

103^D CONGRESS
1ST SESSION

H. R. 1255

To amend title XI of the Social Security Act to extend the penalties for fraud and abuse assessed against providers under the medicare program and State health care programs to providers under all health care plans, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 9, 1993

Mr. STARK (for himself, Mr. LEVIN, Mr. McDERMOTT, and Mr. CARDIN) introduced the following bill; which was referred jointly to the Committees on Ways and Means and Energy and Commerce

APRIL 28, 1993

Additional sponsors: Mr. OWENS, and Mr. MILLER of California

A BILL

To amend title XI of the Social Security Act to extend the penalties for fraud and abuse assessed against providers under the medicare program and State health care programs to providers under all health care plans, and for other purposes.

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

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

2 (a) SHORT TITLE.—This Act may be cited as the
3 “National Health Care Anti-Fraud and Abuse Act of
4 1993”.

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

Section 1. Short title; table of contents.

TITLE I—ALL-PAYER FRAUD AND ABUSE PROGRAM

- Sec. 101. All-payer fraud and abuse control program
- Sec. 102. Application of Federal health anti-fraud and abuse sanctions to all fraud and abuse against any health benefit plan.
- Sec. 103. Public reporting of fraudulent actions.

TITLE II—REVISIONS TO CURRENT SANCTIONS FOR FRAUD AND ABUSE

- Sec. 201. Mandatory exclusion from participation in medicare and State health care programs.
- Sec. 202. Establishment of minimum period of exclusion for certain individuals and entities subject to permissive exclusion from medicare and State health care programs.
- Sec. 203. Permissive exclusion of individuals with ownership or control interest in sanctioned entities.
- Sec. 204. Civil monetary penalties.
- Sec. 205. Actions subject to criminal penalties.
- Sec. 206. Sanctions against practitioners and persons for failure to follow corrective action plan of peer review organization.
- Sec. 207. Restrictions on certain durable medical equipment marketing and sales activities.
- Sec. 208. Intermediate sanctions for medicare health maintenance organizations.
- Sec. 209. Effective date.

TITLE III—ADMINISTRATIVE AND MISCELLANEOUS PROVISIONS

- Sec. 301. Requirements for uniform claims and electronic claims data set.
- Sec. 302. Quarterly publication of adverse actions taken.
- Sec. 303. Study of electronic reporting of ownership information.

1 **TITLE I—ALL-PAYER FRAUD AND**
2 **ABUSE PROGRAM**

3 **SEC. 101. ALL-PAYER FRAUD AND ABUSE CONTROL PRO-**
4 **GRAM**

5 (a) ESTABLISHMENT OF PROGRAM.—

6 (1) ESTABLISHMENT.—Not later than January
7 1, 1995, the Secretary shall establish in the Office
8 of the Inspector General of the Department of
9 Health and Human Services a program—

10 (A) to coordinate Federal, State, and local
11 law enforcement programs to control fraud and
12 abuse with respect to the delivery of and pay-
13 ment for health care in the United States,

14 (B) to conduct investigations, audits, eval-
15 uations, and inspections relating to the delivery
16 of and payment for health care in the United
17 States, and

18 (C) to facilitate the enforcement of the
19 provisions of sections 1128, 1128A, and 1128B
20 of the Social Security Act and other statutes
21 applicable to health care fraud and abuse.

22 (2) COORDINATION WITH LAW ENFORCEMENT
23 AGENCIES.—In carrying out the program established
24 under paragraph (1), the Secretary shall consult
25 with, and arrange for the sharing of data and re-

1 sources with the Attorney General, State law en-
2 forcement agencies, State medicaid fraud and abuse
3 units, and State agencies responsible for the licens-
4 ing and certification of health care providers.

5 (3) COORDINATION WITH THIRD PARTY INSUR-
6 ERS.—In carrying out the program established
7 under paragraph (1), the Secretary shall consult
8 with, and arrange for the sharing of data with rep-
9 resentatives of private sponsors of health benefit
10 plans and other providers of health insurance.

11 (4) REGULATIONS.—

12 (A) IN GENERAL.—The Secretary shall by
13 regulation establish standards to carry out the
14 program under paragraph (1).

15 (B) INFORMATION STANDARDS.—

16 (i) IN GENERAL.—Such standards
17 shall include standards relating to the fur-
18 nishing of information by health insurers
19 (including self-insured health benefit
20 plans), providers, and others to enable the
21 Secretary to carry out the program (in-
22 cluding coordination with law enforcement
23 agencies under paragraph (2) and third
24 party insurers under paragraph (3)).

1 (ii) CONFIDENTIALITY.—Such stand-
2 ards shall include procedures to assure
3 that such information is provided and uti-
4 lized in a manner that protects the con-
5 fidentiality of the information and the pri-
6 vacy of individuals receiving health care
7 services.

8 (iii) QUALIFIED IMMUNITY FOR PRO-
9 VIDING INFORMATION.—The provisions of
10 section 1157(a) of the Social Security Act
11 (relating to limitation on liability) shall
12 apply to a person providing information to
13 the Secretary under the program under
14 this section, with respect to the Secretary's
15 performance of duties under the program,
16 in the same manner as such section applies
17 to information provided to organizations
18 with a contract under part B of title XI of
19 such Act, with respect to the performance
20 of such a contract.

21 (C) DISCLOSURE OF OWNERSHIP INFOR-
22 MATION.—

23 (i) IN GENERAL.—Such standards
24 shall include standards relating to the dis-

1 closure of ownership information described
2 in clause (ii).

3 (ii) OWNERSHIP INFORMATION DE-
4 SCRIBED.—The ownership information de-
5 scribed in this clause includes—

6 (I) covered items and services
7 provided by an entity;

8 (II) the names and unique physi-
9 cian identification numbers of all phy-
10 sicians with an ownership or invest-
11 ment interest in the entity (as de-
12 scribed in section 1877(a)(2)(A) of
13 the Social Security Act) or whose im-
14 mediate relatives have such an owner-
15 ship or investment interest;

16 (III) the names of all other indi-
17 viduals with such an ownership or in-
18 vestment interest in the entity; and

19 (IV) any other ownership and re-
20 lated information required to be dis-
21 closed by the entity under section
22 1124 or section 1124A of the Social
23 Security Act.

24 (D) INTEGRITY OF ISSUANCE OF PRO-
25 VIDER IDENTIFICATION CODES.—Such stand-

1 ards shall, insofar as they relate to the issuance
2 of unique provider codes (described in section
3 301(c)(4))—

4 (i) include standards relating to the
5 information (including ownership informa-
6 tion described in subparagraph (C)(ii) and
7 other information needed in the adminis-
8 tration of the program) to be required for
9 the issuance of such codes, and

10 (ii) provide for the issuance of such a
11 code upon the presentation of such infor-
12 mation as would be sufficient to provide
13 for the issuance of similar codes under the
14 medicare program.

15 (5) AUTHORIZATION OF APPROPRIATIONS FOR
16 INVESTIGATORS AND OTHER PERSONNEL.—

17 (A) IN GENERAL.—In addition to any
18 other amounts authorized to be appropriated to
19 the Secretary for health care anti-fraud and
20 abuse activities for a fiscal year, there are au-
21 thorized to be appropriated additional amounts
22 described in subparagraph (B) to enable the
23 Secretary to conduct investigations of allega-
24 tions of health care fraud and otherwise carry

1 out the program established under paragraph
2 (1) in a fiscal year.

3 (B) AMOUNTS DESCRIBED.—The amounts
4 referred to in subparagraph (A) are as follows:

5 (i) For fiscal year 1995,
6 \$300,000,000.

7 (ii) For fiscal year 1996,
8 \$350,000,000.

9 (iii) For fiscal year 1997,
10 \$400,000,000.

11 (iv) For fiscal year 1998,
12 \$450,000,000.

13 (6) ENSURING ACCESS TO DOCUMENTATION.—

14 (A) The Inspector General of the Department of
15 Health and Human Services is authorized to exercise
16 the authority described in paragraphs (4) and (5) of
17 section 6 of the Inspector General Act of 1978 (re-
18 lating to subpoenas and administration of oaths)
19 with respect to the activities under the all-payor
20 fraud and abuse control program established under
21 this subsection to the same extent as such Inspector
22 General may exercise such authorities to perform the
23 functions assigned to such official by such Act.

1 (B) Section 1128(b) of the Social Security Act
2 (42 U.S.C. 1320a-7(b)) is amended by adding at
3 the end the following new paragraph:

4 “(15) FAILURE TO SUPPLY REQUESTED
5 INFORMATION TO THE INSPECTOR GENERAL.—

6 Any individual or entity that fails fully and ac-
7 curately to provide, upon request of the Inspec-
8 tor General of the Department of Health and
9 Human Services, records, documents, and other
10 information necessary for the purposes of carry-
11 ing out activities under the all-payor fraud and
12 abuse control program established under section
13 101 of the National Health Care Anti-Fraud
14 and Abuse Act of 1993.”.

15 (b) ESTABLISHMENT OF ANTI-FRAUD AND ABUSE
16 TRUST FUND.—

17 (1) ESTABLISHMENT.—

18 (A) IN GENERAL.—There is hereby created
19 on the books of the Treasury of the United
20 States a trust fund to be known as the “Anti-
21 Fraud and Abuse Trust Fund” (in this section
22 referred to as the “Trust Fund”). The Trust
23 Fund shall consist of such gifts and bequests as
24 may be made as provided in subparagraph (B)
25 and such amounts as may be deposited in, or

1 appropriated to, such Trust Fund as provided
2 in this subtitle, section 143(b), and title XI of
3 the Social Security Act.

4 (B) AUTHORIZATION TO ACCEPT GIFTS.—
5 The Managing Trustee of the Trust Fund is
6 authorized to accept on behalf of the United
7 States money gifts and bequests made uncondi-
8 tionally to the Trust Fund, for the benefit of
9 the Trust Fund, or any activity financed
10 through the Trust Fund.

11 (2) MANAGEMENT.—

12 (A) IN GENERAL.—The Trust Fund shall
13 be managed by the Secretary through a Manag-
14 ing Trustee designated by the Secretary.

15 (B) INVESTMENT OF FUNDS.—It shall be
16 the duty of the Managing Trustee to invest
17 such portion of the Trust Fund as is not, in the
18 trustee's judgment, required to meet current
19 withdrawals. Such investments may be made
20 only in interest-bearing obligations of the Unit-
21 ed States or in obligations guaranteed as to
22 both principal and interest by the United
23 States. For such purpose such obligations may
24 be acquired (i) on original issue at the issue
25 price, or (ii) by purchase of outstanding obliga-

1 tions at market price. The purposes for which
2 obligations of the United States may be issued
3 under chapter 31 of title 31, United States
4 Code, are hereby extended to authorize the issu-
5 ance at par of public-debt obligations for pur-
6 chase by the Trust Fund. Such obligations is-
7 sued for purchase by the Trust Fund shall have
8 maturities fixed with due regard for the needs
9 of the Trust Fund and shall bear interest at a
10 rate equal to the average market yield (com-
11 puted by the Managing Trustee on the basis of
12 market quotations as of the end of the calendar
13 month next preceding the date of such issue) on
14 all marketable interest-bearing obligations of
15 the United States then forming a part of the
16 public debt which are not due or callable until
17 after the expiration of 4 years from the end of
18 such calendar month, except that where such
19 average is not a multiple of $\frac{1}{8}$ of 1 percent, the
20 rate of interest on such obligations shall be the
21 multiple of $\frac{1}{8}$ of 1 percent nearest such market
22 yield. The Managing Trustee may purchase
23 other interest-bearing obligations of the United
24 States or obligations guaranteed as to both
25 principal and interest by the United States, on

1 original issue or at the market price, only where
2 the Trustee determines that the purchase of
3 such other obligations is in the public interest.

4 (C) Any obligations acquired by the Trust
5 Fund (except public-debt obligations issued ex-
6 clusively to the Trust Fund) may be sold by the
7 Managing Trustee at the market price, and
8 such public-debt obligations may be redeemed
9 at par plus accrued interest.

10 (D) The interest on, and the proceeds from
11 the sale or redemption of, any obligations held
12 in the Trust Fund shall be credited to and form
13 a part of the Trust Fund.

14 (E) The receipts and disbursements of the
15 Secretary in the discharge of the functions of
16 the Secretary shall not be included in the totals
17 of the budget of the United States Government.
18 For purposes of part C of the Balanced Budget
19 and Emergency Deficit Control Act of 1985,
20 the Secretary and the Trust Fund shall be
21 treated in the same manner as the Federal Re-
22 tirement Thrift Investment Board and the
23 Thrift Savings Fund, respectively. The United
24 States is not liable for any obligation or liability
25 incurred by the Trust Fund.

1 (3) USE OF FUNDS.—Amounts in the Trust
2 Fund shall be used to assist the Inspector General
3 of the Department of Health and Human Services in
4 carrying out the all-payor fraud and abuse control
5 program established under subsection (a) in the fis-
6 cal year involved.

7 **SEC. 102. APPLICATION OF FEDERAL HEALTH ANTI-FRAUD**
8 **AND ABUSE SANCTIONS TO ALL FRAUD AND**
9 **ABUSE AGAINST ANY HEALTH BENEFIT PLAN.**

10 (a) CIVIL MONETARY PENALTIES.—Section 1128A
11 of the Social Security Act (42 U.S.C. 1320a-7a) is amend-
12 ed as follows:

13 (1) In subsection (a)(1), in the matter before
14 subparagraph (A), by inserting “or of any health
15 benefit plan,” after “subsection (i)(1),”.

16 (2) In subsection (b)(1)(A), by inserting “or
17 under a health benefit plan” after “title XIX”.

18 (3) In subsection (f)—

19 (A) by redesignating paragraph (3) as
20 paragraph (4); and

21 (B) by inserting after paragraph (2) the
22 following new paragraph:

23 “(3) With respect to amounts recovered arising
24 out of a claim under a health benefit plan, the por-

1 tion of such amounts as is determined to have been
2 paid by the plan shall be repaid to the plan.”.

3 (4) In subsection (i)—

4 (A) in paragraph (2), by inserting “or
5 under a health benefit plan” before the period
6 at the end, and

7 (B) in paragraph (5), by inserting “or
8 under a health benefit plan” after “or XX”.

9 (b) CRIMES.—

10 (1) SOCIAL SECURITY ACT.—Section 1128B of
11 such Act (42 U.S.C. 1320a–7b) is amended as fol-
12 lows:

13 (A) In the heading, by adding at the end
14 the following: “OR HEALTH BENEFIT PLANS”.

15 (B) In subsection (a)(1)—

16 (i) by striking “title XVIII or” and
17 inserting “title XVIII,” and

18 (ii) by adding at the end the follow-
19 ing: “or a health benefit plan (as defined
20 in section 1128(i)),”.

21 (C) In subsection (a)(5), by striking “title
22 XVIII or a State health care program” and in-
23 serting “title XVIII, a State health care pro-
24 gram, or a health benefit plan”.

1 (D) In the second sentence of subsection

2 (a)—

3 (i) by inserting after “title XIX” the
4 following: “or a health benefit plan”, and

5 (ii) by inserting after “the State” the
6 following: “or the plan”.

7 (E) In subsection (b)(1), by striking “title
8 XVIII or a State health care program” each
9 place it appears and inserting “title XVIII, a
10 State health care program, or a health benefit
11 plan”.

12 (F) In subsection (b)(2), by striking “title
13 XVIII or a State health care program” each
14 place it appears and inserting “title XVIII, a
15 State health care program, or a health benefit
16 plan”.

17 (G) In subsection (b)(3), by striking “title
18 XVIII or a State health care program” each
19 place it appears in subparagraphs (A) and (C)
20 and inserting “title XVIII, a State health care
21 program, or a health benefit plan”.

22 (H) In subsection (d)(2)—

23 (i) by striking “title XIX,” and insert-
24 ing “title XIX or under a health benefit
25 plan,”, and

1 (ii) by striking “State plan,” and in-
2 serting “State plan or the health benefit
3 plan,”.

4 (2) TREBLE DAMAGES FOR CRIMINAL SANC-
5 TIONS.—Section 1128B of such Act (42 U.S.C.
6 1320a–7b) is amended by adding at the end the fol-
7 lowing new subsection:

8 “(f) In addition to the fines that may be imposed
9 under subsection (a), (b), or (c), any individual found to
10 have violated the provisions of any of such subsections
11 may be subject to treble damages.”.

12 (3) IDENTIFICATION OF COMMUNITY SERVICE
13 OPPORTUNITIES.—Section 1128B of such Act (42
14 U.S.C. 1320a–7b) is further amended by adding at
15 the end the following new subsection:

16 “(g) The Secretary shall—

17 “(1) in consultation with State and local health
18 care officials, identify opportunities for the satisfac-
19 tion of community service obligations that a court
20 may impose upon the conviction of an offense under
21 this section, and

22 “(2) make information concerning such oppor-
23 tunities available to Federal and State law enforce-
24 ment officers and State and local health care
25 officials.”.

1 (c) HEALTH BENEFIT PLAN DEFINED.—Section
2 1128 of such Act (42 U.S.C. 1320a-7) is amended by re-
3 designating subsection (i) as subsection (j) and by insert-
4 ing after subsection (h) the following new subsection:

5 “(i) HEALTH BENEFIT PLAN DEFINED.—For pur-
6 poses of sections 1128A and 1128B, the term ‘health ben-
7 efit plan’ means a health benefit program other than the
8 medicare program, the medicaid program, or a State
9 health care program.”.

10 (d) CONFORMING AMENDMENT.—Section
11 1128(b)(8)(B)(ii) of such Act (42 U.S.C. 1320a-
12 7(b)(8)(B)(ii)) is amended by striking “1128A” and in-
13 serting “1128A (other than a penalty arising from a
14 health benefit plan, as defined in subsection (i))”.

15 (e) EFFECTIVE DATE.—The amendments made by
16 this section shall take effect January 1, 1995.

17 **SEC. 103. REPORTING OF FRAUDULENT ACTIONS UNDER**
18 **MEDICARE.**

19 (a) ESTABLISHMENT OF PROGRAM.—Not later than
20 1 year after the date of the enactment of this Act, the
21 Secretary of Health and Human Services shall establish
22 a program through which individuals entitled to benefits
23 under the medicare program may report to the Secretary
24 on a confidential basis (at the individual’s request) in-
25 stances of suspected fraudulent actions arising under the

1 program by providers of items and services under the pro-
2 gram.

3 (b) NOTICE TO MEDICARE BENEFICIARIES.—

4 (1) INCLUDED IN ANNUAL NOTICE OF BENE-
5 FITS.—Section 1804 of the Social Security Act (42
6 U.S.C. 1395b-2) is amended—

7 (A) in paragraph (2), by striking “and” at
8 the end;

9 (B) in paragraph (3), by striking the pe-
10 riod at the end and inserting “, and”; and

11 (C) by inserting after paragraph (3) the
12 following new paragraph:

13 “(4) a description of the Secretary’s program
14 for the reporting by individuals entitled to benefits
15 under this title of suspected instances of fraudulent
16 actions arising under the program by providers of
17 items and services under the program, and of infor-
18 mation to alert such individuals to the existence of
19 problems of fraud and abuse under the program.”.

20 (2) EFFECTIVE DATE.—The amendment made
21 by paragraph (1) shall take effect on the first day
22 of the first calendar year that begins after the expi-
23 ration of the 1-year period that begins on the date
24 of the enactment of this Act.

1 **TITLE II—REVISIONS TO CUR-**
2 **RENT SANCTIONS FOR FRAUD**
3 **AND ABUSE**

4 **SEC. 201. MANDATORY EXCLUSION FROM PARTICIPATION**
5 **IN MEDICARE AND STATE HEALTH CARE PRO-**
6 **GRAMS.**

7 (a) INDIVIDUAL CONVICTED OF FELONY RELATING
8 TO FRAUD.—

9 (1) IN GENERAL.—Section 1128(a) of the
10 Social Security Act (42 U.S.C. 1320a-7(a)) is
11 amended by adding at the end the following new
12 paragraph:

13 “(3) FELONY CONVICTION RELATING TO
14 FRAUD.—Any individual or entity that has been con-
15 victed, under Federal or State law, in connection
16 with the delivery of a health care item or service or
17 with respect to any act or omission in a program op-
18 erated by or financed in whole or in part by any
19 Federal, State, or local government agency, of a
20 criminal offense consisting of a felony relating to
21 fraud, theft, embezzlement, breach of fiduciary re-
22 sponsibility, or other financial misconduct.”.

23 (2) CONFORMING AMENDMENT.—Section
24 1128(b)(1) of such Act (42 U.S.C. 1320a-7(b)(1))
25 is amended—

1 (A) in the heading, by striking “CONVIC-
2 TION” and inserting “MISDEMEANOR CONVIC-
3 TION”; and

4 (B) by striking “criminal offense” and in-
5 serting “criminal offense consisting of a mis-
6 demeanor”.

7 (b) INDIVIDUAL CONVICTED OF FELONY RELATING
8 TO CONTROLLED SUBSTANCE.—

9 (1) IN GENERAL.—Section 1128(a) of the So-
10 cial Security Act (42 U.S.C. 1320a-7(a)), as amend-
11 ed by subsection (a), is amended by adding at the
12 end the following new paragraph:

13 “(4) FELONY CONVICTION RELATING TO CON-
14 TROLLED SUBSTANCE.—Any individual or entity
15 that has been convicted, under Federal or State law,
16 of a criminal offense consisting of a felony relating
17 to the unlawful manufacture, distribution, prescrip-
18 tion, or dispensing of a controlled substance.”.

19 (2) CONFORMING AMENDMENT.—Section
20 1128(b)(3) of such Act (42 U.S.C. 1320a-7(b)(3))
21 is amended—

22 (A) in the heading, by striking “CONVIC-
23 TION” and inserting “MISDEMEANOR CONVIC-
24 TION”; and

1 (B) by striking “criminal offense” and in-
2 serting “criminal offense consisting of a mis-
3 demeanor”.

4 **SEC. 202. ESTABLISHMENT OF MINIMUM PERIOD OF EX-**
5 **CLUSION FOR CERTAIN INDIVIDUALS AND**
6 **ENTITIES SUBJECT TO PERMISSIVE EXCLU-**
7 **SION FROM MEDICARE AND STATE HEALTH**
8 **CARE PROGRAMS.**

9 (a) IN GENERAL.—Section 1128(c)(3) of the Social
10 Security Act (42 U.S.C. 1320a–7(c)(3)) is amended by
11 adding at the end the following new subparagraphs:

12 “(D) In the case of an exclusion of an individual or
13 entity under paragraph (1), (2), or (3) of subsection (b),
14 the period of the exclusion shall be 3 years, unless the
15 Secretary determines that a shorter period is appropriate
16 because of mitigating circumstances or that a longer pe-
17 riod is appropriate because of aggravating circumstances.

18 “(E) In the case of an exclusion of an individual or
19 entity under subsection (b)(4) or (b)(5), the period of the
20 exclusion shall not be less than the period during which
21 the individual’s or entity’s license to provide health care
22 is revoked, suspended, or surrendered.

23 “(F) In the case of an exclusion of an individual or
24 entity under subsection (b)(6)(B), the period of the exclu-
25 sion shall be not less than 1 year.”.

1 (b) CONFORMING AMENDMENT.—Section
2 1128(c)(3)(A) of such Act (42 U.S.C. 1320a-7(c)(3)(A))
3 is amended by striking “subsection (b)(12)” and inserting
4 “paragraph (1), (2), (3), (4), (6)(B), or (12) of subsection
5 (b)”.

6 **SEC. 203. PERMISSIVE EXCLUSION OF INDIVIDUALS WITH**
7 **OWNERSHIP OR CONTROL INTEREST IN**
8 **SANCTIONED ENTITIES.**

9 Section 1128(b) of the Social Security Act (42 U.S.C.
10 1320a-7(b)) is amended by adding at the end the follow-
11 ing new paragraph:

12 “(15) INDIVIDUALS CONTROLLING A SANC-
13 TIONED ENTITY.—Any individual who has a direct
14 or indirect ownership or control interest of 5 percent
15 or more, or an ownership or control interest (as de-
16 fined in section 1124(a)(3)) in, or who is an officer,
17 director, agent, or managing employee (as defined in
18 section 1126(b)) of, an entity—

19 “(A) that has been convicted of any of-
20 fense described in subsection (a) or in para-
21 graph (1), (2), or (3);

22 “(B) against which a civil monetary pen-
23 alty has been assessed under section 1128A; or

1 “(C) that has been excluded from partici-
2 pation under a program under title XVIII or
3 under a State health care program.”.

4 **SEC. 204. CIVIL MONETARY PENALTIES.**

5 (a) PROHIBITION AGAINST OFFERING INDUCEMENTS
6 TO INDIVIDUALS ENROLLED UNDER OR EMPLOYED BY
7 PROGRAMS OR PLANS.—

8 (1) INDUCEMENTS TO INDIVIDUALS ENROLLED
9 UNDER MEDICARE.—Section 1128A(a) of the Social
10 Security Act (42 U.S.C. 1320a–7a(a)) is amended—

11 (A) by striking “or” at the end of para-
12 graph (1)(D);

13 (B) by striking “, or” at the end of para-
14 graph (2) and inserting a semicolon;

15 (C) by striking the semicolon at the end of
16 paragraph (3) and inserting “; or”; and

17 (D) by inserting after paragraph (3) the
18 following new paragraph:

19 “(4) routinely transfers anything for less than
20 fair market value to (or for the benefit of) an indi-
21 vidual entitled to benefits under the medicare pro-
22 gram in order to influence the individual to receive
23 from a particular provider, practitioner, or supplier
24 a covered item or service for which payment may be
25 made under such program, including the routine

1 waiver of the payment of any amounts owed by the
2 individual to the person for an item or service
3 furnished under part B of such program;”.

4 (2) INDUCEMENTS TO EMPLOYEES.—Section
5 1128A(a) of such Act (42 U.S.C. 1320a–7a(a)), as
6 amended by paragraph (1), is further amended—

7 (A) by striking “or” at the end of para-
8 graph (3);

9 (B) by striking the semicolon at the end of
10 paragraph (4) and inserting “; or”; and

11 (C) by inserting after paragraph (4) the
12 following new paragraph:

13 “(5) pays a bonus, reward, or other incentive to
14 an employee to induce the employee to encourage in-
15 dividuals to seek or obtain covered items or services
16 for which payment may be made under the medicare
17 program, a State health care program, or a health
18 benefit plan where the amount of the incentive is in
19 proportion to the activities of the employee in en-
20 couraging individuals to seek or obtain covered items
21 or services;”.

22 (b) EXCLUDED INDIVIDUAL RETAINING OWNERSHIP
23 OR CONTROL INTEREST IN PARTICIPATING ENTITY.—
24 Section 1128A(a) of such Act, as amended by subsection
25 (a), is further amended—

1 (A) by striking “or” at the end of paragraph
2 (4);

3 (B) by striking the semicolon at the end of
4 paragraph (5) and inserting “; or”; and

5 (C) by inserting after paragraph (5) the follow-
6 ing new paragraph:

7 “(6) in the case of a person who is not an orga-
8 nization, agency, or other entity, is excluded from
9 participating in a program under title XVIII or a
10 State health care program in accordance with this
11 subsection or under section 1128 and who, during
12 the period of exclusion, retains a direct or indirect
13 ownership or control interest of 5 percent or more,
14 or an ownership or control interest (as defined in
15 section 1124(a)(3)) in, or who is an officer, director,
16 agent, or managing employee (as defined in section
17 1126(b)) of, an entity that is participating in a pro-
18 gram under title XVIII or a State health care
19 program;”.

20 (c) INCREASE IN MAXIMUM AMOUNT OF PENALTIES
21 AND ASSESSMENTS.—Section 1128A(a) of such Act (42
22 U.S.C. 1320a–7a(a)), as amended by subsections (a) and
23 (b), is amended in the matter following paragraph (6)—

24 (1) by striking “\$2,000” and inserting
25 “\$10,000”; and

1 (2) by striking “twice the amount” and insert-
2 ing “three times the amount”.

3 (d) CLAIM FOR ITEM OR SERVICE BASED ON INCOR-
4 RECT CODING.—Section 1128A(a)(1)(A) of such Act (42
5 U.S.C. 1320a–7a(a)(1)(A)) is amended by striking
6 “claimed,” and inserting the following: “claimed, including
7 any person who on a repeated basis presents or causes
8 to be presented a claim for an item or service that is based
9 on a code (in the case of a physician’s service) or a diag-
10 nosis-related group (in the case of inpatient hospital serv-
11 ices) that results in a greater payment to the person than
12 the code or diagnosis-related group that actually applies
13 to the item or service,”.

14 (e) PERMITTING PARTIES TO BRING ACTIONS ON
15 OWN BEHALF.—Section 1128A of such Act (42 U.S.C.
16 1320a–7a) is amended by adding at the end the following
17 new subsection:

18 “(m)(1) Subject to paragraphs (2) and (3), any per-
19 son (including an organization, agency, or other entity,
20 but excluding a beneficiary, as defined in subsection
21 (i)(5)) that suffers harm as a direct result of any activity
22 of an individual or entity which makes the individual or
23 entity subject to a civil monetary penalty under this sec-
24 tion may, in a civil action against the individual or entity
25 in the United States District Court, obtain damages

1 against the individual or entity and such equitable relief
2 as is appropriate.

3 “(2) A person may bring a civil action under this sub-
4 section only if the person provides the Secretary with writ-
5 ten notice of the person’s intent to bring an action under
6 this subsection, the identities of the individuals or entities
7 the person intends to name as defendants to the action,
8 and all information the person possesses regarding the ac-
9 tivity that is the subject of the action that may materially
10 affect the Secretary’s decision to initiate a proceeding to
11 impose a civil monetary penalty under this section against
12 the defendants.

13 “(3) A person may bring a civil action under this sub-
14 section only if any of the following conditions are met:

15 “(A) During the 60-day period that begins on
16 the date the Secretary receives the written notice de-
17 scribed in paragraph (2), the Secretary does not no-
18 tify the person that the Secretary intends to initiate
19 a proceeding to impose a civil monetary penalty
20 under this section against the defendants.

21 “(B) If the Secretary notifies the person during
22 the 60-day period described in subparagraph (A)
23 that the Secretary intends to initiate a proceeding to
24 impose a civil monetary penalty under this section
25 against the defendants, the Secretary subsequently

1 notifies the person that the Secretary no longer
2 intends to initiate such a proceeding against the
3 defendants.

4 “(C) After the expiration of the 2-year period
5 that begins on the date the Secretary notifies the
6 person that the Secretary intends to initiate a pro-
7 ceeding to impose a civil monetary penalty under
8 this section against the defendants, the Secretary
9 has not made a good faith effort to initiate such a
10 proceeding against the defendants.

11 “(4) If a person is awarded any amounts in an action
12 brought under this subsection that are in excess of the
13 damages suffered by the person as a result of the defend-
14 ant’s activities, 10 percent of such amounts shall be with-
15 held from the person for payment into the Anti-Fraud and
16 Abuse Trust Fund established under section 101(b) of the
17 National Health Care Anti-Fraud and Abuse Act of 1993.

18 “(5) No action may be brought under this subsection
19 more than 6 years after the date of the activity with re-
20 spect to which the action is brought.”

21 **SEC. 205. ACTIONS SUBJECT TO CRIMINAL PENALTIES.**

22 (a) ANTI-KICKBACK SANCTIONS.—

23 (1) PERMITTING SECRETARY TO IMPOSE CIVIL
24 MONETARY PENALTY.—Section 1128A(a) of the So-
25 cial Security Act (42 U.S.C. 1320a–7a(a)), as

1 amended by subsections (a) and (b) of section 204,
2 is further amended—

3 (A) by striking “or” at the end of para-
4 graph (5);

5 (B) by striking the semicolon at the end of
6 paragraph (6) and inserting “; or”; and

7 (C) by inserting after paragraph (6) the
8 following new paragraph:

9 “(7) carries out any activity in violation of
10 paragraph (1) or (2) of section 1128B(b);”.

11 (2) RESTRICTION ON APPLICATION OF EXCEP-
12 TION FOR AMOUNTS PAID TO EMPLOYEES.—Section
13 1128B(b)(3)(B) of such Act (42 U.S.C. 1320a-
14 7b(b)(3)(B)) is amended by striking “services;” and
15 inserting the following: “services, but only if such
16 amount is not contingent upon the employee refer-
17 ring individuals to the employer for the furnishing
18 (or arranging for the furnishing) of such items or
19 services and is not determined in a manner that
20 takes into account (directly or indirectly) the volume
21 or value of any referrals by the employee to the em-
22 ployer for the furnishing (or arranging for the
23 furnishing) of such items or services;”.

24 (b) AUTHORITY TO ENJOIN SANCTIONED INDIVID-
25 UAL OR ENTITY FROM DISPOSING OF ASSETS REQUIRED

1 TO PAY CRIMINAL PENALTY.—Section 1128B of such Act
2 (42 U.S.C. 1320a–7b), as amended by paragraphs (2) and
3 (3) of section 102(b), is further amended by adding at
4 the end the following new subsection:

5 “(h) The provisions of section 1128A(k) shall apply
6 to any person subject to a fine under this section in the
7 same manner as such provisions apply to a person subject
8 to a civil monetary penalty under such section.”.

9 **SEC. 206. SANCTIONS AGAINST PRACTITIONERS AND PER-**
10 **SONS FOR FAILURE TO FOLLOW CORRECTIVE**
11 **ACTION PLAN OF PEER REVIEW ORGANIZA-**
12 **TION.**

13 (a) MINIMUM PERIOD OF EXCLUSION FOR PRACTI-
14 TIONERS AND PERSONS FAILING TO MEET CORRECTIVE
15 PLAN OF PEER REVIEW ORGANIZATION.—

16 (1) IN GENERAL.—The second sentence of sec-
17 tion 1156(b)(1) of the Social Security Act (42
18 U.S.C. 1320c–5(b)(1)) is amended by striking “may
19 prescribe)” and inserting “may prescribe, except
20 that such period may not be less than 1 year)”.

21 (2) CONFORMING AMENDMENT.—Section
22 1156(b)(2) of such Act (42 U.S.C. 1320c–5(b)(2)) is
23 amended by striking “shall remain” and inserting
24 “shall (subject to the minimum period specified in
25 the second sentence of paragraph (1))”.

1 (b) REPEAL OF “UNWILLING OR UNABLE” CONDI-
2 TION FOR IMPOSITION OF SANCTION.—Section 1156(b)(1)
3 of such Act (42 U.S.C. 1320c-5(b)(1)) is amended—

4 (1) in the second sentence, by striking “and de-
5 termines” and all that follows through “such obliga-
6 tions,”; and

7 (2) by striking the third sentence.

8 (c) AMOUNT OF CIVIL MONEY PENALTY.—Section
9 1156(b)(3) of such Act (42 U.S.C. 1320c-5(b)(3)) is
10 amended by striking “the actual or estimated cost” and
11 inserting the following: “\$10,000 for each instance”.

12 **SEC. 207. RESTRICTIONS ON CERTAIN DURABLE MEDICAL**
13 **EQUIPMENT MARKETING AND SALES ACTIVI-**
14 **TIES.**

15 (a) PROHIBITING UNSOLICITED TELEPHONE CON-
16 TACTS FROM SUPPLIERS OF DURABLE MEDICAL EQUIP-
17 MENT TO MEDICARE BENEFICIARIES.—

18 (1) IN GENERAL.—Section 1834(a) of the So-
19 cial Security Act (42 U.S.C. 1395m(a)) is amended
20 by adding at the end the following new paragraph:

21 “(17) PROHIBITION AGAINST UNSOLICITED
22 TELEPHONE CONTACTS BY SUPPLIERS.—

23 “(A) IN GENERAL.—A supplier of a cov-
24 ered item under this subsection may not contact
25 an individual enrolled under this part by tele-

1 phone regarding the furnishing of a covered
2 item to the individual (other than a covered
3 item the supplier has already furnished to the
4 individual) unless—

5 “(i) the individual gives permission to
6 the supplier to make contact by telephone
7 for such purpose; or

8 “(ii) the supplier has furnished a cov-
9 ered item under this subsection to the indi-
10 vidual during the 15-month period preced-
11 ing the date on which the supplier contacts
12 the individual for such purpose.

13 “(B) PROHIBITING PAYMENT FOR ITEMS
14 FURNISHED SUBSEQUENT TO UNSOLICITED
15 CONTACTS.—If a supplier knowingly contacts
16 an individual in violation of subparagraph (A),
17 no payment may be made under this part for
18 any item subsequently furnished to the individ-
19 ual by the supplier.

20 “(C) EXCLUSION FROM PROGRAM FOR
21 SUPPLIERS ENGAGING IN PATTERN OF UNSO-
22 LICITED CONTACTS.—If a supplier knowingly
23 contacts individuals in violation of subpara-
24 graph (A) to such an extent that the supplier’s
25 conduct establishes a pattern of contacts in vio-

1 lation of such subparagraph, the Secretary shall
2 exclude the supplier from participation in the
3 programs under this Act, in accordance with
4 the procedures set forth in subsections (c), (f),
5 and (g) of section 1128.”.

6 (2) REQUIRING REFUND OF AMOUNTS COL-
7 LECTED FOR DISALLOWED ITEMS.—Section 1834(a)
8 of such Act (42 U.S.C. 1395m(a)), as amended by
9 paragraph (1), is amended by adding at the end the
10 following new paragraph:

11 “(18) REFUND OF AMOUNTS COLLECTED FOR
12 CERTAIN DISALLOWED ITEMS.—

13 “(A) IN GENERAL.—If a nonparticipating
14 supplier furnishes to an individual enrolled
15 under this part a covered item for which no
16 payment may be made under this part by rea-
17 son of paragraph (17)(B), the supplier shall re-
18 fund on a timely basis to the patient (and shall
19 be liable to the patient for) any amounts col-
20 lected from the patient for the item, unless—

21 “(i) the supplier establishes that the
22 supplier did not know and could not rea-
23 sonably have been expected to know that
24 payment may not be made for the item by
25 reason of paragraph (17)(B), or

1 “(ii) before the item was furnished,
2 the patient was informed that payment
3 under this part may not be made for that
4 item and the patient has agreed to pay for
5 that item.

6 “(B) SANCTIONS.—If a supplier knowingly
7 and willfully fails to make refunds in violation
8 of subparagraph (A), the Secretary may apply
9 sanctions against the supplier in accordance
10 with section 1842(j)(2).

11 “(C) NOTICE.—Each carrier with a con-
12 tract in effect under this part with respect to
13 suppliers of covered items shall send any notice
14 of denial of payment for covered items by rea-
15 son of paragraph (17)(B) and for which pay-
16 ment is not requested on an assignment-related
17 basis to the supplier and the patient involved.

18 “(D) TIMELY BASIS DEFINED.—A refund
19 under subparagraph (A) is considered to be on
20 a timely basis only if—

21 “(i) in the case of a supplier who does
22 not request reconsideration or seek appeal
23 on a timely basis, the refund is made with-
24 in 30 days after the date the supplier re-

1 ceives a denial notice under subparagraph
2 (C), or

3 “(ii) in the case in which such a re-
4 consideration or appeal is taken, the re-
5 fund is made within 15 days after the date
6 the supplier receives notice of an adverse
7 determination on reconsideration or ap-
8 peal.”.

9 (b) CONFORMING AMENDMENT.—Section 1834(h)(3)
10 (42 U.S.C. 1395m(h)(3)) of such Act is amended by strik-
11 ing “Paragraph (12)” and inserting “Paragraphs (12)
12 and (17)”.

13 (c) EFFECTIVE DATE.—The amendments made by
14 subsections (a) and (b) shall apply to items furnished after
15 the expiration of the 60-day period that begins on the date
16 of the enactment of this Act.

17 **SEC. 208. INTERMEDIATE SANCTIONS FOR MEDICARE**
18 **HEALTH MAINTENANCE ORGANIZATIONS.**

19 (a) APPLICATION OF INTERMEDIATE SANCTIONS FOR
20 ANY PROGRAM VIOLATIONS.—

21 (1) IN GENERAL.—Section 1876(i)(1) of the
22 Social Security Act (42 U.S.C. 1395mm(i)(1)) is
23 amended by striking “the Secretary may terminate”
24 and all that follows and inserting the following: “in
25 accordance with procedures established under para-

1 graph (9), the Secretary may at any time terminate
2 any such contract or may impose the intermediate
3 sanctions described in paragraph (6)(B) or (6)(C)
4 (whichever is applicable) on the eligible organization
5 if the Secretary determines that the organization—

6 “(A) has failed substantially to carry out the
7 contract;

8 “(B) is carrying out the contract in a manner
9 inconsistent with the efficient and effective adminis-
10 tration of this section;

11 “(C) is operating in a manner that is not in the
12 best interests of the individuals covered under the
13 contract; or

14 “(D) no longer substantially meets the applica-
15 ble conditions of subsections (b), (c), (e), and (f).”.

16 (2) OTHER INTERMEDIATE SANCTIONS FOR
17 MISCELLANEOUS PROGRAM VIOLATIONS.—Section
18 1876(i)(6) of such Act (42 U.S.C. 1395mm(i)(6)) is
19 amended by adding at the end the following new
20 subparagraph:

21 “(C) In the case of an eligible organization for which
22 the Secretary makes a determination under paragraph (1)
23 the basis of which is not described in subparagraph (A),
24 the Secretary may apply the following intermediate sanc-
25 tions:

1 “(i) civil money penalties of not more than
2 \$25,000 for each determination under paragraph (1)
3 if the deficiency that is the basis of the determina-
4 tion has directly adversely affected (or has the sub-
5 stantial likelihood of adversely affecting) an individ-
6 ual covered under the organization’s contract;

7 “(ii) civil money penalties of not more than
8 \$10,000 for each week beginning after the initiation
9 of procedures by the Secretary under paragraph (9)
10 during which the deficiency that is the basis of a de-
11 termination under paragraph (1) exists; and

12 “(iii) suspension of enrollment of individuals
13 under this section after the date the Secretary noti-
14 fies the organization of a determination under para-
15 graph (1) and until the Secretary is satisfied that
16 the deficiency that is the basis for the determination
17 has been corrected and is not likely to recur.”.

18 (3) PROCEDURES FOR IMPOSING SANCTIONS.—
19 Section 1876(i) of such Act (42 U.S.C. 1395mm(i))
20 is amended by adding at the end the following new
21 paragraph:

22 “(9) The Secretary may terminate a contract with an
23 eligible organization under this section or may impose the
24 intermediate sanctions described in paragraph (6) on the
25 organization in accordance with formal investigation and

1 compliance procedures established by the Secretary under
2 which—

3 “(A) the Secretary provides the organization
4 with the opportunity to develop and implement a
5 corrective action plan to correct the deficiencies that
6 were the basis of the Secretary’s determination
7 under paragraph (1);

8 “(B) the Secretary shall impose more severe
9 sanctions on organizations that have a history of de-
10 ficiencies or that have not taken steps to correct de-
11 ficiencies the Secretary has brought to their atten-
12 tion;

13 “(C) there are no unreasonable or unnecessary
14 delays between the finding of a deficiency and the
15 imposition of sanctions; and

16 “(D) the Secretary provides the organization
17 with reasonable notice and opportunity for hearing
18 (including the right to appeal an initial decision) be-
19 fore imposing any sanction or terminating the con-
20 tract.”.

21 (4) CONFORMING AMENDMENTS.—(A) Section
22 1876(i)(6)(B) of such Act (42 U.S.C.
23 1395mm(i)(6)(B)) is amended by striking the sec-
24 ond sentence.

1 (B) Section 1876(i)(6) of such Act (42 U.S.C.
2 1395mm(i)(6)) is further amended by adding at the
3 end the following new subparagraph:

4 “(D) The provisions of section 1128A (other than
5 subsections (a) and (b)) shall apply to a civil money pen-
6 alty under subparagraph (A) or (B) in the same manner
7 as they apply to a civil money penalty or proceeding under
8 section 1128A(a).”.

9 (b) AGREEMENTS WITH PEER REVIEW ORGANIZA-
10 TIONS.—

11 (1) REQUIREMENT FOR WRITTEN AGREE-
12 MENT.—Section 1876(i)(7)(A) of the Social Security
13 Act (42 U.S.C. 1395mm(i)(7)(A)) is amended by
14 striking “an agreement” and inserting “a written
15 agreement”.

16 (2) DEVELOPMENT OF MODEL AGREEMENT.—
17 Not later than July 1, 1994, the Secretary of Health
18 and Human Services shall develop a model of the
19 agreement that an eligible organization with a risk-
20 sharing contract under section 1876 of the Social
21 Security Act must enter into with an entity provid-
22 ing peer review services with respect to services pro-
23 vided by the organization under section
24 1876(i)(7)(A) of such Act.

25 (3) REPORT BY GAO.—

1 (A) STUDY.—The Comptroller General
2 shall conduct a study of the costs incurred by
3 eligible organizations with risk-sharing con-
4 tracts under section 1876(b) of such Act of
5 complying with the requirement of entering into
6 a written agreement with an entity providing
7 peer review services with respect to services pro-
8 vided by the organization, together with an
9 analysis of how information generated by such
10 entities is used by the Secretary of Health and
11 Human Services to assess the quality of
12 services provided by such eligible organizations.

13 (B) REPORT TO CONGRESS.—Not later
14 than July 1, 1996, the Comptroller General
15 shall submit a report to the Committee on
16 Ways and Means and the Committee on Energy
17 and Commerce of the House of Representatives
18 and the Committee on Finance of the Senate on
19 the study conducted under subparagraph (A).

20 (c) EFFECTIVE DATE.—The amendments made by
21 this section shall apply with respect to contract years be-
22 ginning on or after January 1, 1995.

1 **SEC. 209. EFFECTIVE DATE.**

2 Except as otherwise provided in section 207(c), the
3 amendments made by this title shall take effect January
4 1, 1995.

5 **TITLE III—ADMINISTRATIVE**
6 **AND MISCELLANEOUS PROVI-**
7 **SIONS**

8 **SEC. 301. REQUIREMENTS FOR UNIFORM CLAIMS AND**
9 **ELECTRONIC CLAIMS DATA SET.**

10 (a) REQUIREMENTS.—

11 (1) SUBMISSION OF CLAIMS.—Each health serv-
12 ice provider that furnishes services in the United
13 States for which payment may be made under a
14 health benefit plan shall submit any claim for pay-
15 ment for such services only in a form and manner
16 consistent with standards established under sub-
17 section (c).

18 (2) ACCEPTANCE OF CLAIMS.—A health benefit
19 plan may not reject a claim for payment under the
20 plan on the basis of the form or manner in which
21 the claim is submitted if the claim is submitted in
22 accordance with the standards established under
23 subsection (c).

24 (3) EFFECTIVE DATE.—This subsection shall
25 apply to claims for services furnished on or after the

1 date that is 6 months after the date standards are
2 established under subsection (c).

3 (b) ENFORCEMENT THROUGH CIVIL MONEY PEN-
4 ALTIES.—

5 (1) IN GENERAL.—

6 (A) PROVIDERS.—In the case of a health
7 service provider that submits a claim in viola-
8 tion of subsection (a)(1), the provider is subject
9 to a civil money penalty of not to exceed \$100
10 (or, if greater, the amount of the claim) for
11 each such violation.rejects a claim in violation
12 of subsection (a)(2), the plan is subject to a
13 civil money penalty of not to exceed \$100 (or,
14 if greater, the amount of the claim) for each
15 such violation.

16 (B) PLANS.—In the case of a health bene-
17 fit plan that rejects a claim in violation of sub-
18 section (a)(2), the plan is subject to a civil
19 monetary penalty of not to exceed \$100 (or, if
20 greater, the amount of the claim) for each such
21 violation.

22 (2) PROCESS.—The provisions of section 1128A
23 of the Social Security Act (other than subsections
24 (a) and (b)) shall apply to a civil money penalty
25 under paragraph (1) in the same manner as such

1 provisions apply to a penalty or proceeding under
2 section 1128A(a) of such Act.

3 (3) SUNSET FOR PENALTY.—No civil money
4 penalty may be imposed under this subsection for
5 submission (or rejection) of any claim on or after
6 the date that is 36 months after the effective date
7 specified in subsection (a)(3).

8 (c) STANDARDS RELATING TO UNIFORM CLAIMS.—

9 (1) ESTABLISHMENT OF STANDARDS.—The
10 Secretary of Health and Human Services shall es-
11 tablish standards that relate to the form and man-
12 ner of submission of claims for benefits under a
13 health benefit plan.

14 (2) SCOPE OF INFORMATION.—

15 (A) IN GENERAL.—The standards under
16 this subsection are intended to cover substan-
17 tially most claims that are filed under health
18 benefit plans. Such information need not in-
19 clude all elements that may potentially be re-
20 quired to be reported under utilization review
21 provisions of plans.

22 (B) ENSURING ACCOUNTABILITY FOR
23 CLAIMS SUBMITTED ELECTRONICALLY.—In es-
24 tablishing such standards, the Secretary, in
25 consultation with appropriate agencies, shall in-

1 clude such methods of ensuring provider re-
2 sponsibility and accountability for claims sub-
3 mitted electronically that are designed to con-
4 trol fraud and abuse in the submission of such
5 claims.

6 (C) COMPONENTS.—In establishing such
7 standards the Secretary shall—

8 (i) with respect to data elements, de-
9 fine data fields, formats, and medical no-
10 menclature, and plan benefit and insurance
11 information; and

12 (ii) develop a single, uniform coding
13 system for diagnostic and procedure codes.

14 (3) USE OF TASK FORCES.—In adopting stand-
15 ards under this subsection, the Secretary shall take
16 into account the recommendations of current task
17 forces, including at least the Workgroup on Elec-
18 tronic Data Interchange, National Uniform Billing
19 Committee, the Uniform Claim Task Force, and the
20 Computer-based Patient Record Institute.

21 (4) UNIFORM, UNIQUE PROVIDER IDENTIFICA-
22 TION CODES.—In establishing standards under this
23 subsection—

24 (A) the Secretary shall provide for a
25 unique identifier code for each health service

1 provider that furnishes services for which a
2 claim may be submitted under a health benefit
3 plan, and

4 (B) in the case of a provider that has a
5 unique identifier issued for purposes of the
6 medicare program, the code provided under
7 subparagraph (A) shall be the same as such
8 unique identifier.

9 (5) DEADLINE.—The Secretary shall first pro-
10 vide for the standards for the uniform claims under
11 this subsection by not later than 1 year after the
12 date of the enactment of this Act.

13 (d) USE UNDER MEDICARE AND MEDICAID PRO-
14 GRAMS.—

15 (1) REQUIREMENT FOR PROVIDERS.—In the
16 case of a health service provider that submits a
17 claim for services furnished under the medicare pro-
18 gram or medicaid program in violation of subsection
19 (a)(1), no payment shall be made under such pro-
20 gram for such services.

21 (2) REQUIREMENTS OF INTERMEDIARIES AND
22 CARRIERS UNDER MEDICARE PROGRAM.—The Sec-
23 retary shall provide, in regulations promulgated to
24 carry out title XVIII of the Social Security Act, that
25 the claims process provided under that title is modi-

1 fied to the extent required to conform to the stand-
2 ards established under subsection (c).

3 (3) REQUIREMENTS OF STATE MEDICAID
4 PLANS.—As a condition for the approval of State
5 plans under the medicaid program, effective as of
6 the effective date specified in subsection (a)(3), each
7 such plan shall provide, in accordance with regula-
8 tions of the Secretary, that the claims process pro-
9 vided under the plan is modified to the extent re-
10 quired to conform to the standards established under
11 subsection (c).

12 (e) DEFINITIONS.—

13 (1) HEALTH BENEFIT PLAN.—In this section:

14 (A) IN GENERAL.—The term “health bene-
15 fit plan” means, except as provided in subpara-
16 graphs (B) through (D), any public or private
17 entity or program that provides for payments
18 for health care services, including—

19 (i) a group health plan (as defined in
20 section 5000(b)(1) of the Internal Revenue
21 Code of 1986), and

22 (ii) any other health insurance ar-
23 rangement, including any arrangement
24 consisting of a hospital or medical expense
25 incurred policy or certificate, hospital or

1 medical service plan contract, or health
2 maintenance organization subscriber con-
3 tract.

4 (B) PLANS EXCLUDED.—Such term does
5 not include—

6 (i) accident-only, credit, or disability
7 income insurance;

8 (ii) coverage issued as a supplement
9 to liability insurance;

10 (iii) an individual making payment on
11 the individual's own behalf (or on behalf of
12 a relative or other individual) for
13 deductibles, coinsurance, or services not
14 covered under a health benefit plan; and

15 (iv) such other plans as the Secretary
16 may determine, because of the limitation of
17 benefits to a single type or kind of health
18 care, such as dental services, or other rea-
19 sons should not be subject to the require-
20 ments of this section.

21 (C) PLANS INCLUDED.—Such term in-
22 cludes—

23 (i) worker's compensation or similar
24 insurance, and

1 (ii) automobile medical-payment in-
2 surance.

3 (D) TREATMENT OF DIRECT FEDERAL
4 PROVISION OF SERVICES.—Such term does not
5 include a Federal program that provides di-
6 rectly for the provision of health services to
7 beneficiaries.

8 (2) HEALTH SERVICE PROVIDER.—In this sec-
9 tion, the term “health service provider” includes a
10 provider of services (as defined in section 1861(u) of
11 the Social Security Act), physician, supplier, and
12 other person furnishing health care services.

13 (3) SECRETARY.—In this section, the term
14 “Secretary” means the secretary of health and
15 human services.

16 **SEC. 302. QUARTERLY PUBLICATION OF ADVERSE ACTIONS**
17 **TAKEN.**

18 (a) IN GENERAL.—Part A of title XI of the Social
19 Security Act (42 U.S.C. 1301 et seq.) is amended by add-
20 ing at the end the following new section:

21 “QUARTERLY PUBLICATION OF ADVERSE ACTIONS TAKEN
22 “SEC. 1144. Not later than 30 days after the end
23 of each calendar quarter, the Secretary shall publish in
24 the Federal Register a listing of all final adverse actions
25 taken during the quarter under this part (including pen-
26 alties imposed under section 1107, exclusions under sec-

1 tion 1128, the imposition of civil monetary penalties under
 2 section 1128A, and the imposition of criminal penalties
 3 under section 1128B) and under section 1156.’’.

4 (b) EFFECTIVE DATE.—The amendment made by
 5 subsection (a) shall apply to calendar quarters beginning
 6 on or after January 1, 1995.

7 **SEC. 303. STUDY OF ELECTRONIC REPORTING OF OWNER-**
 8 **SHIP INFORMATION.**

9 (a) STUDY.—The Secretary of Health and Human
 10 Services shall conduct a study on the feasibility and desir-
 11 ability of establishing a method by which the information
 12 required to be reported under the all-payer anti-fraud pro-
 13 gram established under section 101 on the ownership of
 14 entities providing health care services may be reported
 15 electronically.

16 (b) REPORT.—Not later than 1 year after the date
 17 of the enactment of this Act, the Secretary shall submit
 18 a report on the study conducted under subsection (a) to
 19 the Committee on Ways and Means and the Committee
 20 on Energy and Commerce of the House of Representatives
 21 and the Committee on Finance of the Senate.

○

HR 1255 SC—2

HR 1255 SC—3

HR 1255 SC—4