragraph (1) shall con-
17 tain the following requirements:

18 “(A) ENSURING BENEFICIARY PRIVACY.—
19 The entity shall provide assurances that the en-
20 tity will not use the Medicare data disclosed
21 under subsection (c) in a manner that vio-
22 lates—

23 “(i) the Federal regulations (con-
24 cerning the privacy of individually identifi-
25 able beneficiary health information) pro-

1 mulgated under section 264(e) of the
2 Health Insurance Portability and Account-
3 ability Act of 1996; or

4 “(ii) sections 552 or 552a of title 5,
5 United States Code, with regards to the
6 privacy of individually identifiable bene-
7 ficiary health information.

8 “(B) DISCLOSURE.—The entity shall dis-
9 close—

10 “(i) any financial, reporting, or con-
11 tractual relationship between the entity
12 and any provider of services (as defined in
13 section 1861(u)) or supplier (as defined in
14 section 1861(d)); and

15 “(ii) if applicable, the fact that the
16 entity is not managed, controlled, and op-
17 erated independently from any such pro-
18 vider of services or supplier.

19 “(C) COMPONENT OF ANOTHER ORGANIZA-
20 TION.—If the entity is a component of another
21 organization—

22 “(i) the entity shall maintain Medi-
23 care data and reports separately from the
24 rest of the organization and establish ap-
25 propriate security measures to maintain

1 the confidentiality and privacy of the Medi-
2 care data and reports; and

3 “(ii) the entity shall not make an un-
4 authorized disclosure to the rest of the or-
5 ganization of Medicare data or reports in
6 breach of such confidentiality and privacy
7 requirement.

8 “(D) TERMINATION OR NONRENEWAL.—If
9 a contract under this section is terminated or
10 not renewed, the following requirements shall
11 apply:

12 “(i) CONFIDENTIALITY AND PRIVACY
13 PROTECTIONS.—The entity shall continue
14 to comply with the confidentiality and pri-
15 vacy requirements under this section with
16 respect to all Medicare data disclosed to
17 the entity and each report developed by the
18 entity.

19 “(ii) DISPOSITION OF DATA AND RE-
20 PORTS.—The entity shall—

21 “(I) return to the Secretary all
22 Medicare data disclosed to the entity
23 and each report developed by the enti-
24 ty; or

1 “(II) if returning the Medicare
2 data and reports is not practicable,
3 destroy the reports and Medicare
4 data.

5 “(4) COMPETITIVE PROCEDURES.—Competitive
6 procedures (as defined in section 4(5) of the Federal
7 Procurement Policy Act) shall be used to enter into
8 contracts under paragraph (1).

9 “(5) REVIEW OF CONTRACT IN THE EVENT OF
10 A MERGER OR ACQUISITION.—The Secretary shall
11 review the contract with a Medicare Quality Report-
12 ing Organization under this section in the event of
13 a merger or acquisition of the Organization in order
14 to ensure that the requirements under this section
15 will continue to be met.

16 “(e) DEVELOPMENT AND RELEASE OF REPORTS
17 BASED ON REQUESTS.—

18 “(1) REQUEST FOR A REPORT.—

19 “(A) REQUEST.—

20 “(i) IN GENERAL.—The procedures
21 established under subsection (b)(1) shall
22 include a process for an entity to submit a
23 request to a Medicare Quality Reporting
24 Organization for a report based on Medi-
25 care data and private data that is publicly

1 available or is provided by the entity mak-
2 ing the request for the report. Such re-
3 quest shall comply with the purpose de-
4 scribed in subsection (a).

5 “(ii) REQUEST FOR SPECIFIC METH-
6 ODOLOGY.—The process described in
7 clause (i) shall permit an entity making a
8 request for a report to request that a spe-
9 cific methodology be used by the Medicare
10 Quality Reporting Organization in devel-
11 oping the report. The Organization shall
12 work with the entity making the request to
13 finalize the methodology to be used.

14 “(iii) REQUEST FOR A SPECIFIC
15 MQRO.—The process described in clause (i)
16 shall permit an entity to submit the re-
17 quest for a report to any Medicare Quality
18 Reporting Organization.

19 “(B) RELEASE TO PUBLIC.—The proce-
20 dures established under subsection (b)(1) shall
21 provide that at the time a request for a report
22 is finalized under subparagraph (A) by a Medi-
23 care Quality Reporting Organization, the Orga-
24 nization shall make available to the public,
25 through the Internet website of the Centers for

1 Medicare & Medicaid Services and other appro-
2 priate means, a brief description of both the re-
3 quested report and the methodology to be used
4 to develop such report.

5 “(2) DEVELOPMENT AND RELEASE OF RE-
6 PORT.—

7 “(A) DEVELOPMENT.—

8 “(i) IN GENERAL.—If the request for
9 a report complies with the purpose de-
10 scribed in subsection (a), the Medicare
11 Quality Reporting Organization may de-
12 velop the report based on the request.

13 “(ii) REQUIREMENT.—A report devel-
14 oped under clause (i) shall include a de-
15 tailed description of the standards, meth-
16 odologies, and measures of quality used in
17 developing the report.

18 “(B) REVIEW OF REPORT BY SECRETARY
19 TO ENSURE COMPLIANCE WITH PRIVACY RE-
20 QUIREMENT.—Prior to a Medicare Quality Re-
21 porting Organization releasing a report under
22 subparagraph (C), the Secretary shall review
23 the report to ensure that the report complies
24 with the Federal regulations (concerning the
25 privacy of individually identifiable beneficiary

1 health information) promulgated under section
2 264(c) of the Health Insurance Portability and
3 Accountability Act of 1996 and sections 552 or
4 552a of title 5, United States Code, with re-
5 gards to the privacy of individually identifiable
6 beneficiary health information. The Secretary
7 shall act within 30 business days of receiving
8 such report.

9 “(C) RELEASE OF REPORT.—

10 “(i) RELEASE TO ENTITY MAKING RE-
11 QUEST.—If the Secretary finds that the re-
12 port complies with the provisions described
13 in subparagraph (B), the Medicare Quality
14 Reporting Organization shall release the
15 report to the entity that made the request
16 for the report.

17 “(ii) RELEASE TO PUBLIC.—The pro-
18 cedures established under subsection (b)(1)
19 shall provide for the following:

20 “(I) UPDATED DESCRIPTION.—

21 At the time of the release of a report
22 by a Medicare Quality Reporting Or-
23 ganization under clause (i), the entity
24 shall make available to the public,
25 through the Internet website of the

1 Centers for Medicare & Medicaid
2 Services and other appropriate means,
3 an updated brief description of both
4 the requested report and the method-
5 ology used to develop such report.

6 “(II) COMPLETE REPORT.—Not
7 later than 1 year after the date of the
8 release of a report under clause (i),
9 the report shall be made available to
10 the public through the Internet
11 website of the Centers for Medicare &
12 Medicaid Services and other appro-
13 priate means.

14 “(f) PERIODIC REVIEW OF REPORTS.—The Sec-
15 retary shall periodically review reports released under sub-
16 section (e)(2)(C) to ensure that such reports comply with
17 the purpose described in subsection (a). The Secretary
18 may terminate a contract with a Medicare Quality Report-
19 ing Organization if the Secretary determines that there
20 is a pattern of reports being released by the Organization
21 that do not comply with such purpose.

22 “(g) FEES.—

23 “(1) FEES FOR SECRETARY.—The Secretary
24 shall charge a Medicare Quality Reporting Organiza-
25 tion a fee for—

1 “(A) disclosing the data under subsection
2 (e); and

3 “(B) conducting the review under sub-
4 section (e)(2)(B).

5 The Secretary shall ensure that such fees are suffi-
6 cient to cover the costs of the activities described in
7 subparagraph (A) and (B).

8 “(2) FEES FOR MQRO.—A Medicare Quality
9 Reporting Organization may charge an entity mak-
10 ing a request for a report a reasonable fee for the
11 development and release of the report.

12 “(h) REGULATIONS.—Not later than 6 months after
13 the date of enactment of the Medicare Quality Enhance-
14 ment Act of 2006, the Secretary shall prescribe regula-
15 tions to carry out this section.

16 “(i) GAO STUDIES AND REPORT.—

17 “(1) STUDIES.—The Comptroller General of
18 the United States shall conduct a study on each of
19 the following:

20 “(A) The feasibility of requiring Medicare
21 Advantage organizations under part C to share
22 utilization and quality data with the Secretary
23 for the purpose of releasing such information to
24 Medicare Quality Reporting Organizations
25 under this section.

1 “(B) The Medicare data released to Medi-
2 care Quality Reporting Organizations under
3 subsection (c) in order to determine the accu-
4 racy of such data with respect to—

5 “(i) the coding of demographic data;

6 “(ii) diagnosis and procedures; and

7 “(iii) any other data elements impor-
8 tant for the development of reports under
9 this section in accordance with the purpose
10 described in subsection (a).

11 “(2) REPORT.—Not later than 12 months after
12 the date of enactment of the Medicare Quality En-
13 hancement Act of 2006, the Comptroller General of
14 the United States shall submit a report to Congress
15 on each of the studies conducted under paragraph
16 (1) together with recommendations for such legisla-
17 tion and administrative actions as the Comptroller
18 General considers appropriate.”.

19 **SEC. 3. QUALITY ADVISORY BOARD.**

20 (a) ESTABLISHMENT.—Not later than 12 months
21 after the date of enactment of this Act, the Secretary of
22 Health and Human Services shall establish within the Of-
23 fice of the Secretary a board to be known as the Quality
24 Advisory Board (in this section referred to as the
25 “Board”).

1 (b) MEMBERSHIP.—The members of the Board shall
2 include, but not be limited to, an appropriate number of
3 representatives of—

4 (1) groups representing Medicare beneficiaries;

5 (2) groups representing providers of services (as
6 defined in subsection (u) of section 1861 of the So-
7 cial Security Act (42 U.S.C. 1395x)) and suppliers
8 (as defined in subsection (d) of such section) receiv-
9 ing reimbursement under the Medicare program;

10 (3) purchasers and employers or groups rep-
11 resenting purchasers and employers;

12 (4) organizations focused on the development of
13 quality health care measures;

14 (5) researchers or research institutions with ex-
15 perience in the measurement of, and reporting on,
16 health care quality; and

17 (6) health plans or groups representing health
18 plans.

19 (c) DUTIES.—The duties of the Board are as follows:

20 (1) To coordinate existing collaborative efforts
21 identifying quality and efficiency health care meas-
22 ures.

23 (2) To provide the Secretary of Health and
24 Human Services with recommendations for the de-

1 velopment of model quality health care measure-
2 ments.

3 (3) To submit requests to Medicare Quality Re-
4 porting Organizations under section 1898 of the So-
5 cial Security Act, as added by section 2, for reports
6 on existing recommended model quality and effi-
7 ciency health care measures.

8 (4) To examine how clinical registries can be
9 linked to Medicare data (as defined in subsection
10 (b)(2)(A) of such section 1898) in order to develop
11 reports on the quality and efficiency of providers of
12 services (as defined in subsection (u) of section 1861
13 of the Social Security Act (42 U.S.C. 1395x)) and
14 suppliers (as defined in subsection (d) of such sec-
15 tion).

16 (5) Other duties determined appropriate by the
17 Secretary.

18 (d) AUTHORIZATION OF APPROPRIATIONS.—There
19 are authorized to be appropriated to the Secretary of
20 Health and Human Services such sums as may be nec-
21 essary for the purpose of carrying out this section.

22 **SEC. 4. RESEARCH ACCESS TO MEDICARE DATA AND RE-**
23 **PORTING ON PERFORMANCE.**

24 The Secretary of Health and Human Services shall
25 permit researchers that meet existing criteria used to

1 evaluate the appropriateness of the release of Centers for
2 Medicare & Medicaid Services (CMS) data for research
3 purposes to—

4 (1) have access to all Medicare data (as defined
5 in section 1898(b)(2)(A) of the Social Security Act,
6 as added by section 2); and

7 (2) report on the performance of providers of
8 services (as defined in subsection (u) of section 1861
9 of such Act (42 U.S.C. 1395x)) and suppliers (as
10 defined in subsection (d) of such section), including
11 reporting in a provider- or supplier-identifiable for-
12 mat.

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