

[DISCUSSION DRAFT]

113TH CONGRESS
2^D SESSION

H. R. _____

To amend title XVIII of the Social Security Act to improve the integrity of the Medicare program, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. BRADY of Texas introduced the following bill; which was referred to the Committee on _____

A BILL

To amend title XVIII of the Social Security Act to improve the integrity of 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 “Protecting the Integrity of Medicare Act of 2014”.

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

Sec. 1. Short title; table of contents.

Sec. 2. Prohibition of inclusion of Social Security account numbers on Medicare cards.

- Sec. 3. Preventing wrongful Medicare payments for items and services furnished to incarcerated individuals, unlawfully present individuals, and deceased individuals.
- Sec. 4. Consideration of measures regarding Medicare beneficiary smart cards.
- Sec. 5. Modifying medicare durable medical equipment face-to-face encounter documentation requirement.
- Sec. 6. Reducing improper Medicare payments.
- Sec. 7. Authority for Medicaid fraud control units to investigate and prosecute complaints of abuse and neglect of Medicaid patients in home and community-based settings.
- Sec. 8. Improved use of funds received by the HHS Inspector General from oversight and investigative activities.
- Sec. 9. Strengthening Medicaid program integrity through flexibility.
- Sec. 10. Improving senior Medicare patrol and fraud reporting rewards.
- Sec. 11. Requiring valid prescriber National Provider Identifiers on pharmacy claims.
- Sec. 12. Improving claims processing and detection of fraud within the Medicaid and CHIP programs.
- Sec. 13. Alternative sanctions for technical noncompliance with Stark rule under Medicare.
- Sec. 14. Option to receive Medicare Summary Notice electronically.
- Sec. 15. Renewal of MAC contracts.
- Sec. 16. Study on pathway for incentives to States for State participation in medicaid data match program.
- Sec. 17. Programs to prevent prescription drug abuse under Medicare part D.
- Sec. 18. Guidance on application of Common Rule to clinical data registries.
- Sec. 19. Modification of the qualification requirements for Medicare eligibility for those convicted of defrauding the Medicare program.
- Sec. 20. Gainsharing study and report.
- Sec. 21. Modification of Medicare home health surety bond condition of participation requirement.
- Sec. 22. Oversight of Medicare coverage of manual manipulation of the spine to correct subluxation.
- Sec. 23. Limiting payment amount under Medicare program for vacuum erection systems.
- Sec. 24. Requiring prior authorization for payment for blepharoplasty and eyebrow surgeries.
- Sec. 25. National expansion of prior authorization demonstration program for repetitive scheduled non-emergent ambulance transport.

1 **SEC. 2. PROHIBITION OF INCLUSION OF SOCIAL SECURITY**

2 **ACCOUNT NUMBERS ON MEDICARE CARDS.**

3 (a) IN GENERAL.—Section 205(c)(2)(C) of the Social
4 Security Act (42 U.S.C. 405(c)(2)(C)) is amended—

5 (1) by moving clause (x), as added by section
6 1414(a)(2) of the Patient Protection and Affordable
7 Care Act, 6 ems to the left;

1 (2) by redesignating clause (x), as added by
2 section 2(a)(1) of the Social Security Number Pro-
3 tection Act of 2010, and clause (xi) as clauses (xi)
4 and (xii), respectively; and

5 (3) by adding at the end the following new
6 clause:

7 “(xiii) The Secretary of Health and Human Services,
8 in consultation with the Commissioner of Social Security,
9 shall establish cost-effective procedures to ensure that a
10 Social Security account number (or derivative thereof) is
11 not displayed, coded, or embedded on the Medicare card
12 issued to an individual who is entitled to benefits under
13 part A of title XVIII or enrolled under part B of title
14 XVIII and that any other identifier displayed on such card
15 is not identifiable as a Social Security account number (or
16 derivative thereof).”.

17 (b) IMPLEMENTATION.—In implementing clause (xiii)
18 of section 205(c)(2)(C) of the Social Security Act (42
19 U.S.C. 405(c)(2)(C)), as added by subsection (a)(3), the
20 Secretary of Health and Human Services shall establish
21 a cost-effective process that involves the least amount of
22 disruption to Medicare beneficiaries and health care pro-
23 viders. The Secretary shall consider implementing a proc-
24 ess, similar to the process involving Railroad Retirement
25 Board beneficiaries, under which a Medicare beneficiary

1 identifier which is not a Social Security account number
2 (or derivative thereof) is used external to the Department
3 of Health and Human Services and is convertible over to
4 a Social Security account number (or derivative thereof)
5 for use internal to such Department and the Social Secu-
6 rity Administration.

7 (c) FUNDING FOR IMPLEMENTATION.—For purposes
8 of implementing the provisions of and the amendments
9 made by this section, the Secretary of Health and Human
10 Services shall provide for the transfer from the Federal
11 Hospital Insurance Trust Fund under section 1817 of the
12 Social Security Act (42 U.S.C. 1395i) and from the Fed-
13 eral Supplementary Medical Insurance Trust Fund estab-
14 lished under section 1841 of such Act (42 U.S.C. 1395t),
15 in such proportions as the Secretary determines appro-
16 priate, of the following amounts to the Centers for Medi-
17 care & Medicaid Program Management Account:

18 (1) For fiscal year 2015, \$95,000,000, to be
19 made available through fiscal year 2018.

20 (2) For each of fiscal years 2016 and 2017,
21 \$75,000,000, to be made available through fiscal
22 year 2018.

23 (3) For fiscal year 2018, \$75,000,000, to be
24 made available until expended.

25 (d) EFFECTIVE DATE.—

1 (1) IN GENERAL.—Clause (xiii) of section
2 205(c)(2)(C) of the Social Security Act (42 U.S.C.
3 405(c)(2)(C)), as added by subsection (a)(3), shall
4 apply with respect to Medicare cards issued on and
5 after an effective date specified by the Secretary of
6 Health and Human Services, but in no case shall
7 such effective date be later than the date that is four
8 years after the date of the enactment of this Act.

9 (2) REISSUANCE.—The Secretary shall provide
10 for the reissuance of Medicare cards that comply
11 with the requirements of such clause not later than
12 four years after the effective date specified by the
13 Secretary under paragraph (1).

14 **SEC. 3. PREVENTING WRONGFUL MEDICARE PAYMENTS**
15 **FOR ITEMS AND SERVICES FURNISHED TO IN-**
16 **CARCERATED INDIVIDUALS, UNLAWFULLY**
17 **PRESENT INDIVIDUALS, AND DECEASED INDI-**
18 **VIDUALS.**

19 (a) REQUIREMENT FOR THE SECRETARY TO ESTAB-
20 LISH POLICIES AND CLAIMS EDITS RELATING TO INCAR-
21 CERATED INDIVIDUALS, UNLAWFULLY PRESENT INDIVID-
22 UALS, AND DECEASED INDIVIDUALS.—Section 1874 of
23 the Social Security Act (42 U.S.C. 1395kk) is amended
24 by adding at the end the following new subsection:

1 “(f) REQUIREMENT FOR THE SECRETARY TO ESTAB-
2 LISH POLICIES AND CLAIMS EDITS RELATING TO INCAR-
3 CERATED INDIVIDUALS, UNLAWFULLY PRESENT INDIVID-
4 UALS, AND DECEASED INDIVIDUALS.—The Secretary
5 shall maintain and establish procedures, including proce-
6 dures for conducting claims processing edits, updating eli-
7 gibility information, and conducting recoupment activities
8 through recovery audit contractors, to ensure that pay-
9 ment is not made under this title for items and services
10 furnished to an individual who is one of the following:

11 “(1) An individual who is incarcerated.

12 “(2) An individual who is an alien who is un-
13 lawfully present in the United States.

14 “(3) A deceased individual.”.

15 (b) REPORT.—Not later than 18 months after the
16 date of the enactment of this section, and periodically
17 thereafter as determined necessary by the Office of Inspec-
18 tor General of the Department of Health and Human
19 Services, such Office shall submit to Congress a report
20 on the activities described in subsection (f) of section 1874
21 of the Social Security Act (42 U.S.C. 1395kk), as added
22 by subparagraph (a), that have been conducted since such
23 date of enactment.

1 **SEC. 4. CONSIDERATION OF MEASURES REGARDING MEDI-**
2 **CARE BENEFICIARY SMART CARDS.**

3 To the extent the Secretary of Health and Human
4 Services determines that it is cost effective and techno-
5 logically viable to use Medicare beneficiary cards, as pre-
6 sented in the Government Accountability Office report re-
7 quired by the conference report accompanying the Consoli-
8 dated Appropriations Act, 2014 (Public Law 113–76), the
9 Secretary shall consider such measures as determined ap-
10 propriate by the Secretary to implement such use of such
11 cards under title XVIII of the Social Security Act (42
12 U.S.C. 1395 et seq.). In the case that the Secretary con-
13 siders measures under the preceding sentence, the Sec-
14 retary shall submit to the Committees on Ways and Means
15 and on Energy and Commerce of the House of Represent-
16 atives, and to the Committee on Finance of the Senate,
17 a report outlining the considerations undertaken by the
18 Secretary under such sentence.

19 **SEC. 5. MODIFYING MEDICARE DURABLE MEDICAL EQUIP-**
20 **MENT FACE-TO-FACE ENCOUNTER DOCU-**
21 **MENTATION REQUIREMENT.**

22 (a) IN GENERAL.—Section 1834(a)(11)(B)(ii) of the
23 Social Security Act (42 U.S.C. 1395m(a)(11)(B)(ii)) is
24 amended—

25 (1) by striking “the physician documenting
26 that”; and

1 (2) by striking “has had a face-to-face encoun-
2 ter” and inserting “documenting such physician,
3 physician assistant, practitioner, or specialist has
4 had a face-to-face encounter”.

5 (b) IMPLEMENTATION.—Notwithstanding any other
6 provision of law, the Secretary of Health and Human
7 Services may implement the amendments made by sub-
8 section (a) by program instruction or otherwise.

9 **SEC. 6. REDUCING IMPROPER MEDICARE PAYMENTS.**

10 (a) MEDICARE ADMINISTRATIVE CONTRACTOR IM-
11 PROPER PAYMENT OUTREACH AND EDUCATION PRO-
12 GRAM.—

13 (1) IN GENERAL.—Section 1874A of the Social
14 Security Act (42 U.S.C. 1395kk-1) is amended—

15 (A) in subsection (a)(4)—

16 (i) by redesignating subparagraph (G)
17 as subparagraph (H); and

18 (ii) by inserting after subparagraph
19 (F) the following new subparagraph:

20 “(G) IMPROPER PAYMENT OUTREACH AND
21 EDUCATION PROGRAM.—Having in place an im-
22 proper payment outreach and education pro-
23 gram described in subsection (h).”;

24 (B) by adding at the end the following new
25 subsection:

1 “(h) IMPROPER PAYMENT OUTREACH AND EDU-
2 CATION PROGRAM.—

3 “(1) IN GENERAL.—In order to reduce im-
4 proper payments under this title, each medicare ad-
5 ministrative contractor shall establish and have in
6 place an improper payment outreach and education
7 program under which the contractor, through out-
8 reach, education, training, and technical assistance
9 or other activities, shall provide providers of services
10 and suppliers located in the region covered by the
11 contract under this section with the information de-
12 scribed in paragraph (2). The activities described in
13 the preceding sentence shall be conducted on a reg-
14 ular basis.

15 “(2) INFORMATION TO BE PROVIDED THROUGH
16 ACTIVITIES.—The information to be provided under
17 such payment outreach and education program shall
18 include information the Secretary determines to be
19 appropriate which may include the following infor-
20 mation:

21 “(A) A list of the providers’ or suppliers’
22 most frequent and expensive payment errors
23 over the last quarter.

24 “(B) Specific instructions regarding how to
25 correct or avoid such errors in the future.

1 “(C) A notice of new topics that have been
2 approved by the Secretary for audits conducted
3 by recovery audit contractors under section
4 1893(h).

5 “(D) Specific instructions to prevent fu-
6 ture issues related to such new audits.

7 “(E) Other information determined appro-
8 priate by the Secretary.

9 “(3) PRIORITY.—A medicare administrative
10 contractor shall give priority to activities under such
11 program that will reduce improper payments for
12 items and services such as activities that—

13 “(A) have the highest rate of improper
14 payment;

15 “(B) have the greatest total dollar amount
16 of improper payments;

17 “(C) are due to clear misapplication or
18 misinterpretation of Medicare policies;

19 “(D) are clearly due to common and inad-
20 vertent clerical or administrative errors; or

21 “(E) are due to other types of errors that
22 the Secretary determines could be prevented
23 through activities under the program.

24 “(4) INFORMATION ON IMPROPER PAYMENTS
25 FROM RECOVERY AUDIT CONTRACTORS.—

1 “(A) IN GENERAL.—In order to assist
2 medicare administrative contractors in carrying
3 out improper payment outreach and education
4 programs, the Secretary shall provide each con-
5 tractor with a complete list of the types of im-
6 proper payments identified by recovery audit
7 contractors under section 1893(h) with respect
8 to providers of services and suppliers located in
9 the region covered by the contract under this
10 section. Such information shall be provided on
11 a time frame the Secretary determines appro-
12 priate which may be on a quarterly basis.

13 “(B) INFORMATION.—The information de-
14 scribed in subparagraph (A) shall include infor-
15 mation such as the following:

16 “(i) Providers of services and sup-
17 pliers that have the highest rate of im-
18 proper payments.

19 “(ii) Providers of services and sup-
20 pliers that have the greatest total dollar
21 amounts of improper payments.

22 “(iii) Items and services furnished in
23 the region that have the highest rates of
24 improper payments.

1 “(iv) Items and services furnished in
2 the region that are responsible for the
3 greatest total dollar amount of improper
4 payments.

5 “(v) Other information the Secretary
6 determines would assist the contractor in
7 carrying out the program.

8 “(5) COMMUNICATIONS.—Communications with
9 providers of services and suppliers under a payment
10 outreach and education program are subject to the
11 standards and requirements of subsection (g).”.

12 (b) USE OF CERTAIN FUNDS RECOVERED BY
13 RACs.—Section 1893(h) of the Social Security Act (42
14 U.S.C. 1395ddd(h)) is amended—

15 (1) in paragraph (2), by inserting “or section
16 1874(h)(6)” after “paragraph (1)(C)”; and

17 (2) by adding at the end the following new
18 paragraph:

19 “(10) USE OF CERTAIN RECOVERED FUNDS.—

20 “(A) IN GENERAL.—After application of
21 paragraph (1)(C) of section 1893(h), the Sec-
22 retary shall retain a portion of the amounts re-
23 covered by recovery audit contractors under this
24 section which shall be available to the program
25 management account of the Centers for Medi-

1 care & Medicaid Services for purposes of, sub-
2 ject to subparagraph (B), carrying out sections
3 1833(z), 1834(j), 1834(l)(16), and
4 1874A(a)(4)(H), carrying out subsection (b) of
5 section 22 of the Protecting the Integrity of
6 Medicare Act of 2014, and implementing strate-
7 gies (such as claims processing edits) to help
8 reduce the error rate of payments under this
9 title. The amounts retained under the preceding
10 sentence shall not exceed an amount equal to
11 15 percent of the amounts recovered under this
12 subsection, and shall remain available until ex-
13 pended.

14 “(B) LIMITATION.—Amounts retained
15 under subparagraph (A) may not be used for
16 technological-related infrastructure, capital in-
17 vestments, or information systems (but may be
18 used for claims processing systems changes).

19 “(C) NO REDUCTION IN PAYMENTS TO RE-
20 COVERY AUDIT CONTRACTORS.—Nothing in
21 subparagraph (A) shall reduce amounts avail-
22 able for payments to recovery audit contractors
23 under this subsection.”

1 **SEC. 7. AUTHORITY FOR MEDICAID FRAUD CONTROL UNITS**
2 **TO INVESTIGATE AND PROSECUTE COM-**
3 **PLAINTS OF ABUSE AND NEGLECT OF MED-**
4 **ICAID PATIENTS IN HOME AND COMMUNITY-**
5 **BASED SETTINGS.**

6 (a) IN GENERAL.—Paragraph (4)(A) of section
7 1903(q) of the Social Security Act (42 U.S.C. 1396b(q))
8 is amended to read as follows:

9 “(4)(A) The entity’s function includes a state-
10 wide program—

11 “(i) for the investigation and prosecution,
12 or referral for prosecution or other action, of
13 complaints of abuse or neglect of patients in
14 health care facilities which receive payments
15 under the State plan under this title or under
16 a waiver of such plan;

17 “(ii) at the option of the entity, for the in-
18 vestigation and prosecution, or referral for
19 prosecution or other action, of complaints of
20 abuse or neglect of individuals in connection
21 with any aspect of the provision of medical as-
22 sistance, including complaints of abuse or ne-
23 glect relating to the activities of providers of
24 such assistance, in a home or community based
25 setting that is paid for under the State plan
26 under this title or under a waiver of such plan;

1 and Human Services shall receive not more than 1.5
2 percent of all amounts collected pursuant to civil
3 debt collection actions related to false claims or
4 frauds involving the Medicare program under title
5 XVIII or the Medicaid program under title XIX.

6 “(2) CREDITING.—Funds received by the In-
7 spector General under paragraph (1) shall be depos-
8 ited to the credit of any appropriation available for
9 oversight and enforcement activities of the Inspector
10 General permitted under subsection (a), and shall
11 remain available until expended.”.

12 (b) EFFECTIVE DATE.—The amendment made by
13 subsection (a) shall apply to funds received from settle-
14 ments finalized, or judgements entered, on or after the
15 date of the enactment of this Act.

16 **SEC. 9. STRENGTHENING MEDICAID PROGRAM INTEGRITY**
17 **THROUGH FLEXIBILITY.**

18 Section 1936 of the Social Security Act (42 U.S.C.
19 1396u–6) is amended—

20 (1) in subsection (a), by inserting “, or other-
21 wise,” after “entities”; and

22 (2) in subsection (e)—

23 (A) in paragraph (1), in the matter pre-
24 ceding subparagraph (A), by inserting “(includ-
25 ing the costs of equipment, salaries and bene-

1 fits, and travel and training)” after “Program
2 under this section”; and

3 (B) in paragraph (3), by striking “by 100”
4 and inserting “by 100, or such number as de-
5 termined necessary by the Secretary to carry
6 out the Program under this section.”.

7 **SEC. 10. IMPROVING SENIOR MEDICARE PATROL AND**
8 **FRAUD REPORTING REWARDS.**

9 (a) IN GENERAL.—The Secretary of Health and
10 Human Services (in this section referred to as the “Sec-
11 retary”) shall develop a plan to revise the incentive pro-
12 gram under section 203(b) of the Health Insurance Port-
13 ability and Accountability Act of 1996 (42 U.S.C. 1395b-
14 5(b)) to encourage greater participation by individuals to
15 report fraud and abuse in the Medicare program. Such
16 plan shall include recommendations for—

17 (1) ways to enhance rewards for individuals re-
18 porting under the incentive program, including re-
19 wards based on information that leads to an admin-
20 istrative action; and

21 (2) extending the incentive program to the
22 Medicaid program.

23 (b) PUBLIC AWARENESS AND EDUCATION CAM-
24 PAIGN.—The plan developed under subsection (a) shall
25 also include recommendations for the use of the Senior

1 Medicare Patrols authorized under section 411 of the
2 Older Americans Act of 1965 (42 U.S.C. 3032) to conduct
3 a public awareness and education campaign to encourage
4 participation in the revised incentive program under sub-
5 section (a).

6 (c) SUBMISSION OF PLAN.—Not later than 180 days
7 after the date of enactment of this Act, the Secretary shall
8 submit to Congress the plan developed under subsection
9 (a).

10 **SEC. 11. REQUIRING VALID PRESCRIBER NATIONAL PRO-**
11 **VIDER IDENTIFIERS ON PHARMACY CLAIMS.**

12 Section 1860D–4(e) of the Social Security Act (42
13 U.S.C. 1395w–104(e)) is amended by adding at the end
14 the following new paragraph:

15 “(4) REQUIRING VALID PRESCRIBER NATIONAL
16 PROVIDER IDENTIFIERS ON PHARMACY CLAIMS.—

17 “(A) IN GENERAL.—For plan year 2015
18 and subsequent plan years, the Secretary shall
19 require claims for prescription drugs to include
20 a prescriber National Provider Identifier that is
21 determined to be valid under the procedures es-
22 tablished under subparagraph (B).

23 “(B) PROCEDURES.—The Secretary shall
24 establish procedures for determining the validity

1 of prescriber National Provider Identifiers
2 under subparagraph (A).

3 “(C) REPORT.—Not later than January 1,
4 2018, the Inspector General of the Department
5 of Health and Human Services shall submit to
6 Congress a report on the effectiveness of the
7 procedures established under subparagraph
8 (B).”.

9 **SEC. 12. IMPROVING CLAIMS PROCESSING AND DETECTION**
10 **OF FRAUD WITHIN THE MEDICAID AND CHIP**
11 **PROGRAMS.**

12 (a) MEDICAID.—Section 1903(i) of the Social Secu-
13 rity Act (42 U.S.C. 1396b(i)), as amended by section
14 2001(a)(2)(B) of the Patient Protection and Affordable
15 Care Act (Public Law 111–148), is amended—

16 (1) in paragraph (25), by striking “or” at the
17 end;

18 (2) in paragraph (26), by striking the period
19 and inserting “; or”; and

20 (3) by adding after paragraph (26) the fol-
21 lowing new paragraph:

22 “(27) with respect to amounts expended for an
23 item or service for which medical assistance is pro-
24 vided under the State plan or under a waiver of such
25 plan unless the claim for payment for such item or

1 service contains a valid beneficiary identification
2 number that, for purposes of the individual who re-
3 ceived such item or service, has been determined by
4 the State agency to correspond to an individual who
5 is eligible to receive benefits under the State plan or
6 waiver.”.

7 (b) CHIP.—Section 2107(e)(1)(I) of the Social Secu-
8 rity Act (42 U.S.C. 1397gg(e)(1)(I)) is amended by strik-
9 ing “and (17)” and inserting “(17), and (27)”.

10 **SEC. 13. ALTERNATIVE SANCTIONS FOR TECHNICAL NON-**
11 **COMPLIANCE WITH STARK RULE UNDER**
12 **MEDICARE.**

13 (a) IN GENERAL.—Section 6409 of Public Law 111-
14 148 (42 U.S.C. 1395nn note) is amended—

15 (1) in subsection (a), by adding at the end the
16 following new paragraph:

17 “(4) REVIEW COMPLETION TIMEFRAME.—

18 “(A) IN GENERAL.—The SRDP shall, for
19 purposes of applying subsection (b) in the case
20 of a disclosure under paragraph (1) of a tech-
21 nical noncompliance violation that is described
22 in subparagraph (C), provide that the Secretary
23 shall accept or reject such disclosure in accord-
24 ance with the following and subparagraph (B):

1 “(i) If such disclosure is made before
2 the date of the enactment of the Protecting
3 the Integrity of Medicare Act of 2014, and
4 there has not been a final settlement as of
5 such date, such acceptance or rejection
6 shall be made not later than 180 days
7 after such date of enactment.

8 “(ii) If such disclosure is made after
9 the date of the enactment of such Act but
10 not later than one year after the date of
11 the enactment of such Act, such accept-
12 ance or rejection shall be made not later
13 than 180 days after the date on which
14 such disclosure is made.

15 “(iii) If such disclosure is made more
16 than one year after such date of enact-
17 ment, such acceptance or rejection shall be
18 made not later than 90 days after the date
19 on which such disclosure is made.

20 “(B) DEEMED ACCEPTANCE.—Subject to
21 subparagraph (E), in the case that the Sec-
22 retary does not accept or reject a disclosure de-
23 scribed in subparagraph (A) by the applicable
24 date specified in subparagraph (A), such disclo-
25 sure shall be deemed accepted as of such date.

1 “(C) DISCLOSURE DESCRIBED.—Subject to
2 subparagraph (D), a disclosure described in this
3 subparagraph, with respect to a compensation
4 arrangement, is a disclosure submitted to the
5 Secretary by a party to such arrangement that
6 contains the following:

7 “(i) The identification of the dis-
8 closing entity and all other entities to the
9 disclosed compensation arrangement.

10 “(ii) A description of the compensa-
11 tion paid under the arrangement and the
12 dates of noncompliance.

13 “(iii) A description of any obligation
14 to pay or transmit money or property to
15 the government.

16 “(iv) A certification by the disclosing
17 entity that the compensation arrange-
18 ment—

19 “(I) is technically noncompliant
20 (as defined by subsection (b)(2)(C));

21 “(II) has been cured of the tech-
22 nical noncompliance, or is otherwise
23 terminated; and

24 “(III) is, in the case of technical
25 noncompliance under subsection

1 (b)(2)(C)(i), a valid contract under
2 State law, an arrangement in which
3 the compensation is consistent with
4 fair market value, and one in which
5 remuneration under the arrangement
6 is not determined in a manner that
7 takes into account directly or indi-
8 rectly the volume or value of any re-
9 ferrals or other business generated by
10 the referring physician for the entity
11 furnishing designated health services.

12 “(v) Payment for the full amount of
13 the civil monetary penalty under clause (i)
14 or (ii), as applicable, of subsection
15 (b)(2)(A).

16 “(D) PRIOR DISCLOSURES DEEMED AS
17 MEETING DISCLOSURE REQUIREMENTS.—In the
18 case that a disclosure under paragraph (1) of a
19 technical noncompliance violation is made be-
20 fore the date of the enactment of the Protecting
21 the Integrity of Medicare Act of 2014, and
22 there has not been a final settlement as of such
23 date, such disclosure shall be deemed as a dis-
24 closure described in subparagraph (C) if the
25 Secretary determines that such disclosure met

1 the disclosure requirements applicable on the
2 date of the submission of such disclosure.

3 “(E) REQUEST FOR ADDITIONAL INFORMA-
4 TION.—In the case that the Secretary deter-
5 mines not later than the applicable date speci-
6 fied in subparagraph (A) that additional infor-
7 mation is necessary in order to accept or reject
8 a disclosure described in subparagraph (A), the
9 Secretary shall request that the entity making
10 such disclosure submit such information. In the
11 case that—

12 “(i) the entity makes such submission
13 not later than 30 days after the date on
14 which the Secretary makes such request,
15 subparagraph (B) shall be applied as if the
16 reference to the applicable date of accept-
17 ance or rejection specified in subparagraph
18 (A) were a reference to the date that is 60
19 days after the date of the submission of
20 such additional information; or

21 “(ii) the entity does not make such
22 submission not later than 30 days after the
23 date on which the Secretary makes such
24 request, subparagraph (B) shall be applied

1 as if the reference to the applicable dates
2 of acceptance or rejection specified in—

3 “(I) clauses (i) and (ii) of sub-
4 paragraph (A) were references to the
5 date that is 180 days after the conclu-
6 sion of the 30-day time period speci-
7 fied in clause (i); and

8 “(II) clause (iii) of subparagraph
9 (A) were a reference to the date that
10 is 90 days after the conclusion of the
11 30-day time period specified in clause
12 (i).”;

13 (2) in subsection (b)—

14 (A) by redesignating paragraphs (1)
15 through (4) as subparagraphs (A) through (D),
16 respectively;

17 (B) by striking “OWED.—The” and insert-
18 ing the following: “OWED.—

19 “(1) IN GENERAL.—Subject to paragraph (2),
20 the”; and

21 (C) by adding at the end the following new
22 paragraph:

23 “(2) ALTERNATIVE SANCTIONS FOR TECHNICAL
24 NONCOMPLIANCE.—

1 “(A) PENALTY FOR COMPENSATION AR-
2 RANGEMENTS IN TECHNICAL NONCOMPLI-
3 ANCE.—Subject to subparagraph (B), in the
4 case of a disclosure under subsection (a)(1)
5 with respect to a compensation arrangement de-
6 scribed in section 1877 of the Social Security
7 Act (42 U.S.C. 1395nn) between a physician
8 and a person or entity of one or more technical
9 noncompliance violations that has been accepted
10 under subsection (a)(4), the amount applied
11 under subsection (a)(1) for all such violations
12 with respect to such arrangement shall be as
13 follows:

14 “(i) in the case where the disclosure
15 of the violations is submitted to the Sec-
16 retary not later than the date that is one
17 year after the initial date of noncompli-
18 ance, an amount not to exceed \$5,000 for
19 each such arrangement; and

20 “(ii) in the case where the disclosure
21 of the violations is submitted to the Sec-
22 retary after the date that is one year after
23 the initial date of noncompliance, an
24 amount not to exceed \$10,000 for each
25 such arrangement.

1 “(B) LIMITATIONS.—

2 “(i) In no case may the Secretary ac-
3 cept under subsection (a)(1) disclosures
4 with respect to more than three arrange-
5 ments made by a person or entity within a
6 two-year period.

7 “(ii) In no case may the amount ap-
8 plied with respect to violations under this
9 subsection, including technical noncompli-
10 ance violations under a compensation ar-
11 rangement, exceed the amount that would
12 otherwise be applied with respect to viola-
13 tions under section 1877(g) of the Social
14 Security Act (42 U.S.C. 1395nn(g)).

15 “(C) TECHNICAL NONCOMPLIANCE VIOLA-
16 TION DEFINED.—For purposes of this para-
17 graph, the term ‘technical noncompliance viola-
18 tion’ means, with respect to a compensation ar-
19 rangement, an actual or potential violation of
20 section 1877 of the Social Security Act (42
21 U.S.C. 1395nn) that is under such arrangement
22 and that is a violation only because—

23 “(i) the arrangement is not set forth
24 in writing;

1 “(ii) the arrangement is not signed by
2 1 or more entities participating in the ar-
3 rangement;

4 “(iii) a prior arrangement expired and
5 services continued without the execution of
6 an amendment to such arrangement or a
7 new arrangement; or

8 “(iv) the arrangement fails to satisfy
9 such other requirements as the Secretary
10 may determine to be technical in nature.

11 “(D) APPLICATION.—This paragraph shall
12 apply to any technical noncompliance violation
13 disclosed on or after the date of the enactment
14 of the Protecting the Integrity of Medicare Act
15 of 2014, or any such violation disclosed before
16 such date for which there has not been a final
17 settlement as of such date.”;

18 (3) in the heading to subsection (c), by insert-
19 ing “INITIAL” before “REPORT”; and

20 (4) by adding at the end the following new sub-
21 section:

22 “(d) SUBSEQUENT REPORT.—Not later than 24
23 months after the date of enactment of the Protecting the
24 Integrity of Medicare Act of 2014, the Secretary shall sub-

1 mit to Congress a report on the implementation of sub-
2 section (b)(2). Such report shall include—

3 “(1) the number of persons or entities making
4 disclosures of technical noncompliance under sub-
5 section (b)(2);

6 “(2) the amount and type of alternative sanc-
7 tions collected or imposed for technical noncompli-
8 ance;

9 “(3) the types of violations disclosed;

10 “(4) the number of days after the initial date
11 of noncompliance on which disclosures are sub-
12 mitted; and

13 “(5) such other information as the Secretary
14 determines may be necessary to evaluate the impact
15 of subsection (b)(2).”.

16 (b) IMPLEMENTATION.—The Secretary of Health and
17 Human Services may implement the provisions of sub-
18 section (a)(4) of section 6409 of Public Law 111–148 and
19 subsection (b)(2) of such section, as added by subsection
20 (a) of this section, by program instruction or otherwise.
21 Chapter 35 of title 44, United States Code (commonly re-
22 ferred to as the “Paperwork Reduction Act of 1995”)
23 shall not apply with respect to carrying out such provi-
24 sions.

1 **SEC. 14. OPTION TO RECEIVE MEDICARE SUMMARY NOTICE**
2 **ELECTRONICALLY.**

3 (a) IN GENERAL.—Section 1806 of the Social Secu-
4 rity Act (42 U.S.C. 1395b–7) is amended by adding at
5 the end the following new subsection:

6 “(c) FORMAT OF STATEMENTS FROM SECRETARY.—

7 “(1) ELECTRONIC OPTION BEGINNING IN
8 2015.—Subject to paragraph (2), for statements de-
9 scribed in subsection (a) that are furnished for a pe-
10 riod in 2015 or a subsequent year, in the case that
11 an individual described in subsection (a) elects, in
12 accordance with such form, manner, and time speci-
13 fied by the Secretary, to receive such statement in
14 an electronic format, such statement shall be fur-
15 nished to such individual for each period subsequent
16 to such election in such a format and shall not be
17 mailed to the individual.

18 “(2) LIMITATION ON REVOCATION OPTION.—

19 “(A) IN GENERAL.—Subject to subpara-
20 graph (B), the Secretary may determine a max-
21 imum number of elections described in para-
22 graph (1) by an individual that may be revoked
23 by the individual.

24 “(B) MINIMUM OF ONE REVOCATION OP-
25 TION.—In no case may the Secretary determine

1 a maximum number under subparagraph (A)
2 that is less than one.

3 “(3) NOTIFICATION.—The Secretary shall en-
4 sure that, in the most cost effective manner and be-
5 ginning January 1, 2017, a clear notification of the
6 option to elect to receive statements described in
7 subsection (a) in an electronic format is made avail-
8 able, such as through the notices distributed under
9 section 1804, to individuals described in subsection
10 (a).”.

11 (b) ENCOURAGED EXPANSION OF ELECTRONIC
12 STATEMENTS.—To the extent to which the Secretary of
13 Health and Human Services determines appropriate, the
14 Secretary shall—

15 (1) apply an option similar to the option de-
16 scribed in subsection (c)(1) of section 1806 of the
17 Social Security Act (42 U.S.C. 1395b–7) (relating to
18 the provision of the Medicare Summary Notice in an
19 electronic format), as added by subsection (a), to
20 other statements and notifications under title XVIII
21 of such Act (42 U.S.C. 1395 et seq.); and

22 (2) provide such Medicare Summary Notice and
23 any such other statements and notifications on a
24 more frequent basis than is otherwise required under
25 such title.

1 **SEC. 15. RENEWAL OF MAC CONTRACTS.**

2 (a) IN GENERAL.—Section 1874A(b)(1)(B) of the
3 Social Security Act (42 U.S.C. 1395kk–1(b)(1)(B)) is
4 amended by striking “5 years” and inserting “10 years”.

5 (b) APPLICATION.—The amendments made by sub-
6 section (a) shall apply to contracts entered into on or
7 after, and to contracts in effect as of, the date of the en-
8 actment of this Act.

9 **SEC. 16. STUDY ON PATHWAY FOR INCENTIVES TO STATES**
10 **FOR STATE PARTICIPATION IN MEDICAID**
11 **DATA MATCH PROGRAM.**

12 Section 1893(g) of the Social Security Act (42 U.S.C.
13 1395ddd(g)) is amended by adding at the end the fol-
14 lowing new paragraph:

15 “(3) INCENTIVES FOR STATES.—The Secretary
16 shall study and, as appropriate, may specify incen-
17 tives for States to work with the Secretary for the
18 purposes described in paragraph (1)(A)(ii). The ap-
19 plication of the previous sentence may include use of
20 the waiver authority described in paragraph (2).”.

21 **SEC. 17. PROGRAMS TO PREVENT PRESCRIPTION DRUG**
22 **ABUSE UNDER MEDICARE PART D.**

23 (a) HIGH-RISK BENEFICIARY DRUG MANAGEMENT
24 PROGRAM.—

1 (1) IN GENERAL.—Section 1860D–4(c) of the
2 Social Security Act (42 U.S.C. 1395w–10(c)) is
3 amended by adding at the end the following:

4 “(4) HIGH-RISK BENEFICIARY DRUG MANAGE-
5 MENT PROGRAM.—

6 “(A) AUTHORITY TO ESTABLISH.—A PDP
7 sponsor may establish a high-risk beneficiary
8 drug management program under which, except
9 as provided under subparagraph (B), the PDP
10 sponsor may, in the case of a high-risk bene-
11 ficiary who is an enrollee in a prescription drug
12 plan of such PDP sponsor, limit such bene-
13 ficiary’s access to coverage for frequently
14 abused drugs under such plan to frequently
15 abused drugs that are prescribed for such bene-
16 ficiary by a prescriber selected under subpara-
17 graph (D), and dispensed for such beneficiary
18 by a pharmacy selected under such subpara-
19 graph.

20 “(B) REQUIREMENT FOR NOTICE.—A
21 PDP sponsor may not limit a high-risk bene-
22 ficiary’s access to coverage for frequently
23 abused drugs under a prescription drug plan
24 until such sponsor provides to the beneficiary—

25 “(i) notice—

1 “(I) that the PDP sponsor has
2 identified the beneficiary as a high-
3 risk beneficiary;

4 “(II) that such beneficiary is
5 subject to the requirements of the
6 high-risk beneficiary drug manage-
7 ment program established by such
8 PDP sponsor for such plan; and

9 “(III) of the prescriber and phar-
10 macy selected for such individual
11 under subparagraph (D); and

12 “(ii) information to the beneficiary
13 about the beneficiary’s right to appeal such
14 identification under subsection (h); and

15 “(iii) notice that the beneficiary can
16 submit to the PDP sponsor preferences for
17 which prescribers and pharmacies the ben-
18 eficiary would prefer the PDP sponsor se-
19 lect under subparagraph (D).

20 “(C) HIGH-RISK BENEFICIARIES.—For
21 purposes of this paragraph, the term ‘high-risk
22 beneficiary’ means a part D eligible indi-
23 vidual—

24 “(i) who is identified through the use
25 of guidelines developed by the Secretary in

1 consultation with PDP sponsors and other
2 stakeholders; or

3 “(ii) with respect to whom the PDP
4 sponsor of a prescription drug plan, upon
5 enrolling such individual in such plan, re-
6 ceived notice from the Secretary that such
7 individual was identified under this para-
8 graph to be a high-risk beneficiary under
9 the prescription drug plan in which such
10 individual was most recently previously en-
11 rolled and such identification has not been
12 terminated under subparagraph (F).

13 “(D) SELECTION OF PRESCRIBERS.—

14 “(i) IN GENERAL.—With respect to
15 each high-risk beneficiary enrolled in a
16 prescription drug plan offered by such
17 sponsor, a PDP sponsor shall select—

18 “(I) one or more individuals who
19 are authorized to prescribe frequently
20 abused drugs (referred to in this
21 paragraph as ‘prescribers’) who may
22 write prescriptions for such drugs for
23 such beneficiary; and

1 “(II) one or more pharmacies
2 that may dispense such drugs to such
3 beneficiary.

4 “(ii) REASONABLE ACCESS.—In mak-
5 ing the selection under this subparagraph,
6 a PDP sponsor shall ensure that the bene-
7 ficiary has reasonable access to all covered
8 part D drugs, taking into account geo-
9 graphic location, beneficiary preference,
10 and reasonable travel time.

11 “(iii) BENEFICIARY PREFERENCES.—
12 If a high-risk beneficiary submits pref-
13 erences for which prescribers and phar-
14 macies the beneficiary would prefer the
15 PDP sponsor select in response to the no-
16 tice under subparagraph (B)(iii), the PDP
17 sponsor shall review such preferences and,
18 when possible, change the selection of a
19 prescriber or pharmacy for the beneficiary
20 based on such preferences (and inform the
21 beneficiary of such change).

22 “(iv) CONFIRMATION.—Before select-
23 ing a prescriber or pharmacy under this
24 subparagraph, a PDP sponsor must re-
25 quest and receive confirmation from the

1 prescriber or pharmacy acknowledging that
2 the beneficiary involved is in the high-risk
3 beneficiary drug management program.

4 “(E) RECONSIDERATIONS AND APPEALS.—

5 The identification of an individual as a high-
6 risk beneficiary under this paragraph, a cov-
7 erage determination made under a high-risk
8 beneficiary drug management program, and the
9 selection of a prescriber or pharmacy under
10 subparagraph (D) with respect to such indi-
11 vidual shall be subject to reconsideration and
12 appeal under subsections (g) and (h) to the ex-
13 tent provided by the Secretary.

14 “(F) TERMINATION OF IDENTIFICATION.—

15 “(i) IN GENERAL.—The Secretary
16 shall develop standards for the termination
17 of identification of an individual as a high-
18 risk beneficiary under this paragraph.
19 Under such standards such identification
20 shall terminate as of the earlier of—

21 “(I) the date the individual dem-
22 onstrates that the individual is no
23 longer likely, in the absence of the re-
24 strictions under this paragraph, to be

1 a high-risk beneficiary described in
2 subparagraph (C)(i); or

3 “(II) the end of such maximum
4 period of identification as the Sec-
5 retary specifies.

6 “(ii) CONSTRUCTION.—Nothing in
7 clause (i) shall be construed as preventing
8 a plan from identifying an individual as a
9 high-risk beneficiary under subparagraph
10 (C)(i) after such termination on the basis
11 of additional information on drug use oc-
12 ccurring after the date of notice of such ter-
13 mination.

14 “(G) FREQUENTLY ABUSED DRUG.—For
15 purposes of this subsection, the term ‘frequently
16 abused drug’ means a drug that is one of the
17 following, or that is determined by the Sec-
18 retary to be within the same class or category
19 of drugs as one or more of the following:

20 “(i) Amphetamine derivatives.

21 “(ii) Benzodiazepines.

22 “(iii) Carisoprodol.

23 “(iv) Codeine with Acetaminophen.

24 “(v) Fentanyl.

25 “(vi) Hydrocodone combinations.

1 “(vii) Hydromorphone.

2 “(viii) Meperidine.

3 “(ix) Methadone.

4 “(x) Methylphenidate.

5 “(xi) Morphine.

6 “(xii) Non-Benzodiazepine sleep aids.

7 “(xiii) Oxycodone.

8 “(xiv) Tramadol.

9 “(H) DATA DISCLOSURE.—In the case of a
10 high-risk beneficiary whose access to coverage
11 for frequently abused drugs under a prescrip-
12 tion drug plan has been limited by a PDP spon-
13 sor under this paragraph, if the high-risk bene-
14 ficiary ceases to be an enrollee in a prescription
15 drug plan of such PDP sponsor, such PDP
16 sponsor shall disclose data, including any nec-
17 essary individually identifiable health informa-
18 tion, in a form and manner specified by the
19 Secretary, about the decision to impose such
20 limitations and the limitations imposed by the
21 sponsor under this part.”.

22 (2) INFORMATION FOR CONSUMERS.—Section
23 1860D–4(a)(1)(B) of such Act (42 U.S.C. 1395w–
24 104(a)(1)(B)) is amended by adding at the end the
25 following:

1 “(v) The high-risk beneficiary drug
2 management program under subsection
3 (c)(4).”.

4 (b) UTILIZATION MANAGEMENT PROGRAMS.—Sec-
5 tion 1860D–4(c) of the Social Security Act (42 U.S.C.
6 1395w–104(c)) is further amended—

7 (1) in paragraph (1), by inserting after sub-
8 paragraph (D) the following new subparagraph:

9 “(E) Utilization management tools to pre-
10 vent drug abuse (as described in paragraph
11 (5)(A)).”; and

12 (2) by adding at the end the following new
13 paragraph:

14 “(5) UTILIZATION MANAGEMENT TOOLS TO
15 PREVENT DRUG ABUSE.—

16 “(A) IN GENERAL.—The tools described in
17 this paragraph are the following:

18 “(i) Utilization tools designed to pre-
19 vent the abuse of frequently abused drugs
20 by individuals and to prevent the diversion
21 of such drugs at pharmacies or through
22 mail order pharmacy services.

23 “(ii) Retrospective utilization review
24 to identify—

1 “(I) individuals that receive fre-
2 quently abused drugs at a frequency
3 or in amounts that are not clinically
4 appropriate; and

5 “(II) providers of services or sup-
6 pliers that may facilitate the abuse or
7 diversion of frequently abused drugs
8 by beneficiaries.

9 “(iii) Consultation with the Con-
10 tractor described in subparagraph (B) to
11 verify if an individual enrolling in a pre-
12 scription drug plan offered by a PDP
13 sponsor has not been previously identified
14 by another PDP sponsor as an individual
15 described in clause (ii)(I).

16 “(B) REPORTING.—A PDP sponsor offer-
17 ing a prescription drug plan in a State shall
18 submit to the Medicare drug integrity con-
19 tractor with which the Secretary has entered
20 into a contract under section 1893 with respect
21 to such State a report, on a monthly basis, con-
22 taining information on—

23 “(i) any provider of services or sup-
24 plier described in subparagraph (A)(ii)(II)
25 that is identified by such plan sponsor dur-

1 ing the 30-day period before such report is
2 submitted; and

3 “(ii) the name and prescription
4 records of individuals described in para-
5 graph (4)(C).”.

6 (c) EXPANDING ACTIVITIES OF MEDICARE DRUG IN-
7 INTEGRITY CONTRACTORS (MEDICs).—Section 1893 of the
8 Social Security Act (42 U.S.C. 1395ddd) is amended by
9 adding at the end the following new subsection:

10 “(j) EXPANDING ACTIVITIES OF MEDICARE DRUG
11 INTEGRITY CONTRACTORS (MEDICs).—

12 “(1) ACCESS TO INFORMATION.—Under con-
13 tracts entered into under this section with Medicare
14 drug integrity contractors, the Secretary shall au-
15 thorize such contractors to directly accept prescrip-
16 tion and necessary medical records from entities
17 such as pharmacies, prescription drug plans, and
18 physicians with respect to individuals described in
19 1860D–4(c)(5)(A)(ii)(I).

20 “(2) REQUIREMENT FOR ACKNOWLEDGMENT
21 OF REFERRALS.—If a PDP sponsor refers informa-
22 tion to a contractor described in paragraph (1) for
23 investigation, the contractor shall acknowledge re-
24 ceipt of the referral and report to PDP sponsors
25 that request whether or not an individual has been

1 identified as an individual described in paragraph
2 (1).”.

3 (d) EFFECTIVE DATE.—The amendments made by
4 this section shall apply to prescription drug plans for plan
5 years beginning on or after January 1, 2015.

6 **SEC. 18. GUIDANCE ON APPLICATION OF COMMON RULE TO**
7 **CLINICAL DATA REGISTRIES.**

8 Not later than one year after the date of the enact-
9 ment of this section, the Secretary of Health and Human
10 Services, through the Office for Human Research Protec-
11 tions of the Department of Health and Human Services,
12 shall issue guidance on the application with respect to clin-
13 ical data registries of the provisions of subpart A of part
14 46 of title 45, Code of Federal Regulations, or equivalent
15 Federal regulations for the protection of human subjects
16 in research.

17 **SEC. 19. MODIFICATION OF THE QUALIFICATION REQUIRE-**
18 **MENTS FOR MEDICARE ELIGIBILITY FOR**
19 **THOSE CONVICTED OF DEFRAUDING THE**
20 **MEDICARE PROGRAM.**

21 (a) IN GENERAL.—Part E of title XVIII of the Social
22 Security Act (42 U.S.C. 1395x et seq.) is amended by add-
23 ing at the end the following new section:

1 **“SEC. 1899B. MODIFICATION OF THE QUALIFICATION RE-**
2 **QUIREMENTS FOR MEDICARE ELIGIBILITY**
3 **FOR THOSE CONVICTED OF DEFRAUDING**
4 **THE MEDICARE PROGRAM.**

5 “(a) IN GENERAL.—Notwithstanding any other pro-
6 vision of law, in the case of an individual who furnishes
7 items or services under this title and who is convicted of
8 a Federal felony involving fraud against the Medicare pro-
9 gram under this title committed after the date of the en-
10 actment of this section, such individual shall be disquali-
11 fied from entitlement to benefits under part A and eligi-
12 bility to enroll for benefits under part B (and shall have
13 such previous enrollment terminated) effective for months
14 beginning after the date of the conviction and until the
15 individual has wages and self-employment income earned
16 after the date of such conviction sufficient to constitute
17 the crediting of 40 quarters of coverage under section 213.

18 “(b) CONSTRUCTION.—Nothing in subsection (a)
19 shall be construed to effect the eligibility of an individual
20 other than the individual described in subsection (a) who
21 has been convicted of a Federal felony.”.

22 (b) CONFORMING AMENDMENTS.—The Social Secu-
23 rity Act is amended—

24 (1) in section 226 (42 U.S.C. 426)—

1 (A) in subsection (a), by striking “Every”
2 and inserting “Subject to section 1899B,
3 every”; and

4 (B) in subsection (b), by striking “Every”
5 and inserting “Subject to section 1899B,
6 every”;

7 (2) in section 226A(a) (42 U.S.C. 426–1(a)),
8 by inserting “but subject to section 1899B” after
9 “section 226 or title XVIII”;

10 (3) in section 1818(a) (42 U.S.C. 1395i–2(a)),
11 by striking “Every” and inserting “Subject to sec-
12 tion 1899B, every”;

13 (4) in section 1818A(a) (42 U.S.C. 1395i–
14 2a(a)), by striking “Every” and inserting “Subject
15 to section 1899B, every”; and

16 (5) in section 1836 (42 U.S.C. 1395o), by strik-
17 ing “Every” and inserting “Subject to section
18 1899B, every”.

19 **SEC. 20. GAINSHARING STUDY AND REPORT.**

20 Not later than 12 months after the date of the enact-
21 ment of this Act, the Secretary of Health and Human
22 Services, in consultation with the Inspector General of the
23 Department of Health and Human Services, shall submit
24 to Congress a report with options for amending existing
25 fraud and abuse laws in, and regulations related to, titles

1 XI and XVIII of the Social Security Act (42 U.S.C. 301
2 et seq.), through exceptions, safe harbors, or other nar-
3 rowly targeted provisions, to permit gainsharing arrange-
4 ments that otherwise would be subject to the civil money
5 penalties described in paragraphs (1) and (2) of section
6 1128A(b) of such Act (42 U.S.C. 1320a–7a(b)), or similar
7 arrangements between physicians and hospitals, and that
8 improve care while reducing waste and increasing effi-
9 ciency. The report shall—

10 (1) consider whether such provisions should
11 apply to ownership interests, compensation arrange-
12 ments, or other relationships;

13 (2) describe how the recommendations address
14 accountability, transparency, and quality, including
15 how best to limit inducements to stint on care, dis-
16 charge patients prematurely, or otherwise reduce or
17 limit medically necessary care; and

18 (3) consider whether a portion of any savings
19 generated by such arrangements (as compared to an
20 historical benchmark or other metric specified by the
21 Secretary to determine the impact of delivery and
22 payment system changes under such title XVIII on
23 expenditures made under such title) should accrue to
24 the Medicare program under title XVIII of the So-
25 cial Security Act.

1 **SEC. 21. MODIFICATION OF MEDICARE HOME HEALTH SUR-**
2 **ETY BOND CONDITION OF PARTICIPATION**
3 **REQUIREMENT.**

4 Section 1861(o)(7) of the Social Security Act (42
5 U.S.C. 1395x(o)(7)) is amended to read as follows:

6 “(7) provides the Secretary with a surety
7 bond—

8 “(A) in a form specified by the Secretary
9 and in an amount that is not less than the min-
10 imum of \$50,000; and

11 “(B) that the Secretary determines is com-
12 mensurate with the volume of payments to the
13 home health agency; and”.

14 **SEC. 22. OVERSIGHT OF MEDICARE COVERAGE OF MANUAL**
15 **MANIPULATION OF THE SPINE TO CORRECT**
16 **SUBLUXATION.**

17 (a) IN GENERAL.—Section 1833 of the Social Secu-
18 rity Act (42 U.S.C. 1395l) is amended by adding at the
19 end the following new subsection:

20 “(z) MEDICAL REVIEW OF TREATMENT FOR SPINAL
21 SUBLUXATION.—

22 “(1) IN GENERAL.—The Secretary shall imple-
23 ment a process for the medical review (as described
24 in paragraph (2)) of treatment by means of manual
25 manipulation of the spine to correct a subluxation
26 (as described in section 1861(r)(5)) of an individual

1 who is enrolled under this part and apply such pro-
2 cess to such services furnished on or after January
3 1, 2016, focusing on the following services:

4 “(A) Services furnished by a physician de-
5 scribed in section 1861(r)(5) whose pattern of
6 billing is aberrant compared to peers.

7 “(B) Services furnished by such a physi-
8 cian who, in a prior period, has a high claims
9 denial percentage or is less compliant with
10 other applicable requirements under this title.

11 “(C) Services furnished by such a physi-
12 cian who has questionable billing practices.

13 “(D) Services furnished to treat a type of
14 underlying medical condition.

15 “(E) Other services as determined appro-
16 priate by the Secretary.

17 “(2) MEDICAL REVIEW.—

18 “(A) PRIOR AUTHORIZATION MEDICAL RE-
19 VIEW.—

20 “(i) IN GENERAL.—Subject to clause
21 (ii), the Secretary shall use prior author-
22 ization medical review for treatments de-
23 scribed in paragraph (1) that are furnished
24 to an individual by a physician described in
25 section 1861(r)(5) above one or more

1 thresholds established by the Secretary,
2 such as a treatment threshold or a thresh-
3 old based on other factors.

4 “(ii) ENDING APPLICATION OF PRIOR
5 AUTHORIZATION MEDICAL REVIEW.—The
6 Secretary shall end the application of prior
7 authorization medical review under clause
8 (i) to treatments described in paragraph
9 (1) by a physician if the Secretary deter-
10 mines that the physician has a low denial
11 rate under such prior authorization med-
12 ical review. The Secretary may subse-
13 quently reapply prior authorization medical
14 review to such physician if the Secretary
15 determines it to be appropriate and the
16 physician has, in the time period subse-
17 quent to the determination by the Sec-
18 retary of a low denial rate with respect to
19 the physician, furnished such treatments
20 above one or more thresholds established
21 under clause (i).

22 “(B) OTHER TYPES OF MEDICAL RE-
23 VIEW.—

24 “(i) IDENTIFICATION OF SERVICES
25 FOR REVIEW.—Under the process de-

1 scribed in paragraph (1), the Secretary
2 shall identify services for medical review
3 that are described in such paragraph and
4 that are not subject to prior authorization
5 medical review under subparagraph (A),
6 using such factors as the Secretary deter-
7 mines appropriate.

8 “(ii) TYPE OF REVIEW.—The Sec-
9 retary may use pre-payment review or
10 post-payment review for services identified
11 under clause (i).

12 “(C) LIMITATION FOR LAW ENFORCEMENT
13 ACTIVITIES.—The Secretary may determine
14 that medical review under this subsection does
15 not apply in the case where potential fraud may
16 be involved.

17 “(3) NO PAYMENT WITHOUT PRIOR AUTHORIZA-
18 TION.—With respect to a treatment described in
19 paragraph (1) for which prior authorization medical
20 review under this subsection applies, the following
21 shall apply:

22 “(A) PRIOR AUTHORIZATION DETERMINA-
23 TION.—The Secretary shall make a determina-
24 tion, prior to the treatment being furnished, of
25 whether the treatment would or would not meet

1 the applicable requirements of section
2 1862(a)(1)(A).

3 “(B) DENIAL OF PAYMENT.—Subject to
4 paragraph (5), no payment may be made under
5 this part for the treatment unless the Secretary
6 determines pursuant to subparagraph (A) that
7 the treatment would meet the applicable re-
8 quirements of such section 1862(a)(1)(A).

9 “(4) SUBMISSION OF INFORMATION.—A physi-
10 cian described in section 1861(r)(5) may submit the
11 information necessary for medical review by fax, by
12 mail, or by electronic means. The Secretary shall
13 make available the electronic means described in the
14 preceding sentence as soon as practicable.

15 “(5) TIMELINESS.—If the Secretary does not
16 make a prior authorization determination under
17 paragraph (3)(A) within 25 business days of the
18 date of the receipt of medical documentation needed
19 to make such determination, paragraph (3)(B) shall
20 not apply.

21 “(6) APPLICATION OF LIMITATION ON BENE-
22 FICIARY LIABILITY.—Where payment may not be
23 made as a result of the application of paragraph
24 (2)(B), section 1879 shall apply in the same manner

1 as such section applies to a denial that is made by
2 reason of section 1862(a)(1).

3 “(7) REVIEW BY MACS.—The medical review
4 described in paragraph (2) may be conducted by
5 medicare administrative contractors pursuant to sec-
6 tion 1874A(a)(4)(G) or by any other contractor de-
7 termined appropriate by the Secretary that is not a
8 recovery audit contractor.

9 “(8) MULTIPLE SERVICES.—The Secretary
10 shall, where practicable, apply the medical review
11 under this subsection in a manner so as to allow an
12 individual described in paragraph (1) to obtain, at a
13 single time rather than on a service-by-service basis,
14 an authorization in accordance with paragraph
15 (3)(A) for multiple services.

16 “(9) CONSTRUCTION.—With respect to a treat-
17 ment described in paragraph (1) that has been af-
18 firmed by medical review under this subsection,
19 nothing in this subsection shall be construed to pre-
20 clude the subsequent denial of a claim for such serv-
21 ice that does not meet other applicable requirements
22 under this Act.

23 “(10) IMPLEMENTATION.—

1 “(A) AUTHORITY.—The Secretary may im-
2 plement the provisions of this subsection by in-
3 terim final rule with comment period.

4 “(B) ADMINISTRATION.—Chapter 35 of
5 title 44, United States Code, shall not apply to
6 medical review under this subsection.”.

7 (b) GAO STUDY AND REPORT.—

8 (1) STUDY.—The Comptroller General of the
9 United States shall conduct a study on the effective-
10 ness of medical review of treatment by means of
11 manual manipulation of the spine to correct a sub-
12 luxation under section 1833(z) of the Social Security
13 Act, as added by subsection (a). Such study shall in-
14 clude an analysis of—

15 (A) aggregate data on—

16 (i) the number of individuals, physi-
17 cians, and claims subject to such review;
18 and

19 (ii) the number of reviews conducted
20 under such section; and

21 (B) the outcomes of such reviews.

22 (2) REPORT.—Not later than 3 years after the
23 date of enactment of this Act, the Comptroller Gen-
24 eral shall submit to Congress a report containing the
25 results of the study under paragraph (1), together

1 with recommendations for such legislation and ad-
2 ministrative action as the Comptroller General deter-
3 mines appropriate.

4 **SEC. 23. LIMITING PAYMENT AMOUNT UNDER MEDICARE**
5 **PROGRAM FOR VACUUM ERECTION SYSTEMS.**

6 (a) INCLUSION IN PROGRAM.—Section 1847(a)(2) of
7 the Social Security Act (42 U.S.C. 1395w–3(a)(2)) is
8 amended by adding at the end the following new subpara-
9 graph:

10 “(D) VACUUM ERECTION SYSTEMS.—Vacu-
11 um erection systems covered as prosthetic de-
12 vices described in section 1861(s)(8) for which
13 payment would otherwise be made under section
14 1834(h).”.

15 (b) NATIONAL MAIL ORDER PROGRAM.—Section
16 1847(a)(1)(D) of the Social Security Act (42 U.S.C.
17 1395w–3(a)(1)(D)) is amended by adding at the end the
18 following new clause:

19 “(iv) NATIONAL MAIL ORDER PRO-
20 GRAM FOR VACUUM ERECTION SYSTEMS.—
21 The Secretary shall phase in a national
22 mail order program under this section for
23 vacuum erection systems described in para-
24 graph (2)(D). The first round of competi-
25 tion for such program shall occur in 2015,

1 with contracts taking effect after the com-
2 petition is completed. Chapter 35 of title
3 44, United States Code (commonly re-
4 ferred to as the ‘Paperwork Reduction Act
5 of 1995’) shall not apply to the first round
6 competition for such program.”.

7 **SEC. 24. REQUIRING PRIOR AUTHORIZATION FOR PAYMENT**
8 **FOR BLEPHAROPLASTY AND EYEBROW SUR-**
9 **GERIES.**

10 Section 1834 of the Social Security Act (42 U.S.C.
11 1395m) is amended by adding at the end the following
12 new subsection:

13 “(j) **PRIOR AUTHORIZATION FOR BLEPHAROPLASTY**
14 **AND EYEBROW SURGERIES.**—Beginning January 1, 2016,
15 the Secretary shall apply prior authorization for
16 blepharoplasty surgeries, eyebrow lift surgeries, and items
17 and services identified as of January 1, 2014, under
18 HCPCS codes 15820 through 15823, 67900, and 67901
19 through 67908 (and as subsequently modified by the Sec-
20 retary) to prevent payment for the use of such surgeries
21 for cosmetic purposes. In carrying out the preceding sen-
22 tence, the Secretary or a medicare administrative con-
23 tractor with a contract under section 1874A shall deter-
24 mine in advance of the provision of items and services re-
25 lated to the provision of such a surgery whether payment

1 for such items or services may not be made because the
2 item is not covered or because of the application of section
3 1862(a)(1).”.

4 **SEC. 25. NATIONAL EXPANSION OF PRIOR AUTHORIZATION**
5 **DEMONSTRATION PROGRAM FOR REPET-**
6 **ITIVE SCHEDULED NON-EMERGENT AMBU-**
7 **LANCE TRANSPORT.**

8 (a) INITIAL EXPANSION.—

9 (1) IN GENERAL.—In implementing the model
10 described in paragraph (2) proposed to be tested
11 under subsection (b) of section 1115A of the Social
12 Security Act (42 U.S.C. 1315a), the Secretary of
13 Health and Human Services shall expand the testing
14 under subsection (b) of such section to cover, effec-
15 tive January 1, 2015, States located in medicare ad-
16 ministrative contractor (MAC) regions L and 11
17 (consisting of Delaware, the District of Columbia,
18 Maryland, New Jersey, Pennsylvania, North Caro-
19 lina, South Carolina, West Virginia, and Virginia).

20 (2) MODEL DESCRIBED.—The model described
21 in this paragraph is the prior authorization dem-
22 onstration program for repetitive scheduled non-
23 emergent ambulance transport proposed to be car-
24 ried out in New Jersey, Pennsylvania, and South
25 Carolina.

1 (3) FUNDING.—The Secretary shall allocate
2 funds made available under section 1115A(f)(1)(B)
3 of the Social Security Act (42 U.S.C.
4 1315a(f)(1)(B)) to carry out this subsection.

5 (b) NATIONAL EXPANSION.—Section 1834(l) of the
6 Social Security Act (42 19 U.S.C. 1395m(l)) is amended
7 by adding at the end the following new paragraph:

8 “(16) PRIOR AUTHORIZATION FOR REPETITIVE
9 SCHEDULED NON-EMERGENCY AMBULANCE TRANS-
10 PORTS.—

11 “(A) IN GENERAL.—Beginning January 1,
12 2017, the Secretary shall apply the prior au-
13 thorization program described in subparagraph
14 (B) to all States.

15 “(B) PROGRAM DESCRIBED.—The prior
16 authorization program described in this sub-
17 paragraph is a prior authorization program for
18 repetitive scheduled ambulance services con-
19 sisting of non-emergency basic life support serv-
20 ices involving transport of an individual fur-
21 nished other than on an emergency basis. In
22 carrying out the program, the Secretary shall
23 determine in advance of the provision of items
24 and services related to the provision of such an
25 ambulance service whether payment for such

1 items or services may not be made because the
2 item or service is not covered or because of the
3 application of section 1862(a)(1).

4 “(C) IMPLEMENTATION.—The program de-
5 scribed in subparagraph (B) shall be imple-
6 mented in a manner that is consistent with the
7 terms and conditions for the prior authorization
8 demonstration program for repetitive scheduled
9 non-emergent ambulance transport proposed by
10 the Centers for Medicare and Medicaid Services
11 to be implemented in New Jersey, Pennsyl-
12 vania, and South Carolina.

13 “(D) FUNDING.—The Secretary shall use
14 funds made available under section 1893(h)(10)
15 to carry out this paragraph.”.