

Public Law 103-432
103d Congress

An Act

Oct. 31, 1994
[H.R. 5252]

To amend the Social Security Act and related Acts to make miscellaneous and technical amendments, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Social Security
Act
Amendments
of 1994.
42 USC 1305
note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Social Security Act Amendments of 1994".

SEC. 2. REFERENCES IN ACT; TABLE OF CONTENTS.

(a) AMENDMENTS TO SOCIAL SECURITY ACT.—Except as otherwise specifically provided, whenever in this Act an amendment is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to that section or other provision of the Social Security Act.

(b) REFERENCES TO OBRA.—In this Act, the terms "OBRA-1986", "OBRA-1987", "OBRA-1989", "OBRA-1990", and "OBRA-1993" refer to the Omnibus Budget Reconciliation Act of 1986 (Public Law 99-509), the Omnibus Budget Reconciliation Act of 1987 (Public Law 100-203), the Omnibus Budget Reconciliation Act of 1989 (Public Law 101-239), the Omnibus Budget Reconciliation Act of 1990 (Public Law 101-508), and the Omnibus Budget Reconciliation Act of 1993 (Public Law 103-66), respectively.

(c) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1. Short title.

Sec. 2. References in Act; table of contents.

TITLE I—MEDICARE PROVISIONS

Subtitle A—Provisions Relating to Part A

- Sec. 101. Provisions relating to adjustments to standardized amounts for wages and wage-related costs.
- Sec. 102. Essential access community hospital (EACH) amendments.
- Sec. 103. Provisions relating to rural health transition grant program.
- Sec. 104. Psychology services in hospitals.
- Sec. 105. Medicare-dependent, small rural hospitals and sole community hospitals.
- Sec. 106. Skilled nursing facilities.
- Sec. 107. Notification of availability of hospice benefit.
- Sec. 108. Clarifying expertise of individuals to serve on the Prospective Payment Assessment Commission.
- Sec. 109. Authority for budget neutral adjustments for changes in payment amounts for transfer cases.
- Sec. 110. Clarification of DRG payment window expansion; miscellaneous and technical corrections.

Subtitle B—Provisions Relating to Part B

PART I—PHYSICIANS' SERVICES

- Sec. 121. Development and implementation of resource-based methodology for practice expenses.
- Sec. 122. Geographic cost of practice index refinements.
- Sec. 123. Extra-billing limits.
- Sec. 124. Relative values for pediatric services.
- Sec. 125. Administration of claims relating to physicians' services.
- Sec. 126. Miscellaneous and technical corrections.

PART II—DURABLE MEDICAL EQUIPMENT

- Sec. 131. Certification of suppliers.
- Sec. 132. Restrictions on certain marketing and sales activities.
- Sec. 133. Beneficiary liability for noncovered services.
- Sec. 134. Adjustments for inherent reasonableness.
- Sec. 135. Miscellaneous and technical corrections.

PART III—OTHER ITEMS AND SERVICES

- Sec. 141. Ambulatory surgical center services.
- Sec. 142. Study of medicare coverage of patient care costs associated with clinical trials of new cancer therapies.
- Sec. 143. Study of annual cap on amount of medicare payment for outpatient physical therapy and occupational therapy services.
- Sec. 144. Payment of part B premium late enrollment penalties by States.
- Sec. 145. Application of mammography certification requirements.
- Sec. 146. Coverage of services of speech-language pathologists and audiologists.
- Sec. 147. Miscellaneous and technical corrections.

Subtitle C—Provisions Relating to Parts A and B

- Sec. 151. Medicare secondary payer reforms.
- Sec. 152. Physician ownership and referral.
- Sec. 153. Definition of FMGEMS examination for payment of direct graduate medical education.
- Sec. 154. Qualified medicare beneficiary outreach.
- Sec. 155. Hospital agreements with organ procurement organizations.
- Sec. 156. Peer review organizations.
- Sec. 157. Health maintenance organizations.
- Sec. 158. Home health agencies.
- Sec. 159. Permanent extension of authority to contract with fiscal intermediaries and carriers on other than a cost basis.
- Sec. 160. Miscellaneous and technical corrections.

Subtitle D—Provisions Relating to Medicare Supplemental Insurance Policies

- Sec. 171. Standards for medicare supplemental insurance policies.
- Sec. 172. 6-month extension of period for issuance of medicare select policies.

TITLE II—MATERNAL AND CHILD HEALTH SERVICES BLOCK GRANT PROGRAM, INCOME SECURITY, HUMAN RESOURCES, AND RELATED PROGRAMS

- Sec. 201. Increase in authorization of appropriations for the Maternal and Child Health Services Block Grant Program.

Subtitle A—Child Welfare, Foster Care, Adoption

- Sec. 202. Required protections for foster children.
- Sec. 203. Conformity reviews.
- Sec. 204. States required to report on measures taken to comply with the Indian Child Welfare Act.
- Sec. 205. Child welfare traineeships.
- Sec. 206. Dispositional hearing.
- Sec. 207. Elimination of foster care ceilings and of authority to transfer unused foster care funds to child welfare services programs.
- Sec. 208. Demonstration projects.
- Sec. 209. Placement accountability.
- Sec. 210. Payments of State claims for foster care and adoption assistance.
- Sec. 211. Effect of failure to carry out State plan.

Subtitle B—Child Support Enforcement

- Sec. 212. Reports to credit bureaus on persons delinquent in child support payments.
- Sec. 213. Technical amendments to provision on State paternity establishment programs.

Sec. 214. Agreement to assist in locating missing children under the parent locator service.

Subtitle C—Supplemental Security Income

Sec. 221. Definition of disability for children under age 18 applied to all individuals under age 18.

Subtitle D—Aid to Families With Dependent Children

Sec. 231. Simplification of income and eligibility verification system.

Sec. 232. Measurement and reporting of welfare receipt.

Sec. 233. New Hope demonstration project.

Sec. 234. Delay in requirement that outlying areas operate an AFDC-UP Program.

Sec. 235. State option to use retrospective budgeting without monthly reporting.

Subtitle E—JOBS Program

Sec. 241. Expansion of coverage for Indian tribes.

Sec. 242. Report to the Congress with respect to performance standards in the JOBS program.

Subtitle F—Other Provisions

Sec. 261. Extension of demonstration to expand job opportunities.

Sec. 262. Early childhood development projects.

Sec. 263. Reallocation of funds under title XX for empowerment and enterprise grants.

Sec. 264. Corrections related to the income security and human resources provisions of OBRA-1990.

Sec. 265. Technical corrections related to the human resource and income security provisions of OBRA-1989.

Sec. 266. Technical correction related to the human resource and income security provisions of OBRA-1993.

Sec. 267. Elimination of obsolete provisions relating to treatment of the earned income tax credit.

Sec. 268. Redesignation of certain provisions.

TITLE I—MEDICARE PROVISIONS

Subtitle A—Provisions Relating to Part A

SEC. 101. PROVISIONS RELATING TO ADJUSTMENTS TO STANDARDIZED AMOUNTS FOR WAGES AND WAGE-RELATED COSTS.

(a) USE OF OCCUPATIONAL MIX IN GUIDELINES FOR DETERMINATION OF AREA WAGE INDEX.—

(1) IN GENERAL.—Section 1886(d)(10)(D)(i)(I) (42 U.S.C. 1395ww(d)(10)(D)(i)(I)) is amended by inserting “(to the extent the Secretary determines appropriate)” after “taking into account”.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect as if included in the enactment of OBRA-1989.

(b) CONFORMING AMENDMENTS RELATING TO GEOGRAPHIC AREA USED TO DETERMINE WAGE INDEX APPLICABLE TO HOSPITAL.—(1) Section 1886(d)(8)(C) (42 U.S.C. 1395ww(d)(8)(C)), as amended by section 13501(b)(1) of OBRA-1993, is amended—

(A) in clause (iv), by striking “paragraph (1)” and inserting “paragraph (10)”; and

(B) by adding at the end the following new clause:

“(v) This subparagraph shall apply with respect to discharges occurring in a fiscal year only if the Secretary uses a method for making adjustments to the DRG prospective payment rate for area differences in hospital wage levels under paragraph (3)(E) for the fiscal year that is based on the use of Metropolitan Statistical Area classifications.”.

(2) Section 1886(d)(10) (42 U.S.C. 1395ww(d)(10)) is amended—

(A) in subparagraph (C)(i)(II), by striking “the area wage index applicable” and inserting “the factor used to adjust the DRG prospective payment rate for area differences in hospital wage levels that applies”; and

(B) in subparagraph (D)—

(i) by redesignating clause (ii) as clause (iii), and

(ii) by inserting after clause (i) the following new clause:

“(ii) Notwithstanding clause (i), if the Secretary uses a method for making adjustments to the DRG prospective payment rate for area differences in hospital wage levels under paragraph (3)(E) that is not based on the use of Metropolitan Statistical Area classifications, the Secretary may revise the guidelines published under clause (i) to the extent such guidelines are used to determine the appropriateness of the geographic area in which the hospital is determined to be located for purposes of making such adjustments.”

(c) ADJUSTMENT OF LABOR AND NON-LABOR PORTIONS OF STANDARDIZED AMOUNTS.—Section 1886(d)(3)(A)(iii) (42 U.S.C. 1395ww(d)(3)(A)(iii)) is amended by adding at the end the following: “For discharges occurring on or after October 1, 1994, the Secretary shall adjust the ratio of the labor portion to non-labor portion of each average standardized amount to equal such ratio for the national average of all standardized amounts.”

SEC. 102. ESSENTIAL ACCESS COMMUNITY HOSPITAL (EACH) AMENDMENTS.

(a) TREATMENT OF INPATIENT HOSPITAL SERVICES PROVIDED IN RURAL PRIMARY CARE HOSPITALS.—

(1) IN GENERAL.—Section 1820(f)(1)(F) (42 U.S.C. 1395i-4(f)(1)(F)) is amended to read as follows:

“(F) subject to paragraph (4), provides not more than 6 inpatient beds (meeting such conditions as the Secretary may establish) for providing inpatient care to patients requiring stabilization before discharge or transfer to a hospital, except that the facility may not provide any inpatient hospital services—

“(i) to any patient whose attending physician does not certify that the patient may reasonably be expected to be discharged or transferred to a hospital within 72 hours of admission to the facility; or

“(ii) consisting of surgery or any other service requiring the use of general anesthesia (other than surgical procedures specified by the Secretary under section 1833(i)(1)(A)), unless the attending physician certifies that the risk associated with transferring the patient to a hospital for such services outweighs the benefits of transferring the patient to a hospital for such services.”

(2) LIMITATION ON AVERAGE LENGTH OF STAY.—Section 1820(f) (42 U.S.C. 1395i-4(f)) is amended by adding at the end the following new paragraph:

“(4) LIMITATION ON AVERAGE LENGTH OF INPATIENT STAYS.—The Secretary may terminate a designation of a rural primary care hospital under paragraph (1) if the Secretary finds that the average length of stay for inpatients at the facility during

the previous year in which the designation was in effect exceeded 72 hours. In determining the compliance of a facility with the requirement of the previous sentence, there shall not be taken into account periods of stay of inpatients in excess of 72 hours to the extent such periods exceed 72 hours because transfer to a hospital is precluded because of inclement weather or other emergency conditions.”

(3) CONFORMING AMENDMENT.—Section 1814(a)(8) (42 U.S.C. 1395f(a)(8)) is amended by striking “such services” and all that follows and inserting “the individual may reasonably be expected to be discharged or transferred to a hospital within 72 hours after admission to the rural primary care hospital.”

(4) GAO REPORTS.—Not later than 2 years after the date of the enactment of this Act, the Comptroller General shall submit reports to Congress on—

(A) the application of the requirements under section 1820(f) of the Social Security Act (as amended by this subsection) that rural primary care hospitals provide inpatient care only to those individuals whose attending physicians certify may reasonably be expected to be discharged within 72 hours after admission and maintain an average length of inpatient stay during a year that does not exceed 72 hours; and

(B) the extent to which such requirements have resulted in such hospitals providing inpatient care beyond their capabilities or have limited the ability of such hospitals to provide needed services.

(b) DESIGNATION OF HOSPITALS.—

(1) PERMITTING DESIGNATION OF HOSPITALS LOCATED IN URBAN AREAS.—

(A) IN GENERAL.—Section 1820 (42 U.S.C. 1395i-4) is amended—

(i) by striking paragraph (1) of subsection (e) and redesignating paragraphs (2) through (6) as paragraphs (1) through (5);

(ii) in subsection (e)(1)(A) (as redesignated by subparagraph (A))—

(I) by striking “is located” and inserting “except in the case of a hospital located in an urban area, is located”;

(II) by striking “, (ii)” and inserting “or (ii)”, and

(III) by striking “or (iii)” and all that follows through “section,”; and

(iii) in subsection (i)(1)(B), by striking “paragraph (3)” and inserting “paragraph (2)”.

(B) NO CHANGE IN MEDICARE PROSPECTIVE PAYMENT.—Section 1886(d)(5)(D) (42 U.S.C. 1395ww(d)(5)(D)) is amended—

(i) in clause (iii)(III), by inserting “located in a rural area and” after “that is”, and

(ii) in clause (v), by inserting “located in a rural area and” after “in the case of a hospital”.

(2) PERMITTING HOSPITALS LOCATED IN ADJOINING STATES TO PARTICIPATE IN STATE PROGRAM.—

(A) IN GENERAL.—Section 1820 (42 U.S.C. 1395i-4) is amended—

- (i) by redesignating subsection (k) as subsection (l); and
- (ii) by inserting after subsection (j) the following new subsection:

“(k) ELIGIBILITY OF HOSPITALS NOT LOCATED IN PARTICIPATING STATES.—Notwithstanding any other provision of this section—

“(1) for purposes of including a hospital or facility as a member institution of a rural health network, a State may designate a hospital or facility that is not located in the State as an essential access community hospital or a rural primary care hospital if the hospital or facility is located in an adjoining State and is otherwise eligible for designation as such a hospital;

“(2) the Secretary may designate a hospital or facility that is not located in a State receiving a grant under subsection (a)(1) as an essential access community hospital or a rural primary care hospital if the hospital or facility is a member institution of a rural health network of a State receiving a grant under such subsection; and

“(3) a hospital or facility designated pursuant to this subsection shall be eligible to receive a grant under subsection (a)(2).”

(B) CONFORMING AMENDMENTS.—(i) Section 1820(c)(1) (42 U.S.C. 1395i-4(c)(1)) is amended by striking “paragraph (3)” and inserting “paragraph (3) or subsection (k)”.

(ii) Paragraphs (1)(A) and (2)(A) of section 1820(i) (42 U.S.C. 1395i-4(i)) are each amended—

(I) in clause (i), by striking “(a)(1)” and inserting “(a)1 (except as provided in subsection (k))”, and

(II) in clause (ii), by striking “subparagraph (B)” and inserting “subparagraph (B) or subsection (k)”.

(c) SKILLED NURSING SERVICES IN RURAL PRIMARY CARE HOSPITALS.—Section 1820(f)(3) (42 U.S.C. 1395i-4(f)(3)) is amended by striking “because the facility” and all that follows and inserting the following: “because, at the time the facility applies to the State for designation as a rural primary care hospital, there is in effect an agreement between the facility and the Secretary under section 1883 under which the facility’s inpatient hospital facilities are used for the furnishing of extended care services, except that the number of beds used for the furnishing of such services may not exceed the total number of licensed inpatient beds at the time the facility applies to the State for such designation (minus the number of inpatient beds used for providing inpatient care pursuant to paragraph (1)(F)). For purposes of the previous sentence, the number of beds of the facility used for the furnishing of extended care services shall not include any beds of a unit of the facility that is licensed as a distinct-part skilled nursing facility at the time the facility applies to the State for designation as a rural primary care hospital.”

(d) DEADLINE FOR DEVELOPMENT OF PROSPECTIVE PAYMENT SYSTEM FOR INPATIENT RURAL PRIMARY CARE HOSPITAL SERVICES.—Section 1814(l)(2) (42 U.S.C. 1395f(1)(2)) is amended by striking “January 1, 1993” and inserting “January 1, 1996”.

(e) PAYMENT FOR OUTPATIENT RURAL PRIMARY CARE HOSPITAL SERVICES.—

(1) IMPLEMENTATION OF PROSPECTIVE PAYMENT SYSTEM.—Section 1834(g) (42 U.S.C. 1395m(g)) is amended—

(A) in paragraph (1), by striking “during a year before 1993” and inserting “during a year before the prospective payment system described in paragraph (2) is in effect”; and

(B) in paragraph (2), by striking “January 1, 1993,” and inserting “January 1, 1996.”

(2) NO USE OF CUSTOMARY CHARGE IN DETERMINING PAYMENT.—Section 1834(g)(1) (42 U.S.C. 1395m(g)(1)) is amended by adding at the end the following new flush sentence:

“The amount of payment shall be determined under either method without regard to the amount of the customary or other charge.”

(f) CLARIFICATION OF PHYSICIAN STAFFING REQUIREMENT FOR RURAL PRIMARY CARE HOSPITALS.—Section 1820(f)(1)(H) (42 U.S.C. 1395i-4(f)(1)(H)) is amended by striking the period and inserting the following: “, except that in determining whether a facility meets the requirements of this subparagraph, subparagraphs (E) and (F) of that paragraph shall be applied as if any reference to a ‘physician’ is a reference to a physician as defined in section 1861(r)(1).”

(g) TECHNICAL AMENDMENTS RELATING TO PART A DEDUCTIBLE, COINSURANCE, AND SPELL OF ILLNESS.—(1) Section 1812(a)(1) (42 U.S.C. 1395d(a)(1)) is amended—

(A) by striking “inpatient hospital services” the first place it appears and inserting “inpatient hospital services or inpatient rural primary care hospital services”;

(B) by striking “inpatient hospital services” the second place it appears and inserting “such services”; and

(C) by striking “and inpatient rural primary care hospital services”.

(2) Sections 1813(a) and 1813(b)(3)(A) (42 U.S.C. 1395e(a), 1395e(b)(3)(A)) are each amended by striking “inpatient hospital services” each place it appears and inserting “inpatient hospital services or inpatient rural primary care hospital services”.

(3) Section 1813(b)(3)(B) (42 U.S.C. 1395e(b)(3)(B)) is amended by striking “inpatient hospital services” and inserting “inpatient hospital services, inpatient rural primary care hospital services”.

(4) Section 1861(a) (42 U.S.C. 1395x(a)) is amended—

(A) in paragraph (1), by striking “inpatient hospital services” and inserting “inpatient hospital services, inpatient rural primary care hospital services”; and

(B) in paragraph (2), by striking “hospital” and inserting “hospital or rural primary care hospital”.

(h) AUTHORIZATION OF APPROPRIATIONS.—Section 1820(l) (42 U.S.C. 1395i-4(l)), as redesignated by subsection (b)(2)(A), is amended by striking “1990, 1991, and 1992” and inserting “1990 through 1997”.

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

SEC. 103. PROVISIONS RELATING TO RURAL HEALTH TRANSITION GRANT PROGRAM.

(a) ELIGIBILITY OF RURAL PRIMARY CARE HOSPITALS FOR GRANTS.—

(1) IN GENERAL.—Section 4005(e)(2) of OBRA-1987 is amended in the matter preceding subparagraph (A) by inserting “any rural primary care hospital designated by the Secretary

42 USC 1395d
note.

42 USC 1395ww
note.

under section 1820(i)(2) of the Social Security Act, or” after “means”.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to grants made on or after October 1, 1994.

42 USC 1395ww
note.

(b) EXTENSION OF AUTHORIZATION OF APPROPRIATIONS.—Section 4005(e)(9) of OBRA-1987 is amended—

42 USC 1395ww
note.

(1) by striking “1989 and” and inserting “1989,”; and

(2) by striking “1992” and inserting “1992 and \$30,000,000 for each of fiscal years 1993 through 1997”.

(c) FREQUENCY OF REQUIRED REPORTS.—Section 4008(e)(8)(B) of OBRA-1987 is amended by striking “every 6 months” and inserting “every 12 months”.

42 USC 1395ww
note.

SEC. 104. PSYCHOLOGY SERVICES IN HOSPITALS.

Section 1861(e)(4) (42 U.S.C. 1395x(e)(4)) is amended by striking “physician,” and inserting “physician, except that a patient receiving qualified psychologist services (as defined in subsection (ii)) may be under the care of a clinical psychologist with respect to such services to the extent permitted under State law;”.

SEC. 105. MEDICARE-DEPENDENT, SMALL RURAL HOSPITALS AND SOLE COMMUNITY HOSPITALS.

(a) MEDICARE DEPENDENT, SMALL RURAL HOSPITALS.—

(1) CLARIFICATION OF ADDITIONAL PAYMENT.—Section 1886(d)(5)(G)(ii)(I) (42 U.S.C. 1395ww(d)(5)(G)(ii)(I)), as amended by section 13501(e)(1) of OBRA-1993, is amended by striking “the first 3 12-month cost reporting periods that begin” and inserting “the 36-month period beginning with the first day of the cost reporting period that begins”.

(2) CONFORMING TARGET AMOUNTS TO EXTENSION OF ADDITIONAL PAYMENTS.—Section 1886(b)(3)(D) (42 U.S.C. 1395ww(b)(3)(D)) is amended in the matter preceding clause (i) by striking “March 31, 1993” and inserting “September 30, 1994”.

(b) CLARIFICATION OF UPDATES.—Section 1886(b)(3)(B)(iv)(II) (42 U.S.C. 1395ww(b)(3)(B)(iv)(II)), as added by section 13501(a)(2) of OBRA-1993, is amended by striking “(taking into account” and all that follows through “1994)” and inserting “(adjusted to exclude any portion of a cost reporting period beginning during fiscal year 1993 for which the applicable percentage increase is determined under subparagraph (I))”.

SEC. 106. SKILLED NURSING FACILITIES.

(a) CONSTRUCTION OF WAGE INDEX.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Health and Human Services shall begin to collect data on employee compensation and paid hours of employment in skilled nursing facilities for the purpose of constructing a skilled nursing facility wage index adjustment to the routine service cost limits required under section 1888(a)(4) of the Social Security Act.

42 USC 1395yy
note.

(b) CLARIFICATION OF REPEAL OF UTILIZATION REVIEW REQUIREMENTS.—

(1) IN GENERAL.—(A) Section 1814(a)(5) (42 U.S.C. 1395f(a)(5)) is amended—

(i) by striking “and with respect” and all that follows through “regulations”;

(ii) by striking “or skilled nursing facility, as the case may be”; and

(iii) by striking "or facility".

(B) Section 1866(d) (42 U.S.C. 1395cc(d)) is amended—

(i) by striking "or skilled nursing facility";

(ii) by striking "or facility" each place it appears;

(iii) by striking "or for post-hospital" and all that follows through "the case may be"; and

(iv) by striking ", or (in the case of" and all that follows through "transfer agreement,".

(2) EFFECTIVE DATE.—The amendments made by paragraph

(1) shall take effect as if included in the enactment of OBRA-1987.

(c) CONFORMING AMENDMENTS TO NURSING HOME REFORM.—

(1) SUSPENSION OF DECERTIFICATION OF NURSES AIDE TRAINING AND COMPETENCY EVALUATION PROGRAMS BASED ON EXTENDED SURVEYS.—

(A) IN GENERAL.—Section 1819(f)(2)(B)(iii)(I)(b) (42 U.S.C. 1395i-3(f)(2)(B)(iii)(I)(b)) is amended by striking the semicolon and inserting the following: ", unless the survey shows that the facility is in compliance with the requirements of subsections (b), (c), and (d) of this section;".

(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) shall take effect as if included in the enactment of OBRA-1990.

(2) REQUIREMENTS FOR CONSULTANTS CONDUCTING REVIEWS ON USE OF DRUGS.—

(A) IN GENERAL.—Section 1819(c)(1)(D) (42 U.S.C. 1395i-3(c)(1)(D)) is amended by adding at the end the following sentence: "In determining whether such a consultant is qualified to conduct reviews under the preceding sentence, the Secretary shall take into account the needs of nursing facilities under this title to have access to the services of such a consultant on a timely basis.".

(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) shall take effect as if included in the enactment of OBRA-1987.

(3) INCREASE IN MINIMUM AMOUNT REQUIRED FOR SEPARATE DEPOSIT OF PERSONAL FUNDS.—

(A) IN GENERAL.—Section 1819(c)(6)(B)(i) (42 U.S.C. 1395i-3(c)(6)(B)(i)) is amended by striking "\$50" and inserting "\$100".

(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) shall take effect January 1, 1995.

(4) DUE PROCESS PROTECTIONS FOR NURSES AIDES.—

(A) PROHIBITING STATE FROM INCLUDING UNDOCUMENTED ALLEGATIONS IN NURSES AIDE REGISTRY.—Section 1819(e)(2)(B) (42 U.S.C. 1395i-3(e)(2)(B)) is amended by striking the period at the end of the first sentence and inserting the following: ", but shall not include any allegations of resident abuse or neglect or misappropriation of resident property that are not specifically documented by the State under such subsection.".

(B) DUE PROCESS REQUIREMENTS FOR REBUTTING ALLEGATIONS.—Section 1819(g)(1)(C) (42 U.S.C. 1395i-3(g)(1)(C)) is amended by striking the second sentence and inserting the following: "The State shall, after providing the individual involved with a written notice of the allegations (including a statement of the availability of a hearing

42 USC 1395cc
note.

42 USC 1395i-3
note.

42 USC 1395i-3
note.

42 USC 1395i-3
note.

for the individual to rebut the allegations) and the opportunity for a hearing on the record, make a written finding as to the accuracy of the allegations.”

(C) EFFECTIVE DATE.—The amendments made by this paragraph shall take effect January 1, 1995.

42 USC 1395i-3
note.

(d) CORRECTIONS RELATING TO SECTION 4008.—

(1) Section 1819(b)(5)(D) (42 U.S.C. 1395i-3(b)(5)(D)), as amended by section 4008(h)(1)(D) of OBRA-1990, is amended by striking the comma before “or a new competency evaluation program.”

(2) Section 1819(b)(5)(G) (42 U.S.C. 1395i-3(b)(5)(G)) is amended by striking “or licensed or certified social worker” and inserting “licensed or certified social worker, registered respiratory therapist, or certified respiratory therapy technician”.

(3) Section 1819(f)(2)(B)(i) (42 U.S.C. 1395i-3(f)(2)(B)(i)) is amended by striking “facilities,” and inserting “facilities (subject to clause (iii)),”.

(4) Section 1819(f)(2)(B)(iii)(I)(c) (42 U.S.C. 1395i-3(f)(2)(B)(iii)(I)(c)) is amended by striking “clauses” each place it appears and inserting “clause”.

(5) Section 1819(g)(5)(B) (42 U.S.C. 1395i-3(g)(5)(B)) is amended by striking “paragraphs” and inserting “paragraph”.

(6) Section 4008(h)(1)(F)(ii) of OBRA-1990 is amended—

42 USC 1395i-3
note.

(A) by striking “The amendments” and inserting “(I) The amendments”;

(B) by striking “nursing facility” each place it appears and inserting “skilled nursing facility”;

(C) by redesignating subclauses (I) through (V) as items (aa) through (ee); and

(D) by adding at the end the following new subclause:

“(II) Notwithstanding subclause (I) and subject to section 1819(f)(2)(B)(iii)(I) of the Social Security Act (as amended by clause (i)), a State may approve a training and competency evaluation program or a competency evaluation program offered by or in a skilled nursing facility described in subclause (I) if, during the previous 2 years, item (aa), (bb), (cc), (dd), or (ee) of subclause (I) did not apply to the facility.”

(7) EFFECTIVE DATE.—The amendments made by this subsection shall take effect as if included in the enactment of OBRA-1990.

42 USC 1395i-3
note.

SEC. 107. NOTIFICATION OF AVAILABILITY OF HOSPICE BENEFIT.

(a) IN GENERAL.—Section 1861(ee)(2)(D) (42 U.S.C. 1395x(ee)(2)(D)) is amended by inserting “, including hospice services,” after “post-hospital services”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to services furnished on or after the first day of the first month beginning more than one year after the date of the enactment of this Act.

42 USC 1395x
note.

SEC. 108. CLARIFYING EXPERTISE OF INDIVIDUALS TO SERVE ON THE PROSPECTIVE PAYMENT ASSESSMENT COMMISSION.

Section 1886(e)(6)(B) (42 U.S.C. 1395ww(e)(6)(B)) is amended by striking “hospital reimbursement, hospital financial management” and inserting “health facility management, reimbursement

of health facilities or other providers of services which reflect the scope of the Commission's responsibilities".

SEC. 109. AUTHORITY FOR BUDGET NEUTRAL ADJUSTMENTS FOR CHANGES IN PAYMENT AMOUNTS FOR TRANSFER CASES.

Section 1886(d)(5)(I) (42 U.S.C. 1395ww(d)(5)) is amended—

(1) by inserting "(i)" after "(I)"; and

(2) by adding at the end the following new clause:

"(ii) In making adjustments under clause (i) for transfer cases (as defined by the Secretary) in a fiscal year, the Secretary may make adjustments to each of the average standardized amounts determined under paragraph (3) to assure that the aggregate payments made under this subsection for such fiscal year are not greater or lesser than those that would have otherwise been made in such fiscal year."

SEC. 110. CLARIFICATION OF DRG PAYMENT WINDOW EXPANSION; MISCELLANEOUS AND TECHNICAL CORRECTIONS.

(a) **CLARIFICATION OF DRG PAYMENT WINDOW EXPANSION.**—The first sentence of section 1886(a)(4) (42 U.S.C. 1395ww(a)(4)) is amended by inserting "(or, in the case of a hospital that is not a subsection (d) hospital, during the 1 day)" after "3 days".

(b) **TECHNICAL CORRECTION RELATING TO RESIDENT ASSESSMENT IN NURSING HOMES.**—Section 1819(b)(3)(C)(i)(I) (42 U.S.C. 1395i-3(b)(3)(C)(i)(I)) is amended by striking "not later than" before "14 days".

(c) **TECHNICAL CORRECTION RELATING TO APPLICABLE ADJUSTMENT FACTOR FOR INDIRECT MEDICAL EDUCATION ADJUSTMENT.**—Section 1886(d)(5)(B)(ii) (42 U.S.C. 1395ww(d)(5)(B)(ii)) is amended by striking "May 1, 1986," and inserting "October 1, 1988,".

(d) **CLERICAL CORRECTIONS.**—(1) Section 1814(i)(1)(C)(i) (42 U.S.C. 1395f(i)(1)(C)(i)) is amended by striking "September 30, 1990," and inserting "September 30, 1990,".

(2) Section 1816(f)(2)(A)(ii) (42 U.S.C. 1396h(f)(2)(A)(ii)) is amended by striking "such agency" and inserting "such agency's".

Subtitle B—Provisions Relating to Part B

PART I—PHYSICIANS' SERVICES

SEC. 121. DEVELOPMENT AND IMPLEMENTATION OF RESOURCE-BASED METHODOLOGY FOR PRACTICE EXPENSES.

(a) **DEVELOPMENT.**—

(1) **IN GENERAL.**—The Secretary of Health and Human Services shall develop a methodology for implementing in 1998 a resource-based system for determining practice expense relative value units for each physicians' service. The methodology utilized shall recognize the staff, equipment, and supplies used in the provision of various medical and surgical services in various settings.

(2) **REPORT.**—The Secretary shall transmit a report by June 30, 1996, on the methodology developed under paragraph (1) to the Committees on Ways and Means and Energy and Commerce of the House of Representatives and the Committee on Finance of the Senate. The report shall include a presentation of data utilized in developing the methodology and an explanation of the methodology.

42 USC 1395w-4
note.

(b) IMPLEMENTATION.—

(1) IN GENERAL.—Section 1848(c)(2)(C)(ii) (42 U.S.C. 1395w-4(c)(2)(C)(ii)) is amended—

(A) by inserting “for the service for years before 1998” before “equal to”,

(B) by striking the period at the end of subclause (II) and inserting a comma, and

(C) by adding after and below subclause (II) the following:

“and for years beginning with 1998 based on the relative practice expense resources involved in furnishing the service.”.

(2) CONFORMING AMENDMENT.—Section 1848(c)(3)(C)(ii) (42 U.S.C. 1395w-4(c)(3)(C)(ii)) is amended by striking “The practice” and inserting “For years before 1998, the practice”.

(3) APPLICATION OF CERTAIN PROVISIONS.—In implementing the amendment made by paragraph (1)(C), the provisions of clauses (ii)(II) and (iii) of section 1848(c)(2)(B) of the Social Security Act shall apply in the same manner as they apply to adjustments under clause (ii)(I) of such section.

42 USC 1395w-4
note.

SEC. 122. GEOGRAPHIC COST OF PRACTICE INDEX REFINEMENTS.

(a) REQUIRING CONSULTATION WITH REPRESENTATIVES OF PHYSICIANS IN REVIEWING GEOGRAPHIC ADJUSTMENT FACTORS.—Section 1848(e)(1)(C) (42 U.S.C. 1395w-4(e)(1)(C)) is amended by striking “shall review” and inserting “shall, in consultation with appropriate representatives of physicians, review”.

(b) USE OF MOST RECENT DATA IN GEOGRAPHIC ADJUSTMENT.—Section 1848(e)(1) (42 U.S.C. 1395w-4(e)(1)) is amended by adding at the end the following new subparagraph:

“(D) USE OF RECENT DATA.—In establishing indices and index values under this paragraph, the Secretary shall use the most recent data available relating to practice expenses, malpractice expenses, and physician work effort in different fee schedule areas.”.

(c) REPORT ON REVIEW PROCESS.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Health and Human Services shall study and report to the Committee on Finance of the Senate and the Committee on Ways and Means and the Committee on Energy and Commerce of the House of Representatives on—

42 USC 1395w-4
note.

(1) the data necessary to review and revise the indices established under section 1848(e)(1)(A) of the Social Security Act, including—

(A) the shares allocated to physicians’ work effort, practice expenses (other than malpractice expenses), and malpractice expenses;

(B) the weights assigned to the input components of such shares; and

(C) the index values assigned to such components;

(2) any limitations on the availability of data necessary to review and revise such indices at least every three years;

(3) ways of addressing such limitations, with particular attention to the development of alternative data sources for input components for which current index values are based on data collected less frequently than every three years; and

(4) the costs of developing more accurate and timely data.

SEC. 123. EXTRA-BILLING LIMITS.

(a) ENFORCEMENT OF LIMITS.—Section 1848(g) (42 U.S.C. 1395w-4(g)), as amended by section 13517(a) of OBRA-1993, is amended—

(1) by amending paragraph (1) to read as follows:

“(1) LIMITATION ON ACTUAL CHARGES.—

“(A) IN GENERAL.—In the case of a nonparticipating physician or nonparticipating supplier or other person (as defined in section 1842(i)(2)) who does not accept payment on an assignment-related basis for a physician’s service furnished with respect to an individual enrolled under this part, the following rules apply:

“(i) APPLICATION OF LIMITING CHARGE.—No person may bill or collect an actual charge for the service in excess of the limiting charge described in paragraph (2) for such service.

“(ii) NO LIABILITY FOR EXCESS CHARGES.—No person is liable for payment of any amounts billed for the service in excess of such limiting charge.

“(iii) CORRECTION OF EXCESS CHARGES.—If such a physician, supplier, or other person bills, but does not collect, an actual charge for a service in violation of clause (i), the physician, supplier, or other person shall reduce on a timely basis the actual charge billed for the service to an amount not to exceed the limiting charge for the service.

“(iv) REFUND OF EXCESS COLLECTIONS.—If such a physician, supplier, or other person collects an actual charge for a service in violation of clause (i), the physician, supplier, or other person shall provide on a timely basis a refund to the individual charged in the amount by which the amount collected exceeded the limiting charge for the service. The amount of such a refund shall be reduced to the extent the individual has an outstanding balance owed by the individual to the physician.

“(B) SANCTIONS.—If a physician, supplier, or other person—

“(i) knowingly and willfully bills or collects for services in violation of subparagraph (A)(i) on a repeated basis, or

“(ii) fails to comply with clause (iii) or (iv) of subparagraph (A) on a timely basis,

the Secretary may apply sanctions against the physician, supplier, or other person in accordance with paragraph (2) of section 1842(j). In applying this subparagraph, paragraph (4) of such section applies in the same manner as such paragraph applies to such section and any reference in such section to a physician is deemed also to include a reference to a supplier or other person under this subparagraph.

“(C) TIMELY BASIS.—For purposes of this paragraph, a correction of a bill for an excess charge or refund of an amount with respect to a violation of subparagraph (A)(i) in the case of a service is considered to be provided ‘on a timely basis’, if the reduction or refund is made not later than 30 days after the date the physician, sup-

plier, or other person is notified by the carrier under this part of such violation and of the requirements of subparagraph (A).”; and

(2) in paragraph (3)(B)—

(A) by inserting after the first sentence the following: “No person is liable for payment of any amounts billed for such a service in violation of the previous sentence.”, and

(B) in the last sentence, by striking “previous sentence” and inserting “first sentence”.

(b) CLARIFICATION OF MANDATORY ASSIGNMENT RULES FOR CERTAIN PRACTITIONERS.—

(1) IN GENERAL.—Section 1842(b) (42 U.S.C. 1395u(b)), as amended by section 126(e), is amended by adding at the end the following new paragraph:

“(18)(A) Payment for any service furnished by a practitioner described in subparagraph (C) and for which payment may be made under this part on a reasonable charge or fee schedule basis may only be made under this part on an assignment-related basis.

“(B) A practitioner described in subparagraph (C) or other person may not bill (or collect any amount from) the individual or another person for any service described in subparagraph (A), except for deductible and coinsurance amounts applicable under this part. No person is liable for payment of any amounts billed for such a service in violation of the previous sentence. If a practitioner or other person knowingly and willfully bills (or collects an amount) for such a service in violation of such sentence, the Secretary may apply sanctions against the practitioner or other person in the same manner as the Secretary may apply sanctions against a physician in accordance with subsection (j)(2) in the same manner as such section applies with respect to a physician. Paragraph (4) of subsection (j) shall apply in this subparagraph in the same manner as such paragraph applies to such section.

“(C) A practitioner described in this subparagraph is any of the following:

“(i) A physician assistant, nurse practitioner, or clinical nurse specialist (as defined in section 1861(aa)(5)).

“(ii) A certified registered nurse anesthetist (as defined in section 1861(bb)(2)).

“(iii) A certified nurse-midwife (as defined in section 1861(gg)(2)).

“(iv) A clinical social worker (as defined in section 1861(hh)(1)).

“(v) A clinical psychologist (as defined by the Secretary for purposes of section 1861(ii)).

“(D) For purposes of this paragraph, a service furnished by a practitioner described in subparagraph (C) includes any services and supplies furnished as incident to the service as would otherwise be covered under this part if furnished by a physician or as incident to a physician’s service.”.

(2) CONFORMING AMENDMENTS.—

(A) Section 1833 (42 U.S.C. 1395l) is amended—

(i) in subsection (1)(5), by striking subparagraph (B) and redesignating subparagraph (C) as subparagraph (B);

(ii) by striking subsection (p); and

(iii) in subsection (r), by striking paragraph (3) and redesignating paragraph (4) as paragraph (3).

(B) Section 1842(b)(12) (42 U.S.C. 1395u(b)(12)) is amended by striking subparagraph (C).

(c) INFORMATION ON EXTRA-BILLING LIMITS.—

(1) PART OF EXPLANATION OF MEDICARE BENEFITS.—Section 1842(h)(7) (42 U.S.C. 1395u(h)(7)) is amended—

(A) by striking “and” at the end of subparagraph (B),

(B) in subparagraph (C), by striking “shall include”,

(C) in subparagraph (C), by striking the period at the end and inserting “, and”, and

(D) by adding at the end the following new subparagraph:

“(D) in the case of services for which the billed amount exceeds the limiting charge imposed under section 1848(g), information regarding such applicable limiting charge (including information concerning the right to a refund under section 1848(g)(1)(A)(iv)).”

(2) DETERMINATIONS BY CARRIERS.—Subparagraph (G) of section 1842(b)(3) (42 U.S.C. 1395u(b)(3)) is amended to read as follows:

“(G) will, for a service that is furnished with respect to an individual enrolled under this part, that is not paid on an assignment-related basis, and that is subject to a limiting charge under section 1848(g)—

“(i) determine, prior to making payment, whether the amount billed for such service exceeds the limiting charge applicable under section 1848(g)(2);

“(ii) notify the physician, supplier, or other person periodically (but not less often than once every 30 days) of determinations that amounts billed exceeded such applicable limiting charges; and

“(iii) provide for prompt response to inquiries of physicians, suppliers, and other persons concerning the accuracy of such limiting charges for their services;”

(d) REPORT ON CHARGES IN EXCESS OF LIMITING CHARGE.—Section 1848(g)(6)(B) (42 U.S.C. 1395w-4(g)(6)(B)) is amended by inserting “information on the extent to which actual charges exceed limiting charges, the number and types of services involved, and the average amount of excess charges and information” after “report to the Congress”.

(e) MISCELLANEOUS AND TECHNICAL AMENDMENTS.—Section 1833(h)(5)(D) (42 U.S.C. 1395l(h)(5)(D)) is amended—

(1) by striking “paragraphs (2) and (3)” and by inserting “paragraph (2)”; and

(2) by adding at the end the following: “Paragraph (4) of such section shall apply in this subparagraph in the same manner as such paragraph applies to such section.”

(f) EFFECTIVE DATES.—

(1) ENFORCEMENT; MISCELLANEOUS AND TECHNICAL AMENDMENTS.—The amendments made by subsections (a) and (e) shall apply to services furnished on or after the date of the enactment of this Act; except that the amendments made by subsection (a) shall not apply to services of a nonparticipating supplier or other person furnished before January 1, 1995.

(2) PRACTITIONERS.—The amendments made by subsection (b) shall apply to services furnished on or after January 1, 1995. 42 USC 1395f note.

(3) EOMBS.—The amendments made by subsection (c)(1) shall apply to explanations of benefits provided on or after July 1, 1995. 42 USC 1395u note.

(4) CARRIER DETERMINATIONS.—The amendments made by subsection (c)(2) shall apply to contracts as of January 1, 1995. 42 USC 1395u note.

(5) REPORT.—The amendment made by subsection (d) shall apply to reports for years beginning with 1995. 42 USC 1395w-4 note.

SEC. 124. RELATIVE VALUES FOR PEDIATRIC SERVICES.

(a) IN GENERAL.—The Secretary of Health and Human Services shall fully develop, by not later than July 1, 1995, relative values for the full range of pediatric physicians' services which are consistent with the relative values developed for other physicians' services under section 1848(c) of the Social Security Act. In developing such values, the Secretary shall conduct such refinements as may be necessary to produce appropriate estimates for such relative values. 42 USC 1395w-4 note.

(b) STUDY.—

(1) IN GENERAL.—The Secretary shall conduct a study of the relative values for pediatric and other services to determine whether there are significant variations in the resources used in providing similar services to different populations. In conducting such study, the Secretary shall consult with appropriate organizations representing pediatricians and other physicians and physical and occupational therapists.

(2) REPORT.—Not later than July 1, 1995, the Secretary shall submit to Congress a report on the study conducted under paragraph (1). Such report shall include any appropriate recommendations regarding needed changes in coding or other payment policies to ensure that payments for pediatric services appropriately reflect the resources required to provide these services.

SEC. 125. ADMINISTRATION OF CLAIMS RELATING TO PHYSICIANS' SERVICES.

(a) LIMITATION ON CARRIER USER FEES.—Section 1842(c) (42 U.S.C. 1395u(c)) is amended by adding at the end the following new paragraph:

“(4) Neither a carrier nor the Secretary may impose a fee under this title—

“(A) for the filing of claims related to physicians' services,

“(B) for an error in filing a claim relating to physicians' services or for such a claim which is denied,

“(C) for any appeal under this title with respect to physicians' services,

“(D) for applying for (or obtaining) a unique identifier under subsection (r), or

“(E) for responding to inquiries respecting physicians' services or for providing information with respect to medical review of such services.”

(b) CLARIFICATION OF PERMISSIBLE SUBSTITUTE BILLING ARRANGEMENTS.—

(1) IN GENERAL.—Clause (D) of section 1842(b)(6) (42 U.S.C. 1395u(b)(6)) is amended to read as follows: “(D) payment may be made to a physician for physicians' services (and services

furnished incident to such services) furnished by a second physician to patients of the first physician if (i) the first physician is unavailable to provide the services; (ii) the services are furnished pursuant to an arrangement between the two physicians that (I) is informal and reciprocal, or (II) involves per diem or other fee-for-time compensation for such services; (iii) the services are not provided by the second physician over a continuous period of more than 60 days; and (iv) the claim form submitted to the carrier for such services includes the second physician's unique identifier (provided under the system established under subsection (r)) and indicates that the claim meets the requirements of this subparagraph for payment to the first physician".

42 USC 1395u
note.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to services furnished on or after the first day of the first month beginning more than 60 days after the date of the enactment of this Act.

SEC. 126. MISCELLANEOUS AND TECHNICAL CORRECTIONS.

(a) OVERVALUED PROCEDURES.—(1) Section 1842(b)(16)(B)(iii) (42 U.S.C. 1395u(b)(16)(B)(iii)) is amended—

(A) by striking “, simple and subcutaneous”,

(B) by striking “; small” and inserting “and small”,

(C) by striking “treatments;” the first place it appears and inserting “and”,

(D) by striking “lobectomy;”,

(E) by striking “enterectomy; colectomy; cholecystectomy;”,

(F) by striking “; transurethral resection” and inserting “and resection”, and

(G) by striking “sacral laminectomy;”.

(2) Section 4101(b)(2) of OBRA-1990 is amended—

(A) in the matter before subparagraph (A), by striking “1842(b)(16)” and inserting “1842(b)(16)(B)”, and

(B) in subparagraph (B)—

(i) by striking “, simple and subcutaneous”,

(ii) by striking “(HCPCS codes 19160 and 19162)” and inserting “(HCPCS code 19160)”, and

(iii) by striking all that follows “(HCPCS codes 92250” and inserting “and 92260).”.

(b) RADIOLOGY SERVICES.—(1) Section 1834(b)(4) (42 U.S.C. 1395m(b)(4)) is amended by redesignating the subparagraphs (E) and (F) redesignated by section 4102(a)(1) of OBRA-1990 as subparagraphs (F) and (G), respectively.

(2) Section 1834(b)(4)(D) (42 U.S.C. 1395m(b)(4)(D)) is amended—

(A) in the matter before clause (i), by striking “shall be determined as follows:” and inserting “shall, subject to clause (vii), be reduced to the adjusted conversion factor for the locality determined as follows:”;

(B) in clause (iv), by striking “LOCAL ADJUSTMENT.—Subject to clause (vii), the conversion factor to be applied to” and inserting “ADJUSTED CONVERSION FACTOR.—The adjusted conversion factor for”;

(C) in clause (vii), by striking “under this subparagraph”, and

(D) in clause (vii), by inserting “reduced under this subparagraph by” after “shall not be”.

42 USC 1395u
note.

(3) Section 4102(c)(2) of OBRA-1990 is amended by striking “radiology services” and all that follows and inserting “nuclear medicine services.” 42 USC 1395m note.

(4) Section 4102(d) of OBRA-1990 is amended by striking “new paragraph” and inserting “new subparagraph.” 42 USC 1395m.

(5) Section 1834(b)(4)(E) (42 U.S.C. 1395m(b)(4)(E)) is amended by inserting “RULE FOR CERTAIN SCANNING SERVICES.—” after “(E).”

(6) Section 1848(a)(2)(D)(iii) (42 U.S.C. 1395w-4(a)(2)(D)(iii)) is amended by striking “that are subject to section 6105(b) of the Omnibus Budget Reconciliation Act of 1989” and by striking “provided under such section” and inserting “provided under section 6105(b) of the Omnibus Budget Reconciliation Act of 1989”.

(c) ANESTHESIA SERVICES.—(1) Section 4103(a) of OBRA-1990 is amended by striking “REDUCTION IN FEE SCHEDULE” and inserting “REDUCTION IN PREVAILING CHARGES.” 42 USC 1395u.

(2) Section 1842(q)(1)(B) (42 U.S.C. 1395u(q)(1)(B)) is amended—

(A) in the matter before clause (i), by striking “shall be determined as follows:” and inserting “shall, subject to clause (iv), be reduced to the adjusted prevailing charge conversion factor for the locality determined as follows:”, and

(B) in clause (iii), by striking “Subject to clause (iv), the prevailing charge conversion factor to be applied in” and inserting “The adjusted prevailing charge conversion factor for”.

(d) ASSISTANTS AT SURGERY.—(1) Section 4107(c) of OBRA-1990 is amended by inserting “(a)(1)” after “subsection”.

42 USC 1395w-4 note.

(2) Section 4107(a)(2) of OBRA-1990 is amended by adding at the end the following: “In applying section 1848(g)(2)(D) of the Social Security Act for services of an assistant-at-surgery furnished during 1991, the recognized payment amount shall not exceed the maximum amount specified under section 1848(i)(2)(A) of such Act (as applied under this paragraph in such year).”

(e) TECHNICAL COMPONENTS OF DIAGNOSTIC SERVICES.—Section 1842(b) (42 U.S.C. 1395u(b)) is amended by redesignating paragraph (18), as added by section 4108(a) of OBRA-1990, as paragraph (17) and, in such paragraph, by inserting “, tests specified in paragraph (14)(C)(i),” after “diagnostic laboratory tests”.

(f) STATEWIDE FEE SCHEDULES.—Section 4117 of OBRA-1990 is amended— 42 USC 1395w-4 note.

(1) in subsection (a)—

(A) by striking “(a) IN GENERAL.—”, and

(B) by striking “, if the” and all that follows through “1991.”; and

(2) by striking subsections (b), (c), and (d).

(g) OTHER MISCELLANEOUS AND TECHNICAL AMENDMENTS.—

(1) The heading of section 1834(f) (42 U.S.C. 1395m(f)) is amended by striking “FISCAL YEAR”.

(2)(A) Section 4105(b) of OBRA-1990 is amended—

(i) in paragraph (2), by striking “amendments” and inserting “amendment”, and

42 USC 1395w-4 note.

(ii) in paragraph (3), by striking “amendments made by paragraphs (1) and (2)” and inserting “amendment made by paragraph (1)”.

42 USC 1395u note.

(B) Section 1848(f)(2)(C) (42 U.S.C. 1395w-4(f)(2)(C)) is amended by inserting “PERFORMANCE STANDARD RATES OF INCREASE FOR FISCAL YEAR 1991.—” after “(C)”.

42 USC 1395w-4
note.

(C) Section 4105(d) of OBRA-1990 is amended by inserting "PUBLICATION OF PERFORMANCE STANDARD RATES.—" after "(d)".

42 USC 1395w-4
note.

(3) Section 4106(c) of OBRA-1990 is amended by inserting "of the Social Security Act" after "1848(d)(1)(B)".

42 USC 1395u
note.

(4) Section 4114 of OBRA-1990 is amended by striking "patients" the second place it appears.

(5) Section 1848(e)(1)(C) (42 U.S.C. 1395w-4(e)(1)(C)) is amended by inserting "date of the" after "since the".

42 USC 1395w-4.

(6) Section 4118(f)(1)(D) of OBRA-1990 is amended by striking "is amended".

(7) Section 4118(f)(1)(N)(ii) of OBRA-1990 is amended by striking "subsection (f)(5)(A)" and inserting "subsection (f)(5)(A)".

(8) Section 1845(e) (42 U.S.C. 1395w-1(e)) is amended—

(A) by striking paragraph (2); and

(B) by redesignating paragraphs (3), (4), and (5) as paragraphs (2), (3), and (4).

42 USC 1395u.

(9) Section 4118(j)(2) of OBRA-1990 is amended by striking "In section" and inserting "Section".

(10)(A) Section 1848(i)(3) (42 U.S.C. 1395w-4(i)(3)) is amended by striking the space before the period at the end.

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

(i) by striking "apply to" and inserting "would otherwise apply to", and

(ii) by inserting before the period at the end "but for the application of section 1848(i)(3)".

42 USC 1395w-4
note.

(h) OTHER CORRECTIONS.—(1) Effective on the date of the enactment of this Act, section 6102(d)(4) of OBRA-1989 is amended by striking all that follows the first sentence.

(2) Effective for payments for fiscal years beginning with fiscal year 1994, section 1842(c)(1) (42 U.S.C. 1395u(c)(1)) is amended—

(A) in subparagraph (A), by striking "(A) Any contract" and inserting "Any contract"; and

(B) by striking subparagraph (B).

42 USC 1395m
note.

(i) EFFECTIVE DATE.—Except as provided in subsection (h), the amendments made by this section and the provisions of this section shall take effect as if included in the enactment of OBRA-1990.

PART II—DURABLE MEDICAL EQUIPMENT

SEC. 131. CERTIFICATION OF SUPPLIERS.

(a) REQUIREMENTS.—

(1) IN GENERAL.—Section 1834 (42 U.S.C. 1395m), as amended by section 13544(b)(1) of OBRA-1993, is amended by adding at the end the following new subsection:

"(j) REQUIREMENTS FOR SUPPLIERS OF MEDICAL EQUIPMENT AND SUPPLIES.—

"(1) ISSUANCE AND RENEWAL OF SUPPLIER NUMBER.—

"(A) PAYMENT.—Except as provided in subparagraph (C), no payment may be made under this part after the date of the enactment of the Social Security Act Amendments of 1994 for items furnished by a supplier of medical equipment and supplies unless such supplier obtains (and renews at such intervals as the Secretary may require) a supplier number.

"(B) STANDARDS FOR POSSESSING A SUPPLIER NUMBER.—

A supplier may not obtain a supplier number unless—

“(i) for medical equipment and supplies furnished on or after the date of the enactment of the Social Security Act Amendments of 1994 and before January 1, 1996, the supplier meets standards prescribed by the Secretary in regulations issued on June 18, 1992; and

“(ii) for medical equipment and supplies furnished on or after January 1, 1996, the supplier meets revised standards prescribed by the Secretary (in consultation with representatives of suppliers of medical equipment and supplies, carriers, and consumers) that shall include requirements that the supplier—

“(I) comply with all applicable State and Federal licensure and regulatory requirements;

“(II) maintain a physical facility on an appropriate site;

“(III) have proof of appropriate liability insurance; and

“(IV) meet such other requirements as the Secretary may specify.

“(C) EXCEPTION FOR ITEMS FURNISHED AS INCIDENT TO A PHYSICIAN’S SERVICE.—Subparagraph (A) shall not apply with respect to medical equipment and supplies furnished incident to a physician’s service.

“(D) PROHIBITION AGAINST MULTIPLE SUPPLIER NUMBERS.—The Secretary may not issue more than one supplier number to any supplier of medical equipment and supplies unless the issuance of more than one number is appropriate to identify subsidiary or regional entities under the supplier’s ownership or control.

“(E) PROHIBITION AGAINST DELEGATION OF SUPPLIER DETERMINATIONS.—The Secretary may not delegate (other than by contract under section 1842) the responsibility to determine whether suppliers meet the standards necessary to obtain a supplier number.

“(2) CERTIFICATES OF MEDICAL NECESSITY.—

“(A) LIMITATION ON INFORMATION PROVIDED BY SUPPLIERS ON CERTIFICATES OF MEDICAL NECESSITY.—

“(i) IN GENERAL.—Effective 60 days after the date of the enactment of the Social Security Act Amendments of 1994, a supplier of medical equipment and supplies may distribute to physicians, or to individuals entitled to benefits under this part, a certificate of medical necessity for commercial purposes which contains no more than the following information completed by the supplier:

“(I) An identification of the supplier and the beneficiary to whom such medical equipment and supplies are furnished.

“(II) A description of such medical equipment and supplies.

“(III) Any product code identifying such medical equipment and supplies.

“(IV) Any other administrative information (other than information relating to the beneficiary’s medical condition) identified by the Secretary.

Effective date.

“(ii) INFORMATION ON PAYMENT AMOUNT AND CHARGES.—If a supplier distributes a certificate of medical necessity containing any of the information permitted to be supplied under clause (i), the supplier shall also list on the certificate of medical necessity the fee schedule amount and the supplier's charge for the medical equipment or supplies being furnished prior to distribution of such certificate to the physician.

“(iii) PENALTY.—Any supplier of medical equipment and supplies who knowingly and willfully distributes a certificate of medical necessity in violation of clause (i) or fails to provide the information required under clause (ii) is subject to a civil money penalty in an amount not to exceed \$1,000 for each such certificate of medical necessity so distributed. The provisions of section 1128A (other than subsections (a) and (b)) shall apply to civil money penalties under this subparagraph in the same manner as they apply to a penalty or proceeding under section 1128A(a).

“(B) DEFINITION.—For purposes of this paragraph, the term ‘certificate of medical necessity’ means a form or other document containing information required by the carrier to be submitted to show that an item is reasonable and necessary for the diagnosis or treatment of illness or injury or to improve the functioning of a malformed body member.

“(3) COVERAGE AND REVIEW CRITERIA.—The Secretary shall annually review the coverage and utilization of items of medical equipment and supplies to determine whether such items should be made subject to coverage and utilization review criteria, and if appropriate, shall develop and apply such criteria to such items.

“(4) DEFINITION.—The term ‘medical equipment and supplies’ means—

“(A) durable medical equipment (as defined in section 1861(n));

“(B) prosthetic devices (as described in section 1861(s)(8));

“(C) orthotics and prosthetics (as described in section 1861(s)(9));

“(D) surgical dressings (as described in section 1861(s)(5));

“(E) such other items as the Secretary may determine; and

“(F) for purposes of paragraphs (1) and (3)—

“(i) home dialysis supplies and equipment (as described in section 1861(s)(2)(F)),

“(ii) immunosuppressive drugs (as described in section 1861(s)(2)(J)),

“(iii) therapeutic shoes for diabetics (as described in section 1861(s)(12)),

“(iv) oral drugs prescribed for use as an anticancer therapeutic agent (as described in section 1861(s)(2)(Q)), and

“(v) self-administered erythropoietin (as described in section 1861(s)(2)(P)).”.

(2) CONFORMING AMENDMENT.—Effective 60 days after the date of enactment of the Social Security Act Amendments of 1994, paragraph (16) of section 1834(a) (42 U.S.C. 1395m(a)) is repealed.

(b) USE OF COVERED ITEMS BY DISABLED BENEFICIARIES.—

42 USC 1395m
note.

(1) IN GENERAL.—The Secretary of Health and Human Services, in consultation with representatives of suppliers of durable medical equipment under part B of the medicare program and individuals entitled to benefits under such program on the basis of disability, shall conduct a study of the effects of the methodology for determining payments for items of such equipment under such part on the ability of such individuals to obtain items of such equipment, including customized items.

(2) REPORT.—Not later than one year after the date of the enactment of this Act, the Secretary shall submit a report to Congress on the study conducted under paragraph (1), and shall include in the report such recommendations as the Secretary considers appropriate to assure that disabled medicare beneficiaries have access to items of durable medical equipment.

(c) CRITERIA FOR TREATMENT OF ITEMS AS PROSTHETIC DEVICES OR ORTHOTICS AND PROSTHETICS.—Not later than one year after the date of the enactment of this Act, the Secretary of Health and Human Services shall submit a report to the Committees on Ways and Means and Energy and Commerce of the House of Representatives and the Committee on Finance of the Senate describing prosthetic devices or orthotics and prosthetics covered under part B of the medicare program that do not require individualized or custom fitting and adjustment to be used by a patient. Such report shall include recommendations for an appropriate methodology for determining the amount of payment for such items under such program.

42 USC 1395m
note.
Reports.

SEC. 132. RESTRICTIONS ON CERTAIN MARKETING AND SALES ACTIVITIES.

(a) PROHIBITING UNSOLICITED TELEPHONE CONTACTS FROM SUPPLIERS OF DURABLE MEDICAL EQUIPMENT TO MEDICARE BENEFICIARIES.—

(1) IN GENERAL.—Section 1834(a) (42 U.S.C. 1395m(a)) is amended by adding at the end the following new paragraph:

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

“(A) IN GENERAL.—A supplier of a covered item under this subsection may not contact an individual enrolled under this part by telephone regarding the furnishing of a covered item to the individual unless 1 of the following applies:

“(i) The individual has given written permission to the supplier to make contact by telephone regarding the furnishing of a covered item.

“(ii) The supplier has furnished a covered item to the individual and the supplier is contacting the individual only regarding the furnishing of such covered item.

“(iii) If the contact is regarding the furnishing of a covered item other than a covered item already furnished to the individual, the supplier has furnished at least 1 covered item to the individual during the

15-month period preceding the date on which the supplier makes such contact.

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

“(C) EXCLUSION FROM PROGRAM FOR SUPPLIERS ENGAGING IN PATTERN OF UNSOLICITED CONTACTS.—If a supplier knowingly contacts individuals in violation of subparagraph (A) to such an extent that the supplier’s conduct establishes a pattern of contacts in violation of such subparagraph, the Secretary shall exclude the supplier from participation in the programs under this Act, in accordance with the procedures set forth in subsections (c), (f), and (g) of section 1128.”

(2) REQUIRING REFUND OF AMOUNTS COLLECTED FOR DISALLOWED ITEMS.—Section 1834(a) (42 U.S.C. 1395m(a)), as amended by paragraph (1), is amended by adding at the end the following new paragraph:

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

“(A) IN GENERAL.—If a nonparticipating supplier furnishes to an individual enrolled under this part a covered item for which no payment may be made under this part by reason of paragraph (17)(B), the supplier shall refund on a timely basis to the patient (and shall be liable to the patient for) any amounts collected from the patient for the item, unless—

“(i) the supplier establishes that the supplier did not know and could not reasonably have been expected to know that payment may not be made for the item by reason of paragraph (17)(B), or

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

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

“(C) NOTICE.—Each carrier with a contract in effect under this part with respect to suppliers of covered items shall send any notice of denial of payment for covered items by reason of paragraph (17)(B) and for which payment is not requested on an assignment-related basis to the supplier and the patient involved.

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

“(i) in the case of a supplier who does not request reconsideration or seek appeal on a timely basis, the refund is made within 30 days after the date the supplier receives a denial notice under subparagraph (C), or

“(ii) in the case in which such a reconsideration or appeal is taken, the refund is made within 15 days

after the date the supplier receives notice of an adverse determination on reconsideration or appeal.”.

(b) **CONFORMING AMENDMENT.**—Section 1834(h)(3) (42 U.S.C. 1395m(h)(3)) is amended by striking “Paragraph (12)” and inserting “Paragraphs (12) and (17)”.

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

42 USC 1395m
note.

SEC. 133. BENEFICIARY LIABILITY FOR NONCOVERED SERVICES.

(a) **UNASSIGNED CLAIMS.**—

(1) **IN GENERAL.**—Section 1834(j) (42 U.S.C. 1395m(i)), as added by section 131(a)(1), is amended—

(A) by redesignating paragraph (4) as paragraph (5), and

(B) by inserting after paragraph (3) the following new paragraph:

“(4) **LIMITATION ON PATIENT LIABILITY.**—If a supplier of medical equipment and supplies (as defined in paragraph (5))—

“(A) furnishes an item or service to a beneficiary for which no payment may be made by reason of paragraph (1);

“(B) furnishes an item or service to a beneficiary for which payment is denied in advance under subsection (a)(15); or

“(C) furnishes an item or service to a beneficiary for which payment is denied under section 1862(a)(1);

any expenses incurred for items and services furnished to an individual by such a supplier not on an assigned basis shall be the responsibility of such supplier. The individual shall have no financial responsibility for such expenses and the supplier shall refund on a timely basis to the individual (and shall be liable to the individual for) any amounts collected from the individual for such items or services. The provisions of subsection (a)(18) shall apply to refunds required under the previous sentence in the same manner as such provisions apply to refunds under such subsection.”.

(2) **CONFORMING AMENDMENT.**—Section 1128B(b)(3)(B) (42 U.S.C. 1320a-7b(b)(3)(B)), as amended by section 134(a), is amended by striking “1834(j)(4)” and inserting “1834(j)(5)”.

(b) **ASSIGNED CLAIMS.**—Section 1879 (42 U.S.C. 1395pp) is amended by adding at the end the following new subsection:

“(h) If a supplier of medical equipment and supplies (as defined in section 1834(j)(5))—

“(1) furnishes an item or service to a beneficiary for which no payment may be made by reason of section 1834(j)(1);

“(2) furnishes an item or service to a beneficiary for which payment is denied in advance under section 1834(a)(15); or

“(3) furnishes an item or service to a beneficiary for which no payment may be made by reason of section 1834(a)(17)(B),

any expenses incurred for items and services furnished to an individual by such a supplier on an assignment-related basis shall be the responsibility of such supplier. The individual shall have no financial responsibility for such expenses and the supplier shall refund on a timely basis to the individual (and shall be liable to the individual for) any amounts collected from the individual

for such items or services. The provisions of section 1834(a)(18) shall apply to refunds required under the previous sentence in the same manner as such provisions apply to refunds under such section.”

42 USC 1320a-7b
note.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to items or services furnished on or after January 1, 1995.

SEC. 134. ADJUSTMENTS FOR INHERENT REASONABLENESS.

(a) **ADJUSTMENTS MADE TO FINAL PAYMENT AMOUNTS.**—

(1) **IN GENERAL.**—Section 1834(a)(10)(B) (42 U.S.C. 1395m(a)(10)(B)) is amended by adding at the end the following: “In applying such provisions to payments for an item under this subsection, the Secretary shall make adjustments to the payment basis for the item described in paragraph (1)(B) if the Secretary determines (in accordance with such provisions and on the basis of prices and costs applicable at the time the item is furnished) that such payment basis is not inherently reasonable.”

42 USC 1395m
note.

(2) **EFFECTIVE DATE.**—The amendment made by paragraph

(1) shall take effect on the date of the enactment of this Act.

42 USC 1395m
note.

(b) **ADJUSTMENT REQUIRED FOR CERTAIN ITEMS.**—

(1) **IN GENERAL.**—In accordance with section 1834(a)(10)(B) of the Social Security Act (as amended by subsection (a)), the Secretary of Health and Human Services shall determine whether the payment amounts for the items described in paragraph (2) are not inherently reasonable, and shall adjust such amounts in accordance with such section if the amounts are not inherently reasonable.

(2) **ITEMS DESCRIBED.**—The items referred to in paragraph

(1) are decubitus care equipment, transcutaneous electrical nerve stimulators, and any other items considered appropriate by the Secretary.

SEC. 135. MISCELLANEOUS AND TECHNICAL CORRECTIONS.

(a) **UPDATES TO PAYMENT AMOUNTS.**—(1) Subparagraph (A) of section 1834(a)(14) (42 U.S.C. 1395m(a)(14)) is amended to read as follows:

“(A) for 1991 and 1992, the percentage increase in the consumer price index for all urban consumers (U.S. city average) for the 12-month period ending with June of the previous year reduced by 1 percentage point; and”.

Effective date.
42 USC 1395m
note.

(2) The amendment made by paragraph (1) shall be effective on the date of the enactment of this Act.

Effective date.

(b) **ADVANCE DETERMINATIONS OF COVERAGE.**—(1) Effective on the date of the enactment of this Act, section 1834(a)(15) (42 U.S.C. 1395m(a)(15)) is amended to read as follows:

“(15) **ADVANCE DETERMINATIONS OF COVERAGE FOR CERTAIN ITEMS.**—

“(A) **DEVELOPMENT OF LISTS OF ITEMS BY SECRETARY.**—The Secretary may develop and periodically update a list of items for which payment may be made under this subsection that the Secretary determines, on the basis of prior payment experience, are frequently subject to unnecessary utilization throughout a carrier’s entire service area or a portion of such area.

“(B) **DEVELOPMENT OF LISTS OF SUPPLIERS BY SECRETARY.**—The Secretary may develop and periodically

update a list of suppliers of items for which payment may be made under this subsection with respect to whom—

“(i) the Secretary has found that a substantial number of claims for payment under this part for items furnished by the supplier have been denied on the basis of the application of section 1862(a)(1); or

“(ii) the Secretary has identified a pattern of overutilization resulting from the business practice of the supplier.

“(C) DETERMINATIONS OF COVERAGE IN ADVANCE.—A carrier shall determine in advance of delivery of an item whether payment for the item may not be made because the item is not covered or because of the application of section 1862(a)(1) if—

“(i) the item is included on the list developed by the Secretary under subparagraph (A);

“(ii) the item is furnished by a supplier included on the list developed by the Secretary under subparagraph (B); or

“(iii) the item is a customized item (other than inexpensive items specified by the Secretary) and the patient to whom the item is to be furnished or the supplier requests that such advance determination be made.”.

(2) Effective for standards applied for contract years beginning after the date of the enactment of this Act, section 1842(c) (42 U.S.C. 1395u(c)), as amended by section 125(a), is amended by adding at the end the following new paragraph:

“(5) Each contract under this section which provides for the disbursement of funds, as described in subsection (a)(1)(B), shall require the carrier to meet criteria developed by the Secretary to measure the timeliness of carrier responses to requests for payment of items described in section 1834(a)(15)(C).”.

(3) Effective on the date of the enactment of this Act, section 1834(h)(3) (42 U.S.C. 1395m(h)(3)), as amended by section 133(b), is amended by striking “(12) and (17)” and inserting “(12), (15), and (17)”.

Effective date.

(c) STUDY OF VARIATIONS IN DURABLE MEDICAL EQUIPMENT SUPPLIER COSTS.—

(1) COLLECTION AND ANALYSIS OF SUPPLIER COST DATA.—

The Administrator of the Health Care Financing Administration shall, in consultation with appropriate organizations, collect data on supplier costs of durable medical equipment for which payment may be made under part B of the medicare program, and shall analyze such data to determine the proportions of such costs attributable to the service and product components of furnishing such equipment and the extent to which such proportions vary by type of equipment and by the geographic region in which the supplier is located.

(2) DEVELOPMENT OF GEOGRAPHIC ADJUSTMENT INDEX; REPORTS.—Not later than July 1, 1995—

(A) the Administrator shall submit a report to the Committees on Energy and Commerce and Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the data collected and the analysis conducted under paragraph (1), and shall include in such report the Administrator's recommendations for

a geographic cost adjustment index for suppliers of durable medical equipment under the medicare program and an analysis of the impact of such proposed index on payments under the medicare program; and

(B) the Comptroller General shall submit a report to the Committees on Energy and Commerce and Ways and Means of the House of Representatives and the Committee on Finance of the Senate analyzing on a geographic basis the supplier costs of durable medical equipment under the medicare program.

(d) OXYGEN RETESTING.—(1) Section 1834(a)(5)(E) (42 U.S.C. 1395m(a)(5)(E)) is amended by striking “55” and inserting “56”.

(2) The amendment made by paragraph (1) shall be effective on the date of the enactment of this Act.

(e) OTHER MISCELLANEOUS AND TECHNICAL AMENDMENTS.—(1) Section 4152(a)(3) of OBRA-1990 is amended by striking “amendment made by subsection (a)” and inserting “amendments made by this subsection”.

(2) Section 4152(c)(2) of OBRA-1990 is amended by striking “1395m(a)(7)(A)” and inserting “1395m(a)(7)”.

(3) Section 1834(a)(7)(A)(iii)(II) (42 U.S.C. 1395m(a)(7)(A)(iii)(II)) is amended by striking “clause (v)” and inserting “clause (vi)”.

(4) Section 1834(a)(7)(C)(i) (42 U.S.C. 1395m(a)(7)(C)(i)) is amended by striking “or paragraph (3)”.

(5) Section 1834(a)(3) (42 U.S.C. 1395m(a)(3)) is amended by striking subparagraph (D).

(6) Section 4153(c)(1) of OBRA-1990 is amended by striking “1834(a)” and inserting “1834(h)”.

(7) Section 4153(d)(2) of OBRA-1990 is amended by striking “Reconciliation” and inserting “Reconciliation”.

(8) The amendments made by this subsection shall take effect as if included in the enactment of OBRA-1990.

PART III—OTHER ITEMS AND SERVICES

SEC. 141. AMBULATORY SURGICAL CENTER SERVICES.

(a) PAYMENT AMOUNTS FOR SERVICES FURNISHED IN AMBULATORY SURGICAL CENTERS.—

(1) USE OF SURVEY TO DETERMINE INCURRED COSTS.—Section 1833(i)(2)(A)(i) (42 U.S.C. 1395l(i)(2)(A)(i)) is amended by striking the comma at the end and inserting the following: “, as determined in accordance with a survey (based upon a representative sample of procedures and facilities) taken not later than January 1, 1995, and every 5 years thereafter, of the actual audited costs incurred by such centers in providing such services.”

(2) AUTOMATIC APPLICATION OF INFLATION ADJUSTMENT.—Section 1833(i)(2) (42 U.S.C. 1395l(i)(2)) is amended—

(A) in the second sentence of subparagraph (A) and the second sentence of subparagraph (B), by striking “and may be adjusted by the Secretary, when appropriate,”; and

(B) by adding at the end the following new subparagraph:

“(C) Notwithstanding the second sentence of subparagraph (A) or the second sentence of subparagraph (B), if the Secretary has

Effective date.
42 USC 1395m
note.

42 USC 1395m
note.

42 USC 1395m.

42 USC 1395m
note.

42 USC 1395cc
note.

Effective date.
42 USC 1395m
note.

42 USC 1395l.

42 USC 1395l.

not updated amounts established under such subparagraphs with respect to facility services furnished during a fiscal year (beginning with fiscal year 1996), such amounts shall be increased by the percentage increase in the consumer price index for all urban consumers (U.S. city average) as estimated by the Secretary for the 12-month period ending with the midpoint of the year involved.”

(3) CONSULTATION REQUIREMENT.—The second sentence of section 1833(i)(1) (42 U.S.C. 1395l(i)(1)) is amended by striking the period and inserting the following: “, in consultation with appropriate trade and professional organizations.”

42 USC 1395l.

(b) ADJUSTMENTS TO PAYMENT AMOUNTS FOR NEW TECHNOLOGY INTRAOCULAR LENSES.—

42 USC 1395l.

(1) ESTABLISHMENT OF PROCESS FOR REVIEW OF AMOUNTS.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Health and Human Services (in this subsection referred to as the “Secretary”) shall develop and implement a process under which interested parties may request review by the Secretary of the appropriateness of the reimbursement amount provided under section 1833(i)(2)(A)(iii) of the Social Security Act with respect to a class of new technology intraocular lenses. For purposes of the preceding sentence, an intraocular lens may not be treated as a new technology lens unless it has been approved by the Food and Drug Administration.

(2) FACTORS CONSIDERED.—In determining whether to provide an adjustment of payment with respect to a particular lens under paragraph (1), the Secretary shall take into account whether use of the lens is likely to result in reduced risk of intraoperative or postoperative complication or trauma, accelerated postoperative recovery, reduced induced astigmatism, improved postoperative visual acuity, more stable postoperative vision, or other comparable clinical advantages.

(3) NOTICE AND COMMENT.—The Secretary shall publish notice in the Federal Register from time to time (but no less often than once each year) of a list of the requests that the Secretary has received for review under this subsection, and shall provide for a 30-day comment period on the lenses that are the subjects of the requests contained in such notice. The Secretary shall publish a notice of the Secretary’s determinations with respect to intraocular lenses listed in the notice within 90 days after the close of the comment period.

Federal Register, publication.

(4) EFFECTIVE DATE OF ADJUSTMENT.—Any adjustment of a payment amount (or payment limit) made under this subsection shall become effective not later than 30 days after the date on which the notice with respect to the adjustment is published under paragraph (3).

(c) TECHNICAL CORRECTION RELATING TO BLEND AMOUNTS FOR AMBULATORY SURGICAL CENTER PAYMENTS.—

(1) IN GENERAL.—Subclauses (I) and (II) of section 1833(i)(3)(B)(ii) (42 U.S.C. 1395l(i)(3)(B)(ii)) are each amended—

42 USC 1395l.

(A) by striking “for reporting” and inserting “for portions of cost reporting”; and

(B) by striking “and on or before” and inserting “and ending on or before”.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect as if included in the enactment of OBRA-1990.

42 USC 1395l note.

(d) **TECHNICAL CORRECTION RELATED TO CATARACT SURGERY.**—Effective as if included in the enactment of OBRA-1990, section 4151(c)(3) of such Act is amended by striking “for the insertion of an intraocular lens” and inserting “for an intraocular lens inserted”.

42 USC 1395f
note.

42 USC 1395f
note.

SEC. 142. STUDY OF MEDICARE COVERAGE OF PATIENT CARE COSTS ASSOCIATED WITH CLINICAL TRIALS OF NEW CANCER THERAPIES.

(a) **STUDY.**—The Secretary of Health and Human Services shall conduct a study of the effects of expressly covering under the medicare program the patient care costs for beneficiaries enrolled in clinical trials of new cancer therapies, where the protocol for the trial has been approved by the National Cancer Institute or meets similar scientific and ethical standards, including approval by an institutional review board. The study shall include—

(1) an estimate of the cost of such coverage, taking into account the extent to which medicare currently pays for such patient care costs in practice;

(2) an assessment of the extent to which such clinical trials represent the best available treatment for the patients involved and of the effects of participation in the trials on the health of such patients;

(3) an assessment of whether progress in developing new anticancer therapies would be assisted by medicare coverage of such patient care costs; and

(4) an evaluation of whether there should be special criteria for the admission of medicare beneficiaries (on account of their age or physical condition) to clinical trials for which medicare would pay the patient care costs.

(b) **REPORT.**—Not later than 2 years after the date of the enactment of this Act, the Secretary of Health and Human Services shall submit a report on the study conducted under subsection (a) to the Committee on Ways and Means and the Committee on Energy and Commerce of the House of Representatives and the Committee on Finance of the Senate. Such report shall include recommendations as to the coverage under the medicare program of patient care costs of beneficiaries enrolled in clinical trials of new cancer therapies.

42 USC 1395f
note.

SEC. 143. STUDY OF ANNUAL CAP ON AMOUNT OF MEDICARE PAYMENT FOR OUTPATIENT PHYSICAL THERAPY AND OCCUPATIONAL THERAPY SERVICES.

(a) **STUDY.**—The Secretary of Health and Human Services shall conduct a study of the appropriateness of continuing an annual limitation on the amount of payment for outpatient services of independently practicing physical and occupational therapists under the medicare program.

(b) **REPORT.**—By not later than January 1, 1996, the Secretary shall submit to the Committees on Energy and Commerce and Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on the study conducted under subsection (a). Such report shall include such recommendations for changes in such annual limitation as the Secretary finds appropriate.

SEC. 144. PAYMENT OF PART B PREMIUM LATE ENROLLMENT PENALTIES BY STATES.

Section 1839 (42 U.S.C. 1395r) is amended by adding at the end the following new subsection:

“(g)(1) Upon the request of a State, the Secretary may enter into an agreement with the State under which the State agrees to pay on a quarterly or other periodic basis to the Secretary (to be deposited in the Treasury to the credit of the Federal Supplementary Medical Insurance Trust Fund) an amount equal to the amount of the part B late enrollment premium increases with respect to the premiums for eligible individuals (as defined in paragraph (3)(A)).

Contracts.

“(2) No part B late enrollment premium increase shall apply to an eligible individual for premiums for months for which the amount of such an increase is payable under an agreement under paragraph (1).

“(3) In this subsection:

“(A) The term ‘eligible individual’ means an individual who is enrolled under this part B and who is within a class of individuals specified in the agreement under paragraph (1).

“(B) The term ‘part B late enrollment premium increase’ means any increase in a premium as a result of the application of subsection (b).”

SEC. 145. APPLICATION OF MAMMOGRAPHY CERTIFICATION REQUIREMENTS.

(a) **SCREENING MAMMOGRAPHY.**—Section 1834(c) (42 U.S.C. 1395m(c)) is amended—

(1) in paragraph (1)(B), by striking “meets the quality standards established under paragraph (3)” and inserting “is conducted by a facility that has a certificate (or provisional certificate) issued under section 354 of the Public Health Service Act”;

(2) in paragraph (1)(C)(iii), by striking “paragraph (4)” and inserting “paragraph (3)”;

(3) by striking paragraph (3); and

(4) by redesignating paragraphs (4) and (5) as paragraphs (3) and (4).

(b) **DIAGNOSTIC MAMMOGRAPHY.**—Section 1861(s)(3) (42 U.S.C. 1395x(s)(3)) is amended by inserting “and including diagnostic mammography if conducted by a facility that has a certificate (or provisional certificate) issued under section 354 of the Public Health Service Act” after “necessary”.

(c) **CONFORMING AMENDMENTS.**—(1) Section 1862(a)(1)(F) (42 U.S.C. 1395y(a)(1)(F)) is amended by striking “or which does not meet the standards established under section 1834(c)(3)” and inserting “or which is not conducted by a facility described in section 1834(c)(1)(B)”.

(2) Section 1863 (42 U.S.C. 1395z) is amended by striking “or whether screening mammography meets the standards established under section 1834(c)(3).”.

(3) The first sentence of section 1864(a) (42 U.S.C. 1395aa(a)) is amended by striking “, or whether screening mammography meets the standards established under section 1834(c)(3)”.

(4) The third sentence of section 1865(a) (42 U.S.C. 1395bb(a)) is amended by striking “1834(c)(3).”.

42 USC 1395m
note.

(d) **EFFECTIVE DATE.**—The amendments made by this section shall apply to mammography furnished by a facility on and after the first date that the certificate requirements of section 354(b) of the Public Health Service Act apply to such mammography conducted by such facility.

SEC. 146. COVERAGE OF SERVICES OF SPEECH-LANGUAGE PATHOLOGISTS AND AUDIOLOGISTS.

(a) **SERVICES DEFINED.**—Section 1861 (42 U.S.C. 1395x), as amended by section 148(f)(6)(E), is amended by inserting after subsection (kk) the following new subsection:

“Speech-Language Pathology Services; Audiology Services

“(1)(1) The term ‘speech-language pathology services’ means such speech, language, and related function assessment and rehabilitation services furnished by a qualified speech-language pathologist as the speech-language pathologist is legally authorized to perform under State law (or the State regulatory mechanism provided by State law) as would otherwise be covered if furnished by a physician.

“(2) The term ‘audiology services’ means such hearing and balance assessment services furnished by a qualified audiologist as the audiologist is legally authorized to perform under State law (or the State regulatory mechanism provided by State law), as would otherwise be covered if furnished by a physician.

“(3) In this subsection:

“(A) The term ‘qualified speech-language pathologist’ means an individual with a master’s or doctoral degree in speech-language pathology who—

“(i) is licensed as a speech-language pathologist by the State in which the individual furnishes such services, or

“(ii) in the case of an individual who furnishes services in a State which does not license speech-language pathologists, has successfully completed 350 clock hours of supervised clinical practicum (or is in the process of accumulating such supervised clinical experience), performed not less than 9 months of supervised full-time speech-language pathology services after obtaining a master’s or doctoral degree in speech-language pathology or a related field, and successfully completed a national examination in speech-language pathology approved by the Secretary.

“(B) The term ‘qualified audiologist’ means an individual with a master’s or doctoral degree in audiology who—

“(i) is licensed as an audiologist by the State in which the individual furnishes such services, or

“(ii) in the case of an individual who furnishes services in a State which does not license audiologists, has successfully completed 350 clock hours of supervised clinical practicum (or is in the process of accumulating such supervised clinical experience), performed not less than 9 months of supervised full-time audiology services after obtaining a master’s or doctoral degree in audiology or a related field, and successfully completed a national examination in audiology approved by the Secretary.”.

(b) CONFORMING AMENDMENTS RELATING TO MEDICARE TREATMENT OF SPEECH AND LANGUAGE SERVICES.—

(1) **EXTENDED CARE SERVICES.**—Section 1861(h)(3) (42 U.S.C. 1395x(h)(3)) is amended by striking “, occupational, or speech therapy” and inserting “or occupational therapy or speech-language pathology services”.

(2) **HOME HEALTH SERVICES.**—Section 1861(m)(2) (42 U.S.C. 1395x(m)(2)) is amended by striking “, occupational, or speech therapy” and inserting “or occupational therapy or speech-language pathology services”.

(3) **OUTPATIENT PHYSICAL THERAPY SERVICES.**—The fourth sentence of section 1861(p) (42 U.S.C. 1395x(p)) is amended by striking “speech pathology services” and inserting “speech-language pathology services”.

(4) **COMPREHENSIVE OUTPATIENT REHABILITATION FACILITY SERVICES.**—Section 1861(cc)(1)(B) (42 U.S.C. 1395x(cc)(1)(B)) is amended by striking “speech pathology services” and inserting “speech-language pathology services”.

(5) **HOSPICE CARE.**—Section 1861(dd)(1)(B) (42 U.S.C. 1395x(dd)(1)(B)) is amended by striking “therapy or speech-language pathology” and inserting “therapy, or speech-language pathology services”.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall take effect on January 1, 1995.

42 USC 1395x
note.

SEC. 147. MISCELLANEOUS AND TECHNICAL CORRECTIONS.

(a) **REVISION OF INFORMATION ON PART B CLAIMS FORMS.**—Section 1833(q)(1) (42 U.S.C. 1395l(q)(1)) is amended—

42 USC 1395l.

(1) by striking “provider number” and inserting “unique physician identification number”; and

(2) by striking “and indicate whether or not the referring physician is an interested investor (within the meaning of section 1877(h)(5))”.

(b) **CONSULTATION FOR SOCIAL WORKERS.**—Effective with respect to services furnished on or after January 1, 1991, section 6113(c) of OBRA-1989 is amended—

Effective date.
42 USC 1395l
note.

(1) by inserting “and clinical social worker services” after “psychologist services”; and

(2) by striking “psychologist” the second and third place it appears and inserting “psychologist or clinical social worker”.

(c) **REPORTS ON HOSPITAL OUTPATIENT PAYMENT.**—(1) OBRA-1989 is amended by striking section 6137.

42 USC 1395l
note.

(2) Section 1135(d) (42 U.S.C. 1320b-5(d)) is amended—

(A) by striking paragraph (6); and

(B) in paragraph (7)—

(i) by striking “systems” each place it appears and inserting “system”; and

(ii) by striking “paragraphs (1) and (6)” and inserting “paragraph (1)”.

(d) **RADIOLOGY AND DIAGNOSTIC SERVICES PROVIDED IN HOSPITAL OUTPATIENT DEPARTMENTS.**—(1) Effective as if included in the enactment of OBRA-1989, section 1833(n)(1)(B)(i)(II) (42 U.S.C. 1395l(n)(1)(B)(i)(II)) is amended—

Effective date.

(A) by inserting “and for services described in subsection (a)(2)(E)(ii) furnished on or after January 1, 1992” after “1989”; and

(B) by striking “1842(b)” and inserting “1842(b) (or, in the case of services furnished on or after January 1, 1992, under section 1848)”.

42 USC 1395l. (2) Effective as if included in the enactment of OBRA-1989, section 1833(n)(1)(B)(i)(II) (42 U.S.C. 1395l(n)(1)(B)(i)(II)) is amended by striking “January 1, 1989” and inserting “April 1, 1989”.

(e) PAYMENTS TO NURSE PRACTITIONERS IN RURAL AREAS (SECTION 4155 OF OBRA-1990).—(1) Section 1861(s)(2)(K)(iii) (42 U.S.C. 1395x(s)(2)(K)(iii)) is amended—

(A) by striking “subsection (aa)(3)” and inserting “subsection (aa)(5)”; and

(B) by striking “subsection (aa)(4)” and inserting “subsection (aa)(6)”.

42 USC 1395l. (2) Section 1833(r)(1) (42 U.S.C. 1395l(r)(1)) is amended—

(A) by striking “ambulatory” each place it appears and inserting “or ambulatory”; and

(B) by striking “center,” and inserting “center”.

42 USC 1395l. (3) Section 1833(r)(2)(A) (42 U.S.C. 1395l(r)(2)(A)) is amended by striking “subsection (a)(1)(M)” and inserting “subsection (a)(1)(O)”.

(4) Section 1861(b)(4) (42 U.S.C. 1395x(b)(4)) is amended by striking “subsection (s)(2)(K)(i)” and inserting “clauses (i) or (iii) of subsection (s)(2)(K)”.

(5) Section 1861(aa)(5) (42 U.S.C. 1395x(aa)(5)) is amended by striking “this Act” and inserting “this title”.

(6) Section 1862(a)(14) (42 U.S.C. 1395y(a)(14)) is amended by striking “1861(s)(2)(K)(i)” and inserting “1861(s)(2)(K)(i) or 1861(s)(2)(K)(iii)”.

(7) Section 1866(a)(1)(H) (42 U.S.C. 1395cc(a)(1)(H)) is amended by striking “1861(s)(2)(K)(i)” and inserting “1861(s)(2)(K)(i) or 1861(s)(2)(K)(iii)”.

(f) OTHER MISCELLANEOUS AND TECHNICAL AMENDMENTS.—

(1) IMMEDIATE ENROLLMENT IN PART B BY INDIVIDUALS COVERED BY AN EMPLOYMENT-BASED PLAN.—(A) Subparagraphs (A) and (B) of section 1837(i)(3) (42 U.S.C. 1395p(i)(3)) are each amended—

(i) by striking “beginning with the first day of the first month in which the individual is no longer enrolled” and inserting “including each month during any part of which the individual is enrolled”; and

(ii) by striking “and ending seven months later” and inserting “ending with the last day of the eighth consecutive month in which the individual is at no time so enrolled”.

(B) Paragraphs (1) and (2) of section 1838(e) (42 U.S.C. 1395q(e)) are amended to read as follows:

“(1) in any month of the special enrollment period in which the individual is at any time enrolled in a plan (specified in subparagraph (A) or (B), as applicable, of section 1837(i)(3)) or in the first month following such a month, the coverage period shall begin on the first day of the month in which the individual so enrolls (or, at the option of the individual, on the first day of any of the following three months), or

“(2) in any other month of the special enrollment period, the coverage period shall begin on the first day of the month following the month in which the individual so enrolls.”.

(C) The amendments made by subparagraphs (A) and (B) shall take effect on the first day of the first month that begins after the expiration of the 120-day period that begins on the date of the enactment of this Act. Effective date.
42 USC 1395p
note.

(2) CLINICAL DIAGNOSTIC LABORATORY TESTS.—Section 4154(e)(5) of OBRA-1990 is amended by striking “(1)(A)” and inserting “(1)(A),” 42 USC 1395l
note.

(3) SEPARATE PAYMENT UNDER PART B FOR CERTAIN SERVICES.—Section 4157(a) of OBRA-1990 is amended by striking “(a) SERVICES OF” and all that follows through “Section” and inserting “(a) TREATMENT OF SERVICES OF CERTAIN HEALTH PRACTITIONERS.—Section” 42 USC 1395x.

(4) COMMUNITY HEALTH CENTERS AND RURAL HEALTH CLINICS.—(A) The fourth sentence of section 1861(aa)(2) (42 U.S.C. 1395x(aa)(2)) is amended—

(i) by striking “certification” the first place it appears and inserting “approval”; and

(ii) by striking “the Secretary’s approval or disapproval of the certification” and inserting “Secretary’s approval or disapproval”.

(B) Section 4161(a)(7)(B) of OBRA-1990 is amended by inserting “and to the Committee on Finance of the Senate” after “Representatives” 42 USC 254b
note.

(5) SCREENING MAMMOGRAPHY.—Section 4163 of OBRA-1990 is amended—

(A) by adding at the end of subsection (d) the following new paragraph:

“(3) The amendment made by paragraph (2)(A)(iv) shall apply to screening pap smears performed on or after July 1, 1990.”; and 42 USC 1395y
note.

(B) in subsection (e), by striking “The amendments” and inserting “Except as provided in subsection (d)(3), the amendments” 42 USC 1395l
note.

(6) INJECTABLE DRUGS FOR TREATMENT OF OSTEOPOROSIS.—

(A) CLARIFICATION OF DRUGS COVERED.—The section 1861(jj) (42 U.S.C. 1395x(jj)) inserted by section 4156(a)(2) of OBRA-1990 is amended—

(i) in the matter preceding paragraph (1), by striking “a bone fracture related to”; and

(ii) in paragraph (1), by striking “patient” and inserting “individual has suffered a bone fracture related to post-menopausal osteoporosis and that the individual”.

(B) LIMITING COVERAGE TO DRUGS PROVIDED BY HOME HEALTH AGENCIES.—(i) The section 1861(jj) (42 U.S.C. 1395x(jj)) inserted by section 4156(a)(2) of OBRA-1990 is amended by striking “if” and inserting “by a home health agency if”.

(ii) Section 1861(m)(5) (42 U.S.C. 1395x(m)(5)) is amended by striking “but excluding” and inserting “and a covered osteoporosis drug (as defined in subsection (kk)), but excluding other”.

(iii) Section 1861(s)(2) (42 U.S.C. 1395x(s)(2)) is amended—

(I) by adding “and” at the end of subparagraph (N), and

(II) by striking subparagraph (O) and redesignating subparagraph (P) as subparagraph (O).

42 USC 1395l.

(C) PAYMENT BASED ON REASONABLE COST.—Section 1833(a)(2) (42 U.S.C. 1395l(a)(2)) is amended—

(i) in subparagraph (A), by striking “health services” and inserting “health services (other than a covered osteoporosis drug (as defined in section 1861(kk)))”;

(ii) by striking “and” at the end of subparagraph (D);

(iii) by striking the semicolon at the end of subparagraph (E) and inserting “; and”; and

(iv) by adding at the end the following new subparagraph:

“(F) with respect to a covered osteoporosis drug (as defined in section 1861(kk)) furnished by a home health agency, 80 percent of the reasonable cost of such service, as determined under section 1861(v);”.

42 USC 1395l.

(D) APPLICATION OF PART B DEDUCTIBLE.—Section 1833(b)(2) (42 U.S.C. 1395l(b)(2)) is amended by striking “services” and inserting “services (other than a covered osteoporosis drug (as defined in section 1861(kk)))”.

(E) COVERED OSTEOPOROSIS DRUG (SECTION 4156 OF OBRA-1990).—Section 1861 (42 U.S.C. 1395x) is amended, in the subsection (jj) inserted by section 4156(a)(2) of OBRA-1990, by striking “(jj) The term” and inserting “(kk) The term”.

(7) OTHER MISCELLANEOUS AND TECHNICAL CORRECTIONS.—

(A) OWNERSHIP DISCLOSURE REQUIREMENTS.—(i) Section 1124A(a)(2)(A) (42 U.S.C. 1320a-3a(a)(2)(A)) is amended by striking “of the Social Security Act”.

42 USC 1395u
note.

(ii) Section 4164(b)(4) of OBRA-1990 is amended by striking “paragraph” and inserting “paragraphs”.

(B) DIRECTORY OF UNIQUE PHYSICIAN IDENTIFIER NUMBERS.—Section 4164(c) of OBRA-1990 is amended by striking “publish” and inserting “publish, and shall periodically update.”.

42 USC 1320a-3a
note.

(g) EFFECTIVE DATE.—Except as otherwise provided in this section, the amendments made by this section shall take effect as if included in the enactment of OBRA-1990.

Subtitle C—Provisions Relating to Parts A and B

SEC. 151. MEDICARE SECONDARY PAYER REFORMS.

(a) IMPROVING IDENTIFICATION OF MEDICARE SECONDARY PAYER SITUATIONS.—

(1) SURVEY OF BENEFICIARIES.—

(A) IN GENERAL.—Section 1862(b)(5) (42 U.S.C. 1395y(b)(5)) is amended by adding at the end the following new subparagraph:

“(D) OBTAINING INFORMATION FROM BENEFICIARIES.—Before an individual applies for benefits under part A or enrolls under part B, the Administrator shall mail the individual a questionnaire to obtain information on whether the individual is covered under a primary plan and the

nature of the coverage provided under the plan, including the name, address, and identifying number of the plan.”.

(B) DISTRIBUTION OF QUESTIONNAIRE BY CONTRACTOR.—The Secretary of Health and Human Services shall enter into an agreement with an entity not later than 60 days after the date of the enactment of the Social Security Act Amendments of 1994, to distribute the questionnaire described in section 1862(b)(5)(D) of the Social Security Act (as added by subparagraph (A)).

42 USC 1395y
note.

(C) NO MEDICARE SECONDARY PAYER DENIAL BASED ON FAILURE TO COMPLETE QUESTIONNAIRE.—Section 1862(b)(2) (42 U.S.C. 1395y(b)(2)) is amended by adding at the end the following new subparagraph:

“(C) TREATMENT OF QUESTIONNAIRES.—The Secretary may not fail to make payment under subparagraph (A) solely on the ground that an individual failed to complete a questionnaire concerning the existence of a primary plan.”.

(2) MANDATORY SCREENING BY PROVIDERS AND SUPPLIERS UNDER PART B.—

(A) IN GENERAL.—Section 1862(b) (42 U.S.C. 1395y(b)) is amended by adding at the end the following new paragraph:

“(6) SCREENING REQUIREMENTS FOR PROVIDERS AND SUPPLIERS.—

“(A) IN GENERAL.—Notwithstanding any other provision of this title, no payment may be made for any item or service furnished under part B unless the entity furnishing such item or service completes (to the best of its knowledge and on the basis of information obtained from the individual to whom the item or service is furnished) the portion of the claim form relating to the availability of other health benefit plans.

“(B) PENALTIES.—An entity that knowingly, willfully, and repeatedly fails to complete a claim form in accordance with subparagraph (A) or provides inaccurate information relating to the availability of other health benefit plans on a claim form under such subparagraph shall be subject to a civil money penalty of not to exceed \$2,000 for each such incident. The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under the previous sentence in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).”.

(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) shall apply with respect to items and services furnished on or after the expiration of the 120-day period beginning on the date of the enactment of this Act.

42 USC 1395y
note.

(b) IMPROVEMENTS IN RECOVERY OF PAYMENTS FROM PRIMARY PAYERS.—

(1) SUBMISSION OF REPORTS ON EFFORTS TO RECOVER ERRONEOUS PAYMENTS.—

(A) FISCAL INTERMEDIARIES UNDER PART A.—Section 1816 (42 U.S.C. 1396h) is amended by adding at the end the following new subsection:

42 USC 1395h.

“(k) An agreement with an agency or organization under this section shall require that such agency or organization submit an annual report to the Secretary describing the steps taken to recover payments made for items or services for which payment has been or could be made under a primary plan (as defined in section 1862(b)(2)(A)).”

(B) CARRIERS UNDER PART B.—Section 1842(b)(3) (42 U.S.C. 1395u(b)(3)) is amended—

- (i) by striking “and” at the end of subparagraph (G);
- (ii) by striking “and” at the end of subparagraph (H); and
- (iii) by inserting after subparagraph (H) the following new subparagraph:

“(I) will submit annual reports to the Secretary describing the steps taken to recover payments made under this part for items or services for which payment has been or could be made under a primary plan (as defined in section 1862(b)(2)(A)); and”.

(2) REQUIREMENTS UNDER CARRIER PERFORMANCE EVALUATION PROGRAM.—

42 USC 1395h.

(A) FISCAL INTERMEDIARIES UNDER PART A.—Section 1816(f)(1)(A) (42 U.S.C. 1396h(f)(1)(A)) is amended by striking “processing” and inserting “processing (including the agency’s or organization’s success in recovering payments made under this title for services for which payment has been or could be made under a primary plan (as defined in section 1862(b)(2)(A)))”.

(B) CARRIERS UNDER PART B.—Section 1842(b)(2) (42 U.S.C. 1395u(b)(2)) is amended by adding at the end the following new subparagraph:

“(D) In addition to any other standards and criteria established by the Secretary for evaluating carrier performance under this paragraph relating to avoiding erroneous payments, the carrier shall be subject to standards and criteria relating to the carrier’s success in recovering payments made under this part for items or services for which payment has been or could be made under a primary plan (as defined in section 1862(b)(2)(A)).”

(3) DEADLINE FOR REIMBURSEMENT BY PRIMARY PLANS.—

(A) IN GENERAL.—Section 1862(b)(2)(B)(i) (42 U.S.C. 1395y(b)(2)(B)(i)) is amended by adding at the end the following sentence: “If reimbursement is not made to the appropriate Trust Fund before the expiration of the 60-day period that begins on the date such notice or other information is received, the Secretary may charge interest (beginning with the date on which the notice or other information is received) on the amount of the reimbursement until reimbursement is made (at a rate determined by the Secretary in accordance with regulations of the Secretary of the Treasury applicable to charges for late payments).”

42 USC 1395y.

(B) CONFORMING AMENDMENT.—The heading of clause (i) of section 1862(b)(2)(B) is amended to read as follows: “REPAYMENT REQUIRED.—”

42 USC 1395y
note.

(C) EFFECTIVE DATE.—The amendments made by this paragraph shall apply to payments for items and services

furnished on or after the date of the enactment of this Act.

(4) EFFECTIVE DATE.—The amendments made by paragraphs (1) and (2) shall apply to contracts with fiscal intermediaries and carriers under title XVIII of the Social Security Act for contract years beginning with 1995.

(c) MISCELLANEOUS AND TECHNICAL CORRECTIONS.—

(1) Effective as if included in the enactment of OBRA-1993, section 1862(b)(1)(A) (42 U.S.C. 1395y(b)(1)(A)), as amended by section 13561(e)(1) of OBRA-1993, is amended—

(A) in clause (i)(II), by striking “over (and the individual’s spouse age 65 or older) who is covered under the plan by virtue of the individual’s current employment status with an employer” and inserting “older (and the spouse age 65 or older of any individual) who has current employment status with an employer”; and

(B) in clause (ii), by striking “or employee organization that has 20 or more individuals in current employment status” and inserting “that has 20 or more employees”.

(2) Effective as if included in the enactment of OBRA-1993, section 1837(i) (42 U.S.C. 1395p(i)) is amended—

(A) by striking “as an active individual (as those terms are defined in section 1862(b)(1)(B)(iv))” each place it appears in the second sentence of paragraph (1), and the second sentence of paragraph (2) and inserting “(as that term is defined in section 1862(b)(1)(B)(iv)) by reason of the individual’s current employment status (or the current employment status of a family member of the individual)”; and

(B) in paragraph (3)(B), by striking “as an active individual in a large group health plan (as such terms are defined in section 1862(b)(1)(B)(iv))” and inserting “in a large group health plan (as that term is defined in section 1862(b)(1)(B)(iv)) by reason of the individual’s current employment status (or the current employment status of a family member of the individual)”; and

(C) in the second sentence of paragraph (2) (as amended by subparagraph (A)), by striking “as an active individual” and inserting “by reason of the individual’s current employment status (or the current employment status of a family member of the individual)”; and

(D) by inserting “status” after “current employment” each place it appears in paragraphs (1)(A), (2)(B), (2)(C), and (3)(A).

(3) Effective as if included in the enactment of OBRA-1993, the second sentence of section 1839(b) (42 U.S.C. 1395r(b)) is amended—

(A) by inserting “status” after “current employment”, and

(B) by striking “as an active individual (as those terms are defined in section 1862(b)(1)(B)(iv))” and inserting “(as that term is defined in section 1862(b)(1)(B)(iv)) by reason of the individual’s current employment status (or the current employment status of a family member of the individual)”.

(4) Effective as if included in the enactment of OBRA-1990, the sentence in section 1862(b)(1)(C) added by section

4203(c)(1)(B) of OBRA-1990 is amended by striking “clauses (i) and (ii)” and inserting “this subparagraph”.

42 USC 1395y.

(5) Effective as if included in the enactment of OBRA-1989, section 1862(b)(1)(C) is amended in the matter after clause (ii), by striking “taking into account that” and inserting “paying benefits secondary to this title when”.

(6) Effective as if included in the enactment of OBRA-1989, section 1862(b)(5)(C)(i) (42 U.S.C. 1395y(b)(5)(C)(i)) is amended by striking “6103(l)(12)(D)(iii)” and inserting “6103(l)(12)(E)(iii)”.

42 USC 1395y
note.

(7) Effective as if included in the enactment of OBRA-1990, section 4203(c)(2) of such Act is amended—

(A) by striking “the application of clause (iii)” and inserting “the second sentence”;

(B) by striking “on individuals” and all that follows through “section 226A of such Act”;

(C) in clause (ii), by striking “clause” and inserting “sentence”;

(D) in clause (v), by adding “and” at the end; and

(E) in clause (vi)—

(i) by inserting “of such Act” after “1862(b)(1)(C)”, and

(ii) by striking the period at the end and inserting the following: “, without regard to the number of employees covered by such plans.”.

(8) Effective as if included in the enactment of OBRA-1990, section 4203(d) of OBRA-1990 is amended by striking “this subsection” and inserting “this section”.

26 USC 6103
note.

(9) Effective as if included in the enactment of OBRA-1993, section 13561(e)(1)(D) of OBRA-1993 is amended—

(A) by inserting “effective as if included in the enactment of OBRA-1989,” after “(D)”, and

(B) by striking “of each subparagraph”.

42 USC 1395y
note.

42 USC 1395y.

42 USC 1395y
note.

(10) The amendment made by section 13561(e)(1)(G) of OBRA-1993, to the extent it relates to the definition of large group health plan, shall be effective as if included in the enactment of OBRA-1989.

SEC. 152. PHYSICIAN OWNERSHIP AND REFERRAL.

(a) IN GENERAL.—Section 1877(f) (42 U.S.C. 1395nn) is amended—

(1) in the matter before paragraph (1), by inserting “, investment, and compensation” after “ownership”;

(2) in paragraph (2), by inserting “, or with a compensation arrangement (as described in subsection (a)(2)(B)),” after “investment interest (as described in subsection (a)(2)(A))”;

(3) in paragraph (2), by inserting “interest or who have such a compensation relationship with the entity” before the period at the end;

(4) in the fourth sentence, by striking “covered items and” and inserting “designated health”; and

(5) by striking the third and fifth sentences.

(b) RADIOLOGY SERVICES.—Section 1877(h)(6) (42 U.S.C. 1395nn(h)(6)), as amended by section 13562(a)(2) of OBRA-1993, is amended—

(1) in subparagraph (D), by striking “or other diagnostic services” and inserting “services, including magnetic resonance

imaging, computerized axial tomography scans, and ultrasound services"; and

(2) in subparagraphs (E), (F), and (H), by inserting "and supplies" before the period at the end.

(c) REVISION OF EFFECTIVE DATE EXCEPTION PROVISION.—Section 13562(b)(2) of OBRA-1993 is amended by striking subparagraphs (A) and (B) and inserting the following:

42 USC 1395nn
note.

"(A) the second sentence of subsection (a)(2), and subsections (b)(2)(B) and (d)(2), of section 1877 of the Social Security Act (as in effect on the day before the date of the enactment of this Act) shall apply instead of the corresponding provisions in section 1877 (as amended by this Act);

"(B) section 1877(b)(4) of the Social Security Act (as in effect on the day before the date of the enactment of this Act) shall apply;

"(C) the requirements of section 1877(c)(2) of the Social Security Act (as amended by this Act) shall not apply to any securities of a corporation that meets the requirements of section 1877(c)(2) of the Social Security Act (as in effect on the day before the date of the enactment of this Act);

"(D) section 1877(e)(3) of the Social Security Act (as amended by this Act) shall apply, except that it shall not apply to any arrangement that meets the requirements of subsection (e)(2) or subsection (e)(3) of section 1877 of the Social Security Act (as in effect on the day before the date of the enactment of this Act);

"(E) the requirements of clauses (iv) and (v) of section 1877(h)(4)(A), and of clause (i) of section 1877(h)(4)(B), of the Social Security Act (as amended by this Act) shall not apply; and

"(F) section 1877(h)(4)(B) of the Social Security Act (as in effect on the day before the date of the enactment of this Act) shall apply instead of section 1877(h)(4)(A)(ii) of such Act (as amended by this Act)."

(d) EFFECTIVE DATES.—

42 USC 1395nn
note.

(1) The amendments made by subsections (a) and (b) shall apply to referrals made on or after January 1, 1995.

(2) The amendment made by subsection (c) shall apply as if included in the enactment of OBRA-1993.

SEC. 153. DEFINITION OF FMGEMS EXAMINATION FOR PAYMENT OF DIRECT GRADUATE MEDICAL EDUCATION.

(a) IN GENERAL.—Section 1886(h)(5)(E) (42 U.S.C. 1395ww(h)(5)(E)) is amended by inserting "or any successor examination" after "Medical Sciences".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply as if included in the enactment of the Consolidated Omnibus Budget Reconciliation Act of 1985 (Public Law 99-272).

42 USC 1395ww
note.

SEC. 154. QUALIFIED MEDICARE BENEFICIARY OUTREACH.

42 USC 1395b-3
note.

Not later than 1 year after the date of the enactment of this Act, the Secretary of Health and Human Services shall establish and implement a method for obtaining information from newly eligible medicare beneficiaries that may be used to determine whether such beneficiaries may be eligible for medical assistance for medicare cost-sharing under State medicaid plans as qualified

medicare beneficiaries, and for transmitting such information to the State in which such a beneficiary resides.

SEC. 155. HOSPITAL AGREEMENTS WITH ORGAN PROCUREMENT ORGANIZATIONS.

(a) HOSPITAL AGREEMENTS.—

(1) IN GENERAL.—

(A) IDENTIFICATION OF ORGAN DONORS.—Section 1138(a)(1)(A)(iii) (42 U.S.C. 1320b-8(a)(1)(A)(iii)) is amended to read as follows:

“(iii) require that such hospital’s designated organ procurement agency (as defined in paragraph (3)(B)) is notified of potential organ donors;”.

(B) AGREEMENTS WITH DESIGNATED ORGAN PROCUREMENT AGENCIES.—Section 1138(a)(1) (42 U.S.C. 1320b-8(a)(1)) is amended—

(i) by striking the period at the end of subparagraph (B) and inserting “; and”; and

(ii) by adding at the end the following new subparagraph:

“(C) the hospital or rural primary care hospital has an agreement (as defined in paragraph (3)(A)) only with such hospital’s designated organ procurement agency.”.

(C) WAIVER OF REQUIREMENTS RELATED TO AGREEMENTS.—Section 1138(a) (42 U.S.C. 1320b-8(a)) is amended—

(i) by redesignating paragraph (2) as paragraph (3); and

(ii) by inserting after paragraph (1) the following new paragraph:

“(2)(A) The Secretary shall grant a waiver of the requirements under subparagraphs (A)(iii) and (C) of paragraph (1) to a hospital or rural primary care hospital desiring to enter into an agreement with an organ procurement agency other than such hospital’s designated organ procurement agency if the Secretary determines that—

“(i) the waiver is expected to increase organ donation; and

“(ii) the waiver will assure equitable treatment of patients referred for transplants within the service area served by such hospital’s designated organ procurement agency and within the service area served by the organ procurement agency with which the hospital seeks to enter into an agreement under the waiver.

“(B) In making a determination under subparagraph (A), the Secretary may consider factors that would include, but not be limited to—

“(i) cost effectiveness;

“(ii) improvements in quality;

“(iii) whether there has been any change in a hospital’s designated organ procurement agency due to a change made on or after December 28, 1992, in the definitions for metropolitan statistical areas (as established by the Office of Management and Budget); and

“(iv) the length and continuity of a hospital’s relationship with an organ procurement agency other than the hospital’s designated organ procurement agency;

except that nothing in this subparagraph shall be construed to permit the Secretary to grant a waiver that does not meet the requirements of subparagraph (A).

“(C) Any hospital or rural primary care hospital seeking a waiver under subparagraph (A) shall submit an application to the Secretary containing such information as the Secretary determines appropriate.

“(D) The Secretary shall—

“(i) publish a public notice of any waiver application received from a hospital or rural primary care hospital under this paragraph within 30 days of receiving such application; and

“(ii) prior to making a final determination on such application under subparagraph (A), offer interested parties the opportunity to submit written comments to the Secretary during the 60-day period beginning on the date such notice is published.”

(D) DEFINITIONS.—Section 1138(a)(3) (42 U.S.C. 1320b-8(a)(3)), as redesignated by subparagraph (C), is amended to read as follows:

“(3) For purposes of this subsection—

“(A) the term ‘agreement’ means an agreement described in section 371(b)(3)(A) of the Public Health Service Act;

“(B) the term ‘designated organ procurement agency’ means, with respect to a hospital or rural primary care hospital, the organ procurement agency designated pursuant to subsection (b) for the service area in which such hospital is located; and

“(C) the term ‘organ’ means a human kidney, liver, heart, lung, pancreas, and any other human organ or tissue specified by the Secretary for purposes of this subsection.”

(2) EXISTING AGREEMENTS.—Any hospital or rural primary care hospital which has an agreement (as defined in section 1138(a)(3)(A) of the Social Security Act) with an organ procurement agency other than such hospital’s designated organ procurement agency (as defined in section 1138(a)(3)(B) of such Act) on the date of the enactment of this section shall, if such hospital desires to continue such agreement on and after the effective date of the amendments made by paragraph (1), submit an application to the Secretary for a waiver under section 1138(a)(2) of such Act not later than January 1, 1996, and such agreement may continue in effect pending the Secretary’s determination with respect to such application.

(3) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to hospitals and rural primary care hospitals participating in the programs under titles XVIII and XIX of the Social Security Act beginning January 1, 1996.

(b) STUDY ON HOSPITAL AGREEMENTS WITH ORGAN PROCUREMENT AGENCIES.—

(1) IN GENERAL.—The Office of Technology Assessment (referred to in this section as the “OTA”) shall, pursuant to the approval of the Technology Assessment Board of the OTA, conduct a study to determine the efficacy and fairness of requiring a hospital to enter into an agreement under section 371(b)(3)(A) of the Public Health Service Act with the organ procurement agency designated pursuant to section 1138(b) of the Social Security Act for the service area in which such

42 USC 1320b-8 note.

42 USC 1320b-8 note.

42 USC 273 note.

hospital is located and the impact of such requirement on the efficacy and fairness of organ procurement and distribution.

(2) REPORT.—Not later than 2 years after the date of the enactment of this Act, the OTA shall complete the study required under paragraph (1) and prepare and submit to the Committee on Finance and the Committee on Labor and Human Resources of the Senate and the Committee on Ways and Means and the Committee on Energy and Commerce of the House of Representatives a report containing the findings of such study and the implications of such findings with respect to policies affecting organ procurement and distribution.

SEC. 156. PEER REVIEW ORGANIZATIONS.

(a) REPEAL OF PRO PRECERTIFICATION REQUIREMENT FOR CERTAIN SURGICAL PROCEDURES.—

(1) IN GENERAL.—Section 1164 (42 U.S.C. 1320c-13) is repealed.

(2) CONFORMING AMENDMENTS.—

(A) Section 1154 (42 U.S.C. 1320c-3) is amended—

(i) in subsection (a), by striking paragraph (12), and

(ii) in subsection (d), by striking “(and except as provided in section 1164)”.

(B) Section 1833 (42 U.S.C. 1395l) is amended—

(i) in subsection (a)(1)(D)(i), by striking “, or for tests furnished in connection with obtaining a second opinion required under section 1164(c)(2) (or a third opinion, if the second opinion was in disagreement with the first opinion)”;

(ii) in subsection (a)(1), by striking subparagraph (G);

(iii) in subsection (a)(2)(A), by striking “, to items and services (other than clinical diagnostic laboratory tests) furnished in connection with obtaining a second opinion required under section 1164(c)(2) (or a third opinion, if the second opinion was in disagreement with the first opinion),”;

(iv) in subsection (a)(2)(D)(i)—

(I) by striking “basis,” and inserting “basis or”, and

(II) by striking “, or for tests furnished in connection with obtaining a second opinion required under section 1164(c)(2) (or a third opinion, if the second opinion was in disagreement with the first opinion)”;

(v) in subsection (a)(3), by striking “and for items and services furnished in connection with obtaining a second opinion required under section 1164(c)(2), or a third opinion, if the second opinion was in disagreement with the first opinion”; and

(vi) in the first sentence of subsection (b), by striking “(4)” and all that follows through “and (5)” and inserting “and (4)”.

(C) Section 1834(g)(1)(B) (42 U.S.C. 1395m(g)(1)(B)) is amended by striking “and for items and services furnished in connection with obtaining a second opinion required under section 1164(c)(2), or a third opinion, if

the second opinion was in disagreement with the first opinion”.

- (D) Section 1862(a) (42 U.S.C. 1395y(a)) is amended—
- (i) by adding “or” at the end of paragraph (14),
 - (ii) by striking “; or” at the end of paragraph (15) and inserting a period, and
 - (iii) by striking paragraph (16).

(E) The third sentence of section 1866(a)(2)(A) (42 U.S.C. 1395w(a)(2)(A)) is amended by striking “, with respect to items and services furnished in connection with obtaining a second opinion required under section 1164(c)(2) (or a third opinion, if the second opinion was in disagreement with the first opinion),”.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to services provided on or after the date of the enactment of this Act.

42 USC 1320c-3 note.

(b) MISCELLANEOUS AND TECHNICAL CORRECTIONS.—(1) The third sentence of section 1156(b)(1) (42 U.S.C. 1320c-5(b)(1)) is amended by striking “whehter” and inserting “whether”.

(2)(A) Section 1154(a)(9)(B) (42 U.S.C. 1320c-3(a)(9)(B)) is amended to read as follows:

“(B) If the organization finds, after reasonable notice to and opportunity for discussion with the physician or practitioner concerned, that the physician or practitioner has furnished services in violation of section 1156(a) and the organization determines that the physician or practitioner should enter into a corrective action plan under section 1156(b)(1), the organization shall notify the State board or boards responsible for the licensing or disciplining of the physician or practitioner of its finding and of any action taken as a result of the finding.”

(B) Subparagraph (D) of section 1160(b)(1) (42 U.S.C. 1320c-9(b)(1)) is amended to read as follows:

“(D) to provide notice in accordance with section 1154(a)(9)(B);”

(3) Section 4205(d)(2)(B) of OBRA-1990 is amended by striking “amendments” and inserting “amendment”.

42 USC 1320c-5 note.

(4) Section 1160(d) (42 U.S.C. 1320c-9(d)) is amended by striking “subpena” and inserting “subpoena”.

(5) Section 4205(e)(2) of OBRA-1990 is amended by striking “amendments” and inserting “amendment” and by striking “all”.

42 USC 1320c-9 note.

(6)(A) Except as provided in subparagraph (B), the amendments made by this subsection shall take effect as if included in the enactment of OBRA-1990.

42 USC 1320c-9 note.

(B) The amendments made by paragraph (2) (relating to the requirement on reporting of information to State boards) shall take effect on the date of the enactment of this Act.

Effective date.

SEC. 157. HEALTH MAINTENANCE ORGANIZATIONS.

(a) REVISIONS IN THE PAYMENT METHODOLOGY FOR RISK CONTRACTORS.—Section 4204(b) of OBRA-1990 is amended to read as follows:

42 USC 1395mm note.

“(b) REVISIONS IN THE PAYMENT METHODOLOGY FOR RISK CONTRACTORS.—(1)(A) Not later than October 1, 1995, the Secretary of Health and Human Services (in this subsection referred to as the ‘Secretary’) shall submit a proposal to the Congress that provides for revisions to the payment method to be applied in years

beginning with 1997 for organizations with a risk-sharing contract under section 1876(g) of the Social Security Act.

“(B) In proposing the revisions required under subparagraph (A), the Secretary shall consider—

“(i) the difference in costs associated with medicare beneficiaries with differing health status and demographic characteristics; and

“(ii) the effects of using alternative geographic classifications on the determinations of costs associated with beneficiaries residing in different areas.

Reports.

“(2) Not later than 3 months after the date of submittal of the proposal under paragraph (1), the Comptroller General shall review the proposal and shall report to Congress on the appropriateness of the proposed modifications.”.

(b) MISCELLANEOUS AND TECHNICAL CORRECTIONS.—(1) Section 1876(a)(3) (42 U.S.C. 1395mm(a)(3)) is amended by striking “subsection (c)(7)” and inserting “subsections (c)(2)(B)(ii) and (c)(7)”.

42 USC 1395mm
note.

(2) Section 4204(c)(3) of OBRA-1990 is amended by striking “for 1991” and inserting “for years beginning with 1991”.

(3) Section 4204(d)(2) of OBRA-1990 is amended by striking “amendment” and inserting “amendments”.

(4) Section 1876(a)(1)(E)(ii)(I) (42 U.S.C. 1395mm(a)(1)(E)(ii)(I)) is amended by striking the comma after “contributed to”.

(5) Section 4204(e)(2) of OBRA-1990 is amended by striking “(which has a risk-sharing contract under section 1876 of the Social Security Act)”.

(6) Section 4204(f)(4) of OBRA-1990 is amended by striking “final”.

(7) Section 1862(b)(3)(C) (42 U.S.C. 1395y(b)(3)(C)) is amended—

(A) in the heading, by striking “PLAN” and inserting “PLAN OR A LARGE GROUP HEALTH PLAN”;

(B) by striking “group health plan” and inserting “group health plan or a large group health plan”;

(C) by striking “, unless such incentive is also offered to all individuals who are eligible for coverage under the plan”; and

(D) by striking “the first sentence of subsection (a) and other than subsection (b)” and inserting “subsections (a) and (b)”.

42 USC 1395y
note.

(8) The amendments made by this subsection shall take effect as if included in the enactment of OBRA-1990.

SEC. 158. HOME HEALTH AGENCIES.

(a) USE OF MOST CURRENT DATA IN DETERMINING WAGE INDEX.—

(1) IN GENERAL.—Section 1861(v)(1)(L)(iii) (42 U.S.C. 1395x(v)(1)(L)(iii)) is amended by striking “as of such date to” and inserting “and determined using the survey of the most recent available wages and wage-related costs of”.

42 USC 1395x
note.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply with respect to cost reporting periods beginning on or after July 1, 1996.

(b) CLARIFICATION OF EXTENSION OF WAIVER OF LIABILITY.—

(1) IN GENERAL.—The second sentence of section 9205 of the Consolidated Omnibus Budget Reconciliation Act of 1985

42 USC 1395y
note.

is amended by striking "November 1, 1990" and inserting "December 31, 1995".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect as if included in the enactment of OBRA-1990.

42 USC 1395y
note.

SEC. 159. PERMANENT EXTENSION OF AUTHORITY TO CONTRACT WITH FISCAL INTERMEDIARIES AND CARRIERS ON OTHER THAN A COST BASIS.

(a) IN GENERAL.—Section 2326(a) of the Deficit Reduction Act of 1984, as amended by section 6215 of OBRA-1989, is amended in the third sentence by striking "during such period" and inserting "beginning with fiscal year 1990 and any subsequent fiscal year".

42 USC 1395h
note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply beginning with fiscal year 1994.

42 USC 1395h
note.

SEC. 160. MISCELLANEOUS AND TECHNICAL CORRECTIONS.

(a) SURVEY AND CERTIFICATION REQUIREMENTS.—(1) Section 1864 (42 U.S.C. 1395aa) is amended—

(A) in subsection (e), by striking "title" and inserting "title (other than any fee relating to section 353 of the Public Health Service Act)"; and

(B) in the first sentence of subsection (a), by striking "1861(s) or" and all that follows through "Service Act," and inserting "1861(s)".

(2) An agreement made by the Secretary of Health and Human Services with a State under section 1864(a) of the Social Security Act may include an agreement that the services of the State health agency or other appropriate State agency (or the appropriate local agencies) will be utilized by the Secretary for the purpose of determining whether a laboratory meets the requirements of section 353 of the Public Health Service Act.

42 USC 1395aa
note.

(b) HOME DIALYSIS DEMONSTRATION TECHNICAL CORRECTIONS.—Section 4202 of OBRA-1990 is amended—

(1) in subsection (b)(1)(A), by striking "home hemodialysis staff assistant" and inserting "qualified home hemodialysis staff assistant (as described in subsection (d))";

(2) in subsection (b)(2)(B)(ii)(I), by striking "(as adjusted to reflect differences in area wage levels)";

(3) in subsection (c)(1)(A), by striking "skilled"; and

(4) in subsection (c)(1)(E), by striking "(b)(4)" and inserting "(b)(2)".

42 USC 1395rr
note.

(c) TECHNICAL CORRECTION TO REVISIONS OF COVERAGE FOR IMMUNOSUPPRESSIVE DRUG THERAPY.—The Secretary of Health and Human Services may administer section 1861(s)(2)(J) of the Social Security Act (42 U.S.C. 1395x(s)(2)(J)) in a manner such that the months of coverage of drugs described in such section are provided consecutively, so long as the total number of months of coverage provided is the same as the number of months described in such section.

42 USC 1395x
note.

(d) OTHER MISCELLANEOUS AND TECHNICAL PROVISIONS.—(1) Section 1833 (42 U.S.C. 1395l) is amended by redesignating the subsection (r) added by section 4206(b)(2) of OBRA-1990 as subsection (s).

42 USC 1395l.

(2) Section 1866(f)(1) (42 U.S.C. 1395cc(f)(1)) is amended by striking "1833(r)" and inserting "1833(s)".

- 42 USC 1395rr. (3) Section 4201(d)(2) of OBRA-1990 is amended by striking “(B) by striking”, “(C) by striking”, and “(3) by adding” and inserting “(i) by striking”, “(ii) by striking”, and “(B) by adding”, respectively.
- (4) The section following section 4206 of OBRA-1990 is amended by striking “SEC. 4027.” and inserting “SEC. 4207.”, and in this subtitle is referred to as section 4207 of OBRA-1990.
- 42 USC 1395dd. (5)(A) Section 4207(a)(1) of OBRA-1990 is amended by adding closing quotation marks and a period after “such review.”.
- 42 USC 1395dd note. (B) Section 4207(a)(4) of OBRA-1990 is amended by striking “this subsection” and inserting “paragraphs (2) and (3)”.
- 42 USC 1395ww note. (C) Section 4207(b)(1) of OBRA-1990 is amended by striking “section 3(7)” and inserting “section 601(a)(1)”.
- (6) Section 2355(b)(1)(B) of the Deficit Reduction Act of 1984, as amended by section 4207(b)(4)(B)(ii) of OBRA-1990, is amended—
- (A) by striking “12907(c)(4)(A)” and inserting “4207(b)(4)(B)(i)”, and
- (B) by striking “feasibilitly” and inserting “feasibility”.
- (7) Section 4207(b)(4)(B)(iii)(III) of OBRA-1990 is amended by striking the period at the end and inserting a semicolon.
- (8) Subsections (c)(3) and (e) of section 2355 of the Deficit Reduction Act of 1984, as amended by section 4207(b)(4)(B) of OBRA-1990, are each amended by striking “12907(c)(4)(A)” each place it appears and inserting “4207(b)(4)(B)”.
- 42 USC 1395x note. (9) Section 4207(c)(2) of OBRA-1990 is amended by striking “the Committee on Ways and Means” each place it appears and inserting “the Committees on Ways and Means and Energy and Commerce”.
- 42 USC 1395x note. (10) Section 4207(d) of OBRA-1990 is amended by redesignating the second paragraph (3) (relating to effective date) as paragraph (4).
- 42 USC 1395bbb note. (11) Section 4207(i)(2) of OBRA-1990 is amended—
- (A) by striking the period at the end of clause (iii) and inserting a semicolon, and
- (B) in clause (v), by striking “residents” and inserting “patients”.
- 42 USC 1395hh note. (12) Section 4207(j) of OBRA-1990 is amended by striking “title” each place it appears and inserting “subtitle”.

Subtitle D—Provisions Relating to Medicare Supplemental Insurance Policies

SEC. 171. STANDARDS FOR MEDICARE SUPPLEMENTAL INSURANCE POLICIES.

- 42 USC 1395ss. (a) SIMPLIFICATION OF MEDICARE SUPPLEMENTAL POLICIES.—
- (1) Section 4351 of OBRA-1990 is amended by striking “(a) IN GENERAL.—”.
- (2) Section 1882(p) (42 U.S.C. 1395ss(p)) is amended—
- (A) in paragraph (1)(A)—
- (i) by striking “promulgates” and inserting “changes the revised NAIC Model Regulation (described in subsection (m)) to incorporate”,
- (ii) by striking “(such limitations, language, definitions, format, and standards referred to collectively in this subsection as ‘NAIC standards’),” and

(iii) by striking “included a reference to the NAIC standards” and inserting “were a reference to the revised NAIC Model Regulation as changed under this subparagraph (such changed regulation referred to in this section as the ‘1991 NAIC Model Regulation’)”;

(B) in paragraph (1)(B)—

(i) by striking “promulgate NAIC standards” and inserting “make the changes in the revised NAIC Model Regulation”;

(ii) by striking “limitations, language, definitions, format, and standards described in clauses (i) through (iv) of such subparagraph (in this subsection referred to collectively as ‘Federal standards’)” and inserting “a regulation”, and

(iii) by striking “included a reference to the Federal standards” and inserting “were a reference to the revised NAIC Model Regulation as changed by the Secretary under this subparagraph (such changed regulation referred to in this section as the ‘1991 Federal Regulation’)”;

(C) in paragraph (1)(C)(i), by striking “NAIC standards or the Federal standards” and inserting “1991 NAIC Model Regulation or 1991 Federal Regulation”;

(D) in paragraphs (1)(C)(ii)(I), (1)(E), (2), and (9)(B), by striking “NAIC or Federal standards” and inserting “1991 NAIC Model Regulation or 1991 Federal Regulation”;

(E) in paragraph (2)(C), by striking “(5)(B)” and inserting “(4)(B)”;

(F) in paragraph (4)(A)(i), by inserting “or paragraph (6)” after “(B)”;

(G) in paragraph (4), by striking “applicable standards” each place it appears and inserting “applicable 1991 NAIC Model Regulation or 1991 Federal Regulation”;

(H) in paragraph (6), by striking “in regard to the limitation of benefits described in paragraph (4)” and inserting “described in clauses (i) through (iii) of paragraph (1)(A)”;

(I) in paragraph (7), by striking “policyholder” and inserting “policyholders”;

(J) in paragraph (8), by striking “after the effective date of the NAIC or Federal standards with respect to the policy, in violation of the previous requirements of this subsection” and inserting “on and after the effective date specified in paragraph (1)(C) (but subject to paragraph (10)), in violation of the applicable 1991 NAIC Model Regulation or 1991 Federal Regulation insofar as such regulation relates to the requirements of subsection (o) or (q) or clause (i), (ii), or (iii) of paragraph (1)(A)”;

(K) in paragraph (9), by adding at the end the following new subparagraph:

“(D) Subject to paragraph (10), this paragraph shall apply to sales of policies occurring on or after the effective date specified in paragraph (1)(C).”; and

(L) in paragraph (10), by striking “this subsection” and inserting “paragraph (1)(A)(i)”.

(b) GUARANTEED RENEWABILITY.—Section 1882(q) (42 U.S.C. 1395ss(q)) is amended—

(1) in paragraph (2), by striking “paragraph (2)” and inserting “paragraph (4)”, and

(2) in paragraph (4), by striking “the succeeding issuer” and inserting “issuer of the replacement policy”.

(c) ENFORCEMENT OF STANDARDS.—

(1) Section 1882(a)(2) (42 U.S.C. 1395ss(a)(2)) is amended—

(A) in subparagraph (A), by striking “NAIC standards or the Federal standards” and inserting “1991 NAIC Model Regulation or 1991 Federal Regulation”, and

(B) by striking “after the effective date of the NAIC or Federal standards with respect to the policy” and inserting “on and after the effective date specified in subsection (p)(1)(C)”.

(2) The sentence in section 1882(b)(1) added by section 4353(c)(5) of OBRA-1990 is amended—

(A) by striking “The report” and inserting “Each report”,

(B) by inserting “and requirements” after “standards”,

(C) by striking “and” after “compliance”, and

(D) by striking the comma after “Commissioners”.

(3) Section 1882(g)(2)(B) (42 U.S.C. 1395ss(g)(2)(B)) is

amended by striking “Panel” and inserting “Secretary”.

(4) Section 1882(b)(1) (42 U.S.C. 1395ss(b)(1)) is amended by striking “the the Secretary” and inserting “the Secretary”.

(d) PREVENTING DUPLICATION.—

(1) Section 1882(d)(3)(A) (42 U.S.C. 1395ss(d)(3)(A)) is amended—

(A) by amending the first sentence to read as follows:

“(i) It is unlawful for a person to sell or issue to an individual entitled to benefits under part A or enrolled under part B of this title—

“(I) a health insurance policy with knowledge that the policy duplicates health benefits to which the individual is otherwise entitled under this title or title XIX,

“(II) a medicare supplemental policy with knowledge that the individual is entitled to benefits under another medicare supplemental policy, or

“(III) a health insurance policy (other than a medicare supplemental policy) with knowledge that the policy duplicates health benefits to which the individual is otherwise entitled, other than benefits to which the individual is entitled under a requirement of State or Federal law.”;

(B) by designating the second sentence as clause (ii) and, in such clause, by striking “the previous sentence” and inserting “clause (i)”;

(C) by designating the third sentence as clause (iii) and, in such clause—

(i) by striking “the previous sentence” and inserting “clause (i) with respect to the sale of a medicare supplemental policy”, and

(ii) by striking “and the statement” and all that follows up to the period at the end; and

(D) by striking the last sentence.

(2) Section 1882(d)(3)(B) (42 U.S.C. 1395ss(d)(3)(B)) is amended—

(A) in clause (ii)(II), by striking “65 years of age or older”,

(B) in clause (iii)(I), by striking “another medicare” and inserting “a medicare”,

(C) in clause (iii)(I), by striking “such a policy” and inserting “a medicare supplemental policy”,

(D) in clause (iii)(II), by striking “another policy” and inserting “a medicare supplemental policy”, and

(E) by amending subclause (III) of clause (iii) to read as follows:

“(III) If the statement required by clause (i) is obtained and indicates that the individual is entitled to any medical assistance under title XIX, the sale of the policy is not in violation of clause (i) (insofar as such clause relates to such medical assistance), if (aa) a State medicaid plan under such title pays the premiums for the policy, (bb) in the case of a qualified medicare beneficiary described in section 1905(p)(1), the policy provides for coverage of outpatient prescription drugs, or (cc) the only medical assistance to which the individual is entitled under the State plan is medicare cost sharing described in section 1905(p)(3)(A)(ii).”

(3)(A) Section 1882(d)(3)(C) (42 U.S.C. 1395ss(d)(3)(C)) is amended—

(i) by striking “the selling” and inserting “(i) the sale or issuance”, and

(ii) by inserting before the period at the end the following: “(ii) the sale or issuance of a policy or plan described in subparagraph (A)(i)(I) (other than a medicare supplemental policy to an individual entitled to any medical assistance under title XIX) under which all the benefits are fully payable directly to or on behalf of the individual without regard to other health benefit coverage of the individual but only if (for policies sold or issued more than 60 days after the date the statements are published or promulgated under subparagraph (D)) there is disclosed in a prominent manner as part of (or together with) the application the applicable statement (specified under subparagraph (D)) of the extent to which benefits payable under the policy or plan duplicate benefits under this title, or (iii) the sale or issuance of a policy or plan described in subparagraph (A)(i)(III) under which all the benefits are fully payable directly to or on behalf of the individual without regard to other health benefit coverage of the individual”.

(B) Section 1882(d)(3) (42 U.S.C. 1395ss(d)(3)) is amended by adding at the end the following:

“(D)(i) If—

“(I) within the 90-day period beginning on the date of the enactment of this subparagraph, the National Association of Insurance Commissioners develops (after consultation with consumer and insurance industry representatives) and submits to the Secretary a statement for each of the types of health insurance policies (other than medicare supplemental policies and including, but not limited to, as separate types of policies, policies paying directly to the beneficiary fixed, cash benefits, and policies that limit benefit payments to specific diseases) which are sold or issued to persons entitled to health benefits under this title, of the extent to which benefits payable under the policy or plan duplicate benefits under this title, and

“(II) the Secretary approves all the statements submitted as meeting the requirements of subclause (I), each such statement shall be (for purposes of subparagraph (C)) the statement specified under this subparagraph for the type of policy involved. The Secretary shall review and approve (or disapprove) all the statements submitted under subclause (I) within 30 days after the date of their submittal. Upon approval of such statements, the Secretary shall publish such statements.

“(ii) If the Secretary does not approve the statements under clause (i) or the statements are not submitted within the 90-day period specified in such clause, the Secretary shall promulgate (after consultation with consumer and insurance industry representatives and not later than 90 days after the date of disapproval or the end of such 90-day period (as the case may be)) a statement for each of the types of health insurance policies (other than medicare supplemental policies and including, but not limited to, as separate types of policies, policies paying directly to the beneficiary fixed, cash benefits, and policies that limit benefit payments to specific diseases) which are sold or issued to persons entitled to health benefits under this title, of the extent to which benefits payable under the policy or plan duplicate benefits under this title, and each such statement shall be (for purposes of subparagraph (C)) the statement specified under this subparagraph for the type of policy involved.”

42 USC 1395ss
note.

(C) The requirement of a disclosure under section 1882(d)(3)(C)(ii) of the Social Security Act shall not apply to an application made for a policy or plan before 60 days after the date the Secretary of Health and Human Services publishes or promulgates all the statements under section 1882(d)(3)(D) of such Act.

42 USC 1395ss.

(4) Subparagraphs (A) and (B) of section 1882(q)(5) are amended by striking “of the Social Security Act”.

(e) LOSS RATIOS AND REFUNDS OF PREMIUMS.—

(1) Section 1882(r) (42 U.S.C. 1395ss(r)) is amended—

(A) in paragraph (1), by striking “or sold” and inserting “or renewed (or otherwise provide coverage after the date described in subsection (p)(1)(C))”;

(B) in paragraph (1)(A), by inserting “for periods after the effective date of these provisions” after “the policy can be expected”;

(C) in paragraph (1)(A), by striking “Commissioners,” and inserting “Commissioners”;

(D) in paragraph (1)(B), by inserting before the period at the end the following: “, treating policies of the same type as a single policy for each standard package”;

(E) by adding at the end of paragraph (1) the following: “For the purpose of calculating the refund or credit required under paragraph (1)(B) for a policy issued before the date specified in subsection (p)(1)(C), the refund or credit calculation shall be based on the aggregate benefits provided and premiums collected under all such policies issued by an insurer in a State (separated as to individual and group policies) and shall be based only on aggregate benefits provided and premiums collected under such policies after the date specified in section 171(m)(4) of the Social Security Act Amendments of 1994.”;

(F) in the first sentence of paragraph (2)(A), by striking “by policy number” and inserting “by standard package”;

(G) by striking the second sentence of paragraph (2)(A) and inserting the following: “Paragraph (1)(B) shall not apply to a policy until 12 months following issue.”;

(H) in the last sentence of paragraph (2)(A), by striking “in order” and all that follows through “are effective”;

(I) by adding at the end of paragraph (2)(A), the following new sentence: “In the case of a policy issued before the date specified in subsection (p)(1)(C), paragraph (1)(B) shall not apply until 1 year after the date specified in section 171(m)(4) of the Social Security Act Amendments of 1994.”;

(J) in paragraph (2), by striking “policy year” each place it appears and inserting “calendar year”;

(K) in paragraph (4), by striking “February”, “disallowance”, “loss-ratios” each place it appears, and “loss-ratio” and inserting “October”, “disallowance”, “loss ratios”, and “loss ratio”, respectively;

(L) in paragraph (6)(A), by striking “issues a policy in violation of the loss ratio requirements of this subsection” and “such violation” and inserting “fails to provide refunds or credits as required in paragraph (1)(B)” and “policy issued for which such failure occurred”, respectively; and

(M) in paragraph (6)(B), by striking “to policyholders” and inserting “to the policyholder or, in the case of a group policy, to the certificate holder”.

(2) Section 1882(b)(1) (42 U.S.C. 1395ss(b)(1)) is amended, in the matter after subparagraph (H), by striking “subsection (F)” and inserting “subparagraph (F)”.

(3) Section 4355(d) of OBRA-1990 is amended by striking “sold or issued” and all that follows and inserting “issued or renewed (or otherwise providing coverage after the date described in section 1882(p)(1)(C) of the Social Security Act) on or after the date specified in section 1882(p)(1)(C) of the Social Security Act.”.

42 USC 1395ss
note.

(f) TREATMENT OF HMO'S.—

(1) Section 1882(g)(1) (42 U.S.C. 1395ss(g)(1)) is amended by striking “a health maintenance organization or other direct service organization” and all that follows through “1833” and inserting “an eligible organization (as defined in section 1876(b)) if the policy or plan provides benefits pursuant to a contract under section 1876 or an approved demonstration project described in section 603(c) of the Social Security Amendments of 1983, section 2355 of the Deficit Reduction Act of 1984, or section 9412(b) of the Omnibus Budget Reconciliation Act of 1986, or, during the period beginning on the date specified in subsection (p)(1)(C) and ending on December 31, 1995, a policy or plan of an organization if the policy or plan provides benefits pursuant to an agreement under section 1833(a)(1)(A)”.

(2) Section 4356(b) of OBRA-1990 is amended by striking “on the date of the enactment of this Act” and inserting “on the date specified in section 1882(p)(1)(C) of the Social Security Act”.

42 USC 1395ss
note.

(g) PRE-EXISTING CONDITION LIMITATIONS.—Section 1882(s) (42 U.S.C. 1395ss(s)) is amended—

(1) in paragraph (2)(A), by striking “for which an application is submitted” and inserting “in the case of an individual for whom an application is submitted prior to or”;

(2) in paragraph (2)(A), by striking “in which the individual (who is 65 years of age or older) first is enrolled for benefits under part B” and inserting “as of the first day on which the individual is 65 years of age or older and is enrolled for benefits under part B”, and

(3) in paragraph (2)(B), by striking “before it” and inserting “before the policy”.

(h) **MEDICARE SELECT POLICIES.**—

(1) Section 1882(t) (42 U.S.C. 1395ss(t)) is amended—

(A) in paragraph (1), by inserting “medicare supplemental” after “If a”;

(B) in paragraph (1), by striking “NAIC Model Standards” and inserting “1991 NAIC Model Regulation or 1991 Federal Regulation”;

(C) in paragraph (1)(A), by inserting “or agreements” after “contracts”;

(D) in subparagraphs (E)(i) and (F) of paragraph (1), by striking “NAIC standards” and inserting “standards in the 1991 NAIC Model Regulation or 1991 Federal Regulation”, and

(E) in paragraph (2), by inserting “the issuer” before “is subject to a civil money penalty”.

(2) Section 1154(a)(4)(B) (42 U.S.C. 1320c-3(a)(4)(B)) is amended—

(A) by inserting “that is” after “(or)”, and

(B) by striking “1882(t)” and inserting “1882(t)(3)”.

(i) **HEALTH INSURANCE COUNSELING.**—Section 4360 of OBRA-42 USC 1395b-4. 1990 is amended—

(1) in subsection (b)(2)(A)(ii), by striking “Act” and inserting “Act”;

(2) in subsection (b)(2)(D), by striking “services” and inserting “counseling”;

(3) in subsection (b)(2)(I), by striking “assistance” and inserting “referrals”;

(4) in subsection (c)(1), by striking “and that such activities will continue to be maintained at such level”;

(5) in subsection (d)(3), by striking “to the rural areas” and inserting “eligible individuals residing in rural areas”;

(6) in subsection (e)—

(A) by striking “subsection (c) or (d)” and inserting “this section”;

(B) by striking “and annually thereafter, issue an annual report” and inserting “and annually thereafter during the period of the grant, issue a report”, and

(C) in paragraph (1), by striking “State-wide”;

(7) in subsection (f), by striking paragraph (2) and by redesignating paragraphs (3) through (5) as paragraphs (2) through (4), respectively; and

(8) in the second subsection (f) (relating to authorization of appropriations for grants)—

(A) by striking “and 1993” and inserting “1993, 1994, 1995, and 1996”; and

(B) by redesignating such subsection as subsection (g).

(j) **TELEPHONE INFORMATION SYSTEM.**—

(1) Section 1804 (42 U.S.C. 1395b-2) is amended—

(A) by adding at the end of the heading the following:

“; MEDICARE AND MEDIGAP INFORMATION”,

(B) by inserting “(a)” after “1804.”, and

(C) by adding at the end the following new subsection:

Communications.

“(b) The Secretary shall provide information via a toll-free telephone number on the programs under this title.”.

(2) Section 1882(f) (42 U.S.C. 1395ss(f)) is amended by adding at the end the following new paragraph:

“(3) The Secretary shall provide information via a toll-free telephone number on medicare supplemental policies (including the relationship of State programs under title XIX to such policies).”.

(3) Section 1889 is repealed.

(k) MAILING OF POLICIES.—Section 1882(d)(4) (42 U.S.C. 1395ss(d)(4)) is amended—

(1) in subparagraph (D), by striking “, if such policy” and all that follows up to the period at the end, and

(2) by adding at the end the following new subparagraph:

“(E) Subparagraph (A) shall not apply in the case of an issuer who mails or causes to be mailed a policy, certificate, or other matter solely to comply with the requirements of subsection (q).”.

42 USC 1395ss
note.

(l) EFFECTIVE DATE.—The amendments made by this section shall be effective as if included in the enactment of OBRA-1990; except that—

(1) the amendments made by subsection (d)(1) shall take effect on the date of the enactment of this Act, but no penalty shall be imposed under section 1882(d)(3)(A) of the Social Security Act (for an action occurring after the effective date of the amendments made by section 4354 of OBRA-1990 and before the date of the enactment of this Act) with respect to the sale or issuance of a policy which is not unlawful under section 1882(d)(3)(A)(i)(II) of the Social Security Act (as amended by this section);

(2) the amendments made by subsection (d)(2)(A) and by subparagraphs (A), (B), and (E) of subsection (e)(1) shall be effective on the date specified in subsection (m)(4); and

(3) the amendment made by subsection (g)(2) shall take effect on January 1, 1995, and shall apply to individuals who attain 65 years of age or older on or after the effective date of section 1882(s)(2) of the Social Security Act (and, in the case of individuals who attained 65 years of age after such effective date and before January 1, 1995, and who were not covered under such section before January 1, 1995, the 6-month period specified in that section shall begin January 1, 1995).

(m) TRANSITION PROVISIONS.—

42 USC 1395ss
note.

(1) IN GENERAL.—If the Secretary of Health and Human Services identifies a State as requiring a change to its statutes or regulations to conform its regulatory program to the changes made by this section, the State regulatory program shall not be considered to be out of compliance with the requirements of section 1882 of the Social Security Act due solely to failure to make such change until the date specified in paragraph (4).

(2) NAIC STANDARDS.—If, within 6 months after the date of the enactment of this Act, the National Association of Insurance Commissioners (in this subsection referred to as the

“NAIC”) modifies its 1991 NAIC Model Regulation (adopted in July 1991) to conform to the amendments made by this section and to delete from section 15C the exception which begins with “unless”, such revised regulation incorporating the modifications shall be considered to be the 1991 Regulation for the purposes of section 1882 of the Social Security Act.

(3) SECRETARY STANDARDS.—If the NAIC does not make the modifications described in paragraph (2) within the period specified in such paragraph, the Secretary of Health and Human Services shall make the modifications described in such paragraph and such revised regulation incorporating the modifications shall be considered to be the 1991 Regulation for the purposes of section 1882 of the Social Security Act.

(4) DATE SPECIFIED.—

(A) IN GENERAL.—Subject to subparagraph (B), the date specified in this paragraph for a State is the earlier of—

(i) the date the State changes its statutes or regulations to conform its regulatory program to the changes made by this section, or

(ii) 1 year after the date the NAIC or the Secretary first makes the modifications under paragraph (2) or (3), respectively.

(B) ADDITIONAL LEGISLATIVE ACTION REQUIRED.—In the case of a State which the Secretary identifies as—

(i) requiring State legislation (other than legislation appropriating funds) to conform its regulatory program to the changes made in this section, but

(ii) having a legislature which is not scheduled to meet in 1996 in a legislative session in which such legislation may be considered,

the date specified in this paragraph is the first day of the first calendar quarter beginning after the close of the first legislative session of the State legislature that begins on or after January 1, 1996. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

SEC. 172. 6-MONTH EXTENSION OF PERIOD FOR ISSUANCE OF MEDICARE SELECT POLICIES.

(a) IN GENERAL.—Section 4358(c) of the Omnibus Budget Reconciliation Act of 1990 (42 U.S.C. 1320c-3 note) is amended by striking “3-year” and inserting “3½-year”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in the enactment of the Omnibus Budget Reconciliation Act of 1990.

42 USC 1320c-3
note.

TITLE II—MATERNAL AND CHILD HEALTH SERVICES BLOCK GRANT PROGRAM, INCOME SECURITY, HUMAN RESOURCES, AND RELATED PROGRAMS

SEC. 201. INCREASE IN AUTHORIZATION OF APPROPRIATIONS FOR THE MATERNAL AND CHILD HEALTH SERVICES BLOCK GRANT PROGRAM.

Section 501(a) (42 U.S.C. 701(a)) is amended by striking “\$686,000,000 for fiscal year 1990” and inserting “\$705,000,000 for fiscal year 1994”.

Subtitle A—Child Welfare, Foster Care, Adoption

SEC. 202. REQUIRED PROTECTIONS FOR FOSTER CHILDREN.

(a) IN GENERAL.—Section 422(b) (42 U.S.C. 622(b)) is amended—

- (1) by striking “and” at the end of paragraph (7);
- (2) by striking the period at the end of paragraph (8) and inserting “; and”; and

(3) by adding at the end the following:

“(9) provide assurances that the State—

“(A) since June 17, 1980, has completed an inventory of all children who, before the inventory, had been in foster care under the responsibility of the State for 6 months or more, which determined—

“(i) the appropriateness of, and necessity for, the foster care placement;

“(ii) whether the child could or should be returned to the parents of the child or should be freed for adoption or other permanent placement; and

“(iii) the services necessary to facilitate the return of the child or the placement of the child for adoption or legal guardianship;

“(B) is operating, to the satisfaction of the Secretary—

“(i) a statewide information system from which can be readily determined the status, demographic characteristics, location, and goals for the placement of every child who is (or, within the immediately preceding 12 months, has been) in foster care;

“(ii) a case review system (as defined in section 475(5)) for each child receiving foster care under the supervision of the State;

“(iii) a service program designed to help children—

“(I) where appropriate, return to families from which they have been removed; or

“(II) be placed for adoption, with a legal guardian, or, if adoption or legal guardianship is determined not to be appropriate for a child, in some other planned, permanent living arrangement; and

“(iv) a preplacement preventive services program designed to help children at risk of foster care placement remain with their families; and

“(C)(i) has reviewed (or within 12 months after the date of the enactment of this paragraph will review) State policies and administrative and judicial procedures in effect for children abandoned at or shortly after birth (including policies and procedures providing for legal representation of such children); and

“(ii) is implementing (or within 24 months after the date of the enactment of this paragraph will implement) such policies and procedures as the State determines, on the basis of the review described in clause (i), to be necessary to enable permanent decisions to be made expeditiously with respect to the placement of such children.”

(b) **RESTRICTION ON REALLOTMENT.**—Section 424 (42 U.S.C. 624) is amended—

(1) in the first sentence, by striking “The amount” and inserting the following:

“(a) **IN GENERAL.**—Subject to subsection (b), the amount”; and

(2) by adding at the end the following:

“(b) **EXCEPTION RELATING TO FOSTER CHILD PROTECTIONS.**—The Secretary shall not reallocate under subsection (a) of this section any amount that is withheld or recovered from a State due to the failure of the State to meet the requirements of section 422(b)(9).”

(c) **REPEAL.**—Section 427 (42 U.S.C. 627) is hereby repealed.

(d) **CONFORMING AMENDMENTS.**—

(1) Section 423(a) (42 U.S.C. 623(a)) is amended by striking “and in section 427”.

(2) Section 425(a)(2) (42 U.S.C. 625(a)(2)) is amended by striking “the statistical report required by section” and inserting “section 422(b)(9) or”.

(3) Section 472(d) (42 U.S.C. 672(d)) is amended by striking “427(b)” and inserting “422(b)(9)”.

42 USC 622 note.

(e) **EFFECTIVE DATE.**—The amendments and repeal made by this section shall be effective with respect to fiscal years beginning on or after April 1, 1996.

SEC. 203. CONFORMITY REVIEWS.

(a) **IN GENERAL.**—Part A of title XI (42 U.S.C. 1301-1320b-13) is amended by inserting after section 1122 the following:

“**REVIEWS OF CHILD AND FAMILY SERVICES PROGRAMS, AND OF FOSTER CARE AND ADOPTION ASSISTANCE PROGRAMS, FOR CONFORMITY WITH STATE PLAN REQUIREMENTS**

Regulations.

“**SEC. 1123. (a) IN GENERAL.**—The Secretary, in consultation with the State agencies administering the State programs under parts B and E of title IV, shall promulgate regulations for the review of such programs to determine whether such programs are in substantial conformity with—

“(1) State plan requirements under such parts B and E,

“(2) implementing regulations promulgated by the Secretary, and

“(3) the relevant approved State plans.

“(b) **ELEMENTS OF REVIEW SYSTEM.**—The regulations referred to in subsection (a) shall—

“(1) specify the timetable for conformity reviews of State programs, including—

“(A) an initial review of each State program;

“(B) a timely review of a State program following a review in which such program was found not to be in substantial conformity; and

“(C) less frequent reviews of State programs which have been found to be in substantial conformity, but such regulations shall permit the Secretary to reinstate more frequent reviews based on information which indicates that a State program may not be in conformity;

“(2) specify the requirements subject to review, and the criteria to be used to measure conformity with such requirements and to determine whether there is a substantial failure to so conform;

“(3) specify the method to be used to determine the amount of any Federal matching funds to be withheld (subject to paragraph (4)) due to the State program’s failure to so conform, which ensures that—

“(A) such funds will not be withheld with respect to a program, unless it is determined that the program fails substantially to so conform;

“(B) such funds will not be withheld for a failure to so conform resulting from the State’s reliance upon and correct use of formal written statements of Federal law or policy provided to the State by the Secretary; and

“(C) the amount of such funds withheld is related to the extent of the failure to so conform; and

“(4) require the Secretary, with respect to any State program found to have failed substantially to so conform—

“(A) to afford the State an opportunity to adopt and implement a corrective action plan, approved by the Secretary, designed to end the failure to so conform;

“(B) to make technical assistance available to the State to the extent feasible to enable the State to develop and implement such a corrective action plan;

“(C) to suspend the withholding of any Federal matching funds under this section while such a corrective action plan is in effect; and

“(D) to rescind any such withholding if the failure to so conform is ended by successful completion of such a corrective action plan.

“(c) PROVISIONS FOR ADMINISTRATIVE AND JUDICIAL REVIEW.—
The regulations referred to in subsection (a) shall—

“(1) require the Secretary, not later than 10 days after a final determination that a program of the State is not in conformity, to notify the State of—

“(A) the basis for the determination; and

“(B) the amount of the Federal matching funds (if any) to be withheld from the State;

“(2) afford the State an opportunity to appeal the determination to the Departmental Appeals Board within 60 days after receipt of the notice described in paragraph (1) (or, if later, after failure to continue or to complete a corrective action plan); and

“(3) afford the State an opportunity to obtain judicial review of an adverse decision of the Board, within 60 days after the State receives notice of the decision of the Board, by appeal to the district court of the United States for the judicial district

in which the principal or headquarters office of the agency responsible for administering the program is located.”.

(b) CONFORMING AMENDMENT.—Section 471(b) (42 U.S.C. 671(b)) is amended by striking all that follows the first sentence.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

(2) CONFORMING AMENDMENT.—The amendment made by subsection (b) shall take effect on October 1, 1995.

(3) REGULATIONS.—The Secretary shall promulgate the regulations referred to in section 1123(a) of the Social Security Act (as added by this section) not later than July 1, 1995, to take effect on April 1, 1996.

SEC. 204. STATES REQUIRED TO REPORT ON MEASURES TAKEN TO COMPLY WITH THE INDIAN CHILD WELFARE ACT.

(a) STATE PLAN REQUIREMENT.—Section 422(b) (42 U.S.C. 622(b)), as amended by section 202(a), is amended—

(1) by striking “and” at the end of paragraph (8);

(2) by striking the period at the end of paragraph (9) and inserting “; and”; and

(3) by adding at the end the following:

“(10) contain a description, developed after consultation with tribal organizations (as defined in section 4 of the Indian Self-Determination and Education Assistance Act) in the State, of the specific measures taken by the State to comply with the Indian Child Welfare Act.”.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall be effective with respect to fiscal years beginning on or after October 1, 1995.

SEC. 205. CHILD WELFARE TRAINEESHIPS.

(a) IN GENERAL.—Subpart 1 of part B of title IV (42 U.S.C. 620–628) is amended by inserting after section 428 the following:

“CHILD WELFARE TRAINEESHIPS

“SEC. 429. The Secretary may approve an application for a grant to a public or nonprofit institution for higher learning to provide traineeships with stipends under section 426(a)(1)(C) only if the application—

“(1) provides assurances that each individual who receives a stipend with such traineeship (in this section referred to as a ‘recipient’) will enter into an agreement with the institution under which the recipient agrees—

“(A) to participate in training at a public or private nonprofit child welfare agency on a regular basis (as determined by the Secretary) for the period of the traineeship;

“(B) to be employed for a period of years equivalent to the period of the traineeship, in a public or private nonprofit child welfare agency in any State, within a period of time (determined by the Secretary in accordance with regulations) after completing the postsecondary education for which the traineeship was awarded;

“(C) to furnish to the institution and the Secretary evidence of compliance with subparagraphs (A) and (B); and

42 USC 1320a-1a note.

42 USC 671 note.

42 USC 1320a-1a note.

42 USC 622 note.

42 USC 628a.

“(D) if the recipient fails to comply with subparagraph (A) or (B) and does not qualify for any exception to this subparagraph which the Secretary may prescribe in regulations, to repay to the Secretary all (or an appropriately prorated part) of the amount of the stipend, plus interest, and, if applicable, reasonable collection fees (in accordance with regulations promulgated by the Secretary);

“(2) provides assurances that the institution will—

“(A) enter into agreements with child welfare agencies for onsite training of recipients;

“(B) permit an individual who is employed in the field of child welfare services to apply for a traineeship with a stipend if the traineeship furthers the progress of the individual toward the completion of degree requirements; and

“(C) develop and implement a system that, for the 3-year period that begins on the date any recipient completes a child welfare services program of study, tracks the employment record of the recipient, for the purpose of determining the percentage of recipients who secure employment in the field of child welfare services and remain employed in the field.”

(b) CONFORMING AMENDMENT.—Section 426(a)(1)(C) (42 U.S.C. 626(a)(1)(C)) is amended by inserting “described in section 429” after “including traineeships”.

(c) APPLICABILITY.—The amendments made by this section shall apply to grants awarded on or after October 1, 1995.

42 USC 626 note.

SEC. 206. DISPOSITIONAL HEARING.

(a) MOST APPROPRIATE SETTING.—Section 475(5)(A) (42 U.S.C. 675(5)(A)) is amended by inserting “and most appropriate” after “(most family like)”.

(b) TIMING OF SUBSEQUENT REVIEW.—Section 475(5)(C) (42 U.S.C. 675(5)(C)) is amended by striking “periodically” and inserting “not less frequently than every 12 months”.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1995.

42 USC 675 note.

SEC. 207. ELIMINATION OF FOSTER CARE CEILINGS AND OF AUTHORITY TO TRANSFER UNUSED FOSTER CARE FUNDS TO CHILD WELFARE SERVICES PROGRAMS.

(a) REPEAL.—Subsections (b) and (c) of section 474 (42 U.S.C. 674 (b) and (c)) are hereby repealed.

(b) CONFORMING AMENDMENTS.—Section 474 (42 U.S.C. 674) is amended—

(1) in subsection (d)(1)—

(A) by striking “subsections (a), (b), and (c)” and inserting “subsection (a)”; and

(B) by striking “the provisions of such subsections” and inserting “subsection (a)”; and

(2) by redesignating subsections (d) and (e) as subsections (b) and (c), respectively.

(c) EFFECTIVE DATE.—The amendments and repeals made by this section shall apply to payments for calendar quarters beginning on or after October 1, 1993.

42 USC 674 note.

SEC. 208. DEMONSTRATION PROJECTS.

Part A of title XI (42 U.S.C. 1301-1320b-13) is amended by inserting after section 1129 the following:

"DEMONSTRATION PROJECTS

42 USC 1320a-9.

"SEC. 1130. (a) IN GENERAL.—The Secretary may authorize not more than 10 States to conduct demonstration projects pursuant to this section which the Secretary finds are likely to promote the objectives of part B or E of title IV.

"(b) WAIVER AUTHORITY.—The Secretary may waive compliance with any requirement of part B or E of title IV which (if applied) would prevent a State from carrying out a demonstration project under this section or prevent the State from effectively achieving the purpose of such a project, except that the Secretary may not waive—

"(1) any provision of section 427 (as in effect before April 1, 1996), section 422(b)(9) (as in effect after such date), or section 479; or

"(2) any provision of such part E, to the extent that the waiver would impair the entitlement of any qualified child or family to benefits under a State plan approved under such part E.

"(c) TREATMENT AS PROGRAM EXPENDITURES.—For purposes of parts B and E of title IV, the Secretary shall consider the expenditures of any State to conduct a demonstration project under this section to be expenditures under subpart 1 or 2 of such part B, or under such part E, as the State may elect.

"(d) DURATION OF DEMONSTRATION.—A demonstration project under this section may be conducted for not more than 5 years.

"(e) APPLICATION.—Any State seeking to conduct a demonstration project under this section shall submit to the Secretary an application, in such form as the Secretary may require, which includes—

"(1) a description of the proposed project, the geographic area in which the proposed project would be conducted, the children or families who would be served by the proposed project, and the services which would be provided by the proposed project (which shall provide, where appropriate, for random assignment of children and families to groups served under the project and to control groups);

"(2) a statement of the period during which the proposed project would be conducted;

"(3) a discussion of the benefits that are expected from the proposed project (compared to a continuation of activities under the approved plan or plans of the State);

"(4) an estimate of the costs or savings of the proposed project;

"(5) a statement of program requirements for which waivers would be needed to permit the proposed project to be conducted;

"(6) a description of the proposed evaluation design; and

"(7) such additional information as the Secretary may require.

"(f) EVALUATIONS; REPORT.—Each State authorized to conduct a demonstration project under this section shall—

"(1) obtain an evaluation by an independent contractor of the effectiveness of the project, using an evaluation design approved by the Secretary which provides for—

"(A) comparison of methods of service delivery under the project, and such methods under a State plan or plans,

with respect to efficiency, economy, and any other appropriate measures of program management;

“(B) comparison of outcomes for children and families (and groups of children and families) under the project, and such outcomes under a State plan or plans, for purposes of assessing the effectiveness of the project in achieving program goals; and

“(C) any other information that the Secretary may require; and

“(2) provide interim and final evaluation reports to the Secretary, at such times and in such manner as the Secretary may require.

“(g) **COST NEUTRALITY.**—The Secretary may not authorize a State to conduct a demonstration project under this section unless the Secretary determines that the total amount of Federal funds that will be expended under (or by reason of) the project over its approved term (or such portion thereof or other period as the Secretary may find appropriate) will not exceed the amount of such funds that would be expended by the State under the State plans approved under parts B and E of title IV if the project were not conducted.”.

SEC. 209. PLACEMENT ACCOUNTABILITY.

(a) **CASE PLAN REQUIREMENTS.**—Section 475(5)(A) (42 U.S.C. 675(5)(A)) is amended by adding at the end the following: “which—

“(i) if the child has been placed in a foster family home or child-care institution a substantial distance from the home of the parents of the child, or in a State different from the State in which such home is located, sets forth the reasons why such placement is in the best interests of the child, and

“(ii) if the child has been placed in foster care outside the State in which the home of the parents of the child is located, requires that, periodically, but not less frequently than every 12 months, a caseworker on the staff of the State agency of the State in which the home of the parents of the child is located, or of the State in which the child has been placed, visit such child in such home or institution and submit a report on such visit to the State agency of the State in which the home of the parents of the child is located.”.

(b) **DISPOSITIONAL HEARING.**—Section 475(5)(C) (42 U.S.C. 675(5)(C)) is amended by inserting “and, in the case of a child described in subparagraph (A)(ii), whether the out-of-State placement continues to be appropriate and in the best interests of the child,” after “long-term basis”.

(c) **DATA COLLECTION.**—Section 479(c)(3)(C) (42 U.S.C. 679(c)(3)(C)) is amended—

(1) by striking “and” at the end of clause (i); and

(2) by adding at the end the following:

“(iii) children placed in foster care outside the State which has placement and care responsibility, and”.

(d) **EFFECTIVE DATE.**—The amendments made by this section shall be effective with respect to fiscal years beginning on or after October 1, 1995.

SEC. 210. PAYMENTS OF STATE CLAIMS FOR FOSTER CARE AND ADOPTION ASSISTANCE.

(a) **IN GENERAL.**—Section 474(b) (42 U.S.C. 674(b)), as redesignated by section 207(b)(2), is amended by adding at the end the following:

“(4)(A) Within 60 days after receipt of a State claim for expenditures pursuant to subsection (a), the Secretary shall allow, disallow, or defer such claim.

“(B) Within 15 days after a decision to defer such a State claim, the Secretary shall notify the State of the reasons for the deferral and of the additional information necessary to determine the allowability of the claim.

“(C) Within 90 days after receiving such necessary information (in readily reviewable form), the Secretary shall—

“(i) disallow the claim, if able to complete the review and determine that the claim is not allowable, or

“(ii) in any other case, allow the claim, subject to disallowance (as necessary)—

“(I) upon completion of the review, if it is determined that the claim is not allowable; or

“(II) on the basis of findings of an audit or financial management review.”

42 USC 674 note.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall be effective with respect to claims made on or after the date of the enactment of this Act.

SEC. 211. EFFECT OF FAILURE TO CARRY OUT STATE PLAN.

(a) **IN GENERAL.**—Part A of title XI (42 U.S.C. 1301-1320b-13), as amended by section 208, is amended by inserting after section 1130 the following:

“EFFECT OF FAILURE TO CARRY OUT STATE PLAN

“SEC. 1130A. In an action brought to enforce a provision of the Social Security Act, such provision is not to be deemed unenforceable because of its inclusion in a section of the Act requiring a State plan or specifying the required contents of a State plan. This section is not intended to limit or expand the grounds for determining the availability of private actions to enforce State plan requirements other than by overturning any such grounds applied in *Suter v. Artist M.*, 112 S. Ct. 1360 (1992), but not applied in prior Supreme Court decisions respecting such enforceability: *Provided, however,* That this section is not intended to alter the holding in *Suter v. Artist M.* that section 471(a)(15) of the Act is not enforceable in a private right of action.”

42 USC
1320a-10.

42 USC 1320a-10
note.

(b) **APPLICABILITY.**—The amendment made by subsection (a) shall apply to actions pending on the date of the enactment of this Act and to actions brought on or after such date of enactment.

Subtitle B—Child Support Enforcement**SEC. 212. REPORTS TO CREDIT BUREAUS ON PERSONS DELINQUENT IN CHILD SUPPORT PAYMENTS.**

(a) **IN GENERAL.**—Section 466(a)(7) (42 U.S.C. 666(a)(7)) is amended—

(1) by striking “Procedures” and all that follows through “request of such agency” and inserting “Procedures which

require the State to periodically report to consumer reporting agencies (as defined in section 603(f) of the Fair Credit Reporting Act (15 U.S.C. 1681a(f))) the name of any parent who owes overdue support and is at least 2 months delinquent in the payment of such support and the amount of such delinquency; and

(2) by striking "(C) a fee" and all that follows through "by the State" and inserting "(C) such information shall not be made available to (i) a consumer reporting agency which the State determines does not have sufficient capability to systematically and timely make accurate use of such information, or (ii) an entity which has not furnished evidence satisfactory to the State that the entity is a consumer reporting agency".

(b) **EFFECTIVE DATE.**—The amendments made by subsection (a) shall take effect on October 1, 1995.

42 USC 666 note.

SEC. 213. TECHNICAL AMENDMENTS TO PROVISION ON STATE PATERNITY ESTABLISHMENT PROGRAMS.

Section 452(g)(2)(A) (42 U.S.C. 652(g)(2)(A)), as amended by section 13721(a) of OBRA-1993, is amended—

(1) in clause (i), by striking "during the fiscal year";

(2) in subclause (I) of clause (ii), by striking "as of the end of the fiscal year" and inserting "in the fiscal year or, at the option of the State, as of the end of such year";

(3) in subclause (II) of clause (ii), by striking "or E as of the end of the fiscal year" and inserting "in the fiscal year or, at the option of the State, as of the end of such year";

(4) in clause (iii), by striking "during the fiscal year"; and

(5) in the matter following clause (iii)—

(A) by striking "who were born out of wedlock during the immediately preceding fiscal year" and inserting "born out of wedlock";

(B) by striking "such preceding fiscal year" both places it appears and inserting "the preceding fiscal year"; and

(C) by striking "or E" the second place it appears.

SEC. 214. AGREEMENT TO ASSIST IN LOCATING MISSING CHILDREN UNDER THE PARENT LOCATOR SERVICE.

(a) **IN GENERAL.**—Section 463 (42 U.S.C. 663) is amended by adding at the end the following new subsection:

"(f) The Secretary shall enter into an agreement with the Attorney General of the United States, under which the services of the Parent Locator Service established under section 453 shall be made available to the Office of Juvenile Justice and Delinquency Prevention upon its request to locate any parent or child on behalf of such Office for the purpose of—

"(1) enforcing any State or Federal law with respect to the unlawful taking or restraint of a child, or

"(2) making or enforcing a child custody determination.

The Parent Locator Service shall charge no fees for services requested pursuant to this subsection."

(b) **CONFORMING AMENDMENT.**—Section 463(c) (42 U.S.C. 663(c)) is amended by striking "(a), (b), or (e)" and inserting "(a), (b), (e), or (f)".

(c) **EFFECTIVE DATE.**—The amendments made by this section shall take effect on October 1, 1995.

42 USC 663 note.

Subtitle C—Supplemental Security Income

SEC. 221. DEFINITION OF DISABILITY FOR CHILDREN UNDER AGE 18 APPLIED TO ALL INDIVIDUALS UNDER AGE 18.

(a) **IN GENERAL.**—Section 1614(a)(3) (42 U.S.C. 1382c(a)(3)) is amended—

(1) in subparagraphs (A) and (H), by striking “a child” each place it appears and inserting “an individual”; and

(2) in subparagraph (H), by striking “child” the second and third place it appears and inserting “individual”.

(b) **EFFECTIVE DATE.**—The amendments made by subsection (a) shall apply to determinations made on or after the date of the enactment of this Act.

42 USC 1382c
note.

Subtitle D—Aid to Families With Dependent Children

SEC. 231. SIMPLIFICATION OF INCOME AND ELIGIBILITY VERIFICATION SYSTEM.

Paragraph (1)(A) of section 1137(d) (42 U.S.C. 1320b-7(d)) is amended to read as follows:

“(1)(A) The State shall require, as a condition of an individual’s eligibility for benefits under a program listed in subsection (b), a declaration in writing, under penalty of perjury—

“(i) by the individual,

“(ii) in the case in which eligibility for program benefits is determined on a family or household basis, by any adult member of such individual’s family or household (as applicable), or

“(iii) in the case of an individual born into a family or household receiving benefits under such program, by any adult member of such family or household no later than the next redetermination of eligibility of such family or household following the birth of such individual,

stating whether the individual is a citizen or national of the United States, and, if that individual is not a citizen or national of the United States, that the individual is in a satisfactory immigration status.”.

SEC. 232. MEASUREMENT AND REPORTING OF WELFARE RECEIPT.

(a) **CONGRESSIONAL POLICY.**—The Congress hereby declares that—

(1) it is the policy and responsibility of the Federal Government to reduce the rate at which and the degree to which families depend on income from welfare programs and the duration of welfare receipt, consistent with other essential national goals;

(2) it is the policy of the United States to strengthen families, to ensure that children grow up in families that are economically self-sufficient and that the life prospects of children are improved, and to underscore the responsibility of parents to support their children;

(3) the Federal Government should help welfare recipients as well as individuals at risk of welfare receipt to improve their education and job skills, to obtain child care and other

Welfare
Indicators
Act of 1994.
42 USC 1314a.

necessary support services, and to take such other steps as may be necessary to assist them to become financially independent; and

(4) it is the purpose of this section to provide the public with generally accepted measures of welfare receipt so that it can track such receipt over time and determine whether progress is being made in reducing the rate at which and, to the extent feasible, the degree to which, families depend on income from welfare programs and the duration of welfare receipt.

(b) DEVELOPMENT OF WELFARE INDICATORS AND PREDICTORS.—The Secretary of Health and Human Services (in this section referred to as the “Secretary”) in consultation with the Secretary of Agriculture shall—

(1) develop—

(A) indicators of the rate at which and, to the extent feasible, the degree to which, families depend on income from welfare programs and the duration of welfare receipt; and

(B) predictors of welfare receipt;

(2) assess the data needed to report annually on the indicators and predictors, including the ability of existing data collection efforts to provide such data and any additional data collection needs; and

(3) not later than 2 years after the date of the enactment of this section, provide an interim report containing conclusions resulting from the development and assessment described in paragraphs (1) and (2), to—

(A) the Committee on Ways and Means of the House of Representatives;

(B) the Committee on Education and Labor of the House of Representatives;

(C) the Committee on Agriculture of the House of Representatives;

(D) the Committee on Energy and Commerce of the House of Representatives;

(E) the Committee on Finance of the Senate;

(F) the Committee on Labor and Human Resources of the Senate; and

(G) the Committee on Agriculture, Nutrition, and Forestry of the Senate.

(c) ADVISORY BOARD ON WELFARE INDICATORS.—

(1) ESTABLISHMENT.—There is established an Advisory Board on Welfare Indicators (in this subsection referred to as the “Board”).

(2) COMPOSITION.—The Board shall be composed of 12 members with equal numbers to be appointed by the House of Representatives, the Senate, and the President. The Board shall be composed of experts in the fields of welfare research and welfare statistical methodology, representatives of State and local welfare agencies, and organizations concerned with welfare issues.

President.

(3) VACANCIES.—Any vacancy occurring in the membership of the Board shall be filled in the same manner as the original appointment for the position being vacated. The vacancy shall not affect the power of the remaining members to execute the duties of the Board.

(4) DUTIES.—Duties of the Board shall include—

(A) providing advice and recommendations to the Secretary on the development of indicators of the rate at which and, to the extent feasible, the degree to which, families depend on income from welfare programs and the duration of welfare receipt; and

(B) providing advice on the development and presentation of annual reports required under subsection (d).

(5) TRAVEL EXPENSES.—Members of the Board shall not be compensated, but shall receive travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, for each day the member is engaged in the performance of duties away from the home or regular place of business of the member.

(6) DETAIL OF FEDERAL EMPLOYEES.—The Secretary shall detail, without reimbursement, any of the personnel of the Department of Health and Human Services to the Board to assist the Board in carrying out its duties. Any detail shall not interrupt or otherwise affect the civil service status or privileges of the Federal employee.

(7) VOLUNTARY SERVICE.—Notwithstanding section 1342 of title 31, United States Code, the Board may accept the voluntary services provided by a member of the Board.

(8) TERMINATION OF BOARD.—The Board shall be terminated at such time as the Secretary determines the duties described in paragraph (4) have been completed, but in any case prior to the submission of the first report required under subsection (d).

(d) ANNUAL WELFARE INDICATORS REPORT.—

(1) PREPARATION.—The Secretary shall prepare annual reports on welfare receipt in the United States.

(2) COVERAGE.—The report shall include analysis of families and individuals receiving assistance under means-tested benefit programs, including the program of aid to families with dependent children under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), the food stamp program under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.), and the Supplemental Security Income program under title XVI of the Social Security Act (42 U.S.C. 1381 et seq.), or as general assistance under programs administered by State and local governments.

(3) CONTENTS.—Each report shall set forth for each of the means-tested benefit programs described in paragraph (2)—

(A) indicators of—

(i) the rate at which and, to the extent feasible, the degree to which, families depend on income from welfare programs, and

(ii) the duration of welfare receipt;

(B) trends in indicators;

(C) predictors of welfare receipt;

(D) the causes of welfare receipt;

(E) patterns of multiple program receipt;

(F) such other information as the Secretary deems relevant; and

(G) such recommendations for legislation, which shall not include proposals to reduce eligibility levels or impose

barriers to program access, as the Secretary may determine to be necessary or desirable to reduce—

- (i) the rate at which and the degree to which families depend on income from welfare programs, and
- (ii) the duration of welfare receipt.

(4) **SUBMISSION.**—The Secretary shall submit such a report not later than 3 years after the date of the enactment of this section and annually thereafter, to the committees specified in subsection (b)(3)(C). Each such report shall be transmitted during the first 60 days of each regular session of Congress.

(e) **SHORT TITLE.**—This section may be cited as the “Welfare Indicators Act of 1994”.

SEC. 233. NEW HOPE DEMONSTRATION PROJECT.

42 USC 602 note.

(a) **IN GENERAL.**—The Secretary of Health and Human Services (in this section referred to as the “Secretary”) shall provide for a demonstration project for a qualified program to be conducted in Milwaukee, Wisconsin, in accordance with this section.

(b) **PAYMENTS.**—For each calendar quarter in which there is a qualified program approved under this subsection, the Secretary shall pay to the operator of the qualified program, for no more than 20 calendar quarters, an amount equal to the aggregate amount that would otherwise have been payable to the State with respect to participants in the program for such calendar quarter, in the absence of the program, for cash assistance and child care under part A of title IV of the Social Security Act, for medical assistance under title XIX of such Act, and for administrative expenses related to such assistance. The amount payable to the operator of the program under this section shall not include the costs of evaluating the effects of the program.

(c) **DEMONSTRATION PROJECT DESCRIBED.**—For purposes of this section, the term “qualified program” means a program operated—

(1) by The New Hope Project, Inc., a private, not-for-profit corporation incorporated under the laws of the State of Wisconsin (in this section referred to as the “operator”), which offers low-income residents of Milwaukee, Wisconsin, employment, wage supplements, child care, health care, and counseling and training for job retention or advancement; and

(2) in accordance with an application submitted by the operator of the program and approved by the Secretary based on the Secretary’s determination that the application satisfies the requirements of subsection (d).

(d) **CONTENTS OF APPLICATION.**—The operator of the qualified program shall provide, in its application to conduct a demonstration project for the program, that the following terms and conditions will be met:

(1) The operator will develop and implement an evaluation plan designed to provide valid and reliable information on the impact and implementation of the program. The evaluation plan will include adequately sized groups of project participants and control groups assigned at random.

(2) The operator will develop and implement a plan addressing the services and assistance to be provided by the program, the timing and determination of payments from the Secretary to the operator of the program, and the roles and responsibilities of the Secretary and the operator with respect to meeting the requirements of this paragraph.

(3) The operator will specify a reliable methodology for determining expenditures to be paid to the operator by the Secretary, with assistance from the Secretary in calculating the amount that would otherwise have been payable to the State in the absence of the program, pursuant to subsection (b).

Reports.

(4) The operator will issue an interim and final report on the results of the evaluation described in paragraph (1) to the Secretary at such times as required by the Secretary.

(e) **EFFECTIVE DATE.**—This section shall take effect on the first day of the first calendar quarter that begins after the date of the enactment of this Act.

SEC. 234. DELAY IN REQUIREMENT THAT OUTLYING AREAS OPERATE AN AFDC-UP PROGRAM.

(a) **IN GENERAL.**—Section 401(g)(2) of the Family Support Act of 1988 (42 U.S.C. 602 note; 102 Stat. 2396) is amended by striking “October 1, 1992” and inserting “the date of the repeal of the limitations contained in section 1108(a) of the Social Security Act on payments to such jurisdictions for purposes of making maintenance payments under parts A and E of title IV of such Act”.

42 USC 602 note.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall take effect as if included in the provision of the Family Support Act of 1988 to which the amendment relates at the time such provision became law.

SEC. 235. STATE OPTION TO USE RETROSPECTIVE BUDGETING WITHOUT MONTHLY REPORTING.

(a) **IN GENERAL.**—Section 402(a)(13) (42 U.S.C. 602(a)(13)) is amended—

(1) by striking all that precedes subparagraph (A) and inserting the following:

“(13) provide, at the option of the State and with respect to such category or categories as the State may select and identify in the State plan, that—”; and

(2) in each of subparagraphs (A) and (B), by striking “, in the case of families who are required to report monthly to the State agency pursuant to paragraph (14)”.

42 USC 602 note.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall take effect on October 1, 1994, and shall apply to payments under part A of title IV of the Social Security Act for fiscal year 1994 and such payments for succeeding fiscal years.

Subtitle E—JOBS Program

SEC. 241. EXPANSION OF COVERAGE FOR INDIAN TRIBES.

(a) **IN GENERAL.**—Section 482(i)(2)(A) (42 U.S.C. 682(i)(2)(A)) is amended by striking “members of such Indian tribe receiving aid to families with dependent children” and inserting “Indians receiving aid to families with dependent children who reside on the reservation or within the designated service area”.

42 USC 682 note.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall take effect on October 1, 1995.

SEC. 242. REPORT TO THE CONGRESS WITH RESPECT TO PERFORMANCE STANDARDS IN THE JOBS PROGRAM.

Section 487(a) (42 U.S.C. 687(a)) is amended—

- (1) by striking "3" and inserting "4";
- (2) in paragraph (1), by inserting "criteria for" after "develop";
- (3) in paragraph (2), by striking "for" and inserting "with respect to"; and
- (4) in the second sentence, by striking "under this subsection" and inserting "with respect to the program under this part".

Subtitle F—Other Provisions

SEC. 261. EXTENSION OF DEMONSTRATION TO EXPAND JOB OPPORTUNITIES.

(a) IN GENERAL.—Section 505 of the Family Support Act of 1988 (42 U.S.C. 1315 note; 102 Stat. 2404) is amended—

(1) in subsection (e), by striking "3-year period" and inserting "6-year period";

(2) in subsection (f)(2), by striking "January 1, 1993" and inserting "January 1, 1995", and

(3) in subsection (g), by striking "1991, and 1992" and inserting "1991, 1992, 1993, 1994, 1995, and 1996".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on October 1, 1993.

42 USC 1315
note.

SEC. 262. EARLY CHILDHOOD DEVELOPMENT PROJECTS.

Section 501(a) of the Family Support Act of 1988 (42 U.S.C. 1315 note; 102 Stat. 2400) is amended by adding at the end the following:

"(4) For grants to States to conduct demonstration projects under this subsection, there are authorized to be appropriated not to exceed \$3,000,000 for each of the fiscal years 1995 through 1999."

SEC. 263. REALLOCATION OF FUNDS UNDER TITLE XX FOR EMPOWERMENT AND ENTERPRISE GRANTS.

Section 2007 (42 U.S.C. 1397f), as added by section 13761 of OBRA-1993, is amended—

(1) by redesignating subsection (e) as subsection (f); and

(2) by inserting after subsection (d) the following new subsection:

"(e) REALLOCATION OF REMAINING FUNDS.—

"(1) REMITTED AMOUNTS.—The amount specified in section 2003(c) for any fiscal year is hereby increased by the total of the amounts remitted during the fiscal year pursuant to subsection (d) of this section.

"(2) AMOUNTS NOT PAID TO THE STATES.—The amount specified in section 2003(c) for fiscal year 1998 is hereby increased by the amount made available for grants under this section that has not been paid to any State by the end of fiscal year 1997."

SEC. 264. CORRECTIONS RELATED TO THE INCOME SECURITY AND HUMAN RESOURCES PROVISIONS OF OBRA-1990.

(a) AMENDMENT RELATED TO SECTION 5035(a)(2).—Section 5035(a)(2) of OBRA-1990 is amended by striking "a semicolon" and inserting "and".

42 USC 1382a.

(b) AMENDMENT RELATED TO SECTION 5040.—Section 1631(n) (42 U.S.C. 1383(n)) is amended by striking “subsection” and inserting “section”.

(c) AMENDMENT RELATED TO SECTION 5051(a).—Section 402(a)(14) (42 U.S.C. 602(a)(14)) is amended to read as follows:

“(14) at the option of the State and with respect to such category or categories as the State may select and identify in the plan, provide that—

“(A) the State agency will require each family to which the State provides (or, but for paragraph (22) or (32), would provide) aid to families with dependent children, as a condition to the continued receipt of such aid (or to continuing to be deemed to be a recipient of such aid), to report to the State agency monthly (or less frequently in the case of such categories of recipients as the State may select) on—

“(i) the income of the family, the composition of the family, and other relevant circumstances during the prior month; and

“(ii) the income and resources the family expects to receive, or any changes in circumstances affecting continued eligibility for, or amount of benefits, the family expects to occur, in that month or in future months; and

“(B) in addition to any action that may be appropriate based on other reports or information received by the State agency, the State agency will—

“(i) take prompt action to adjust the amount of assistance payable, as may be appropriate, on the basis of the information contained in the report (or upon the failure of the family to submit a timely report); and

“(ii) give the family an appropriate explanatory notice concurrent with any action taken under clause (i).”.

(d) REPEAL OF PROVISION INADVERTENTLY INCLUDED.—Section 5057 of OBRA-1990, and the amendment made by such section, are hereby repealed, and section 1139(d) of the Social Security Act shall be applied and administered as if such section 5057 had never been enacted.

(e) AMENDMENT RELATED TO SECTION 5105(a)(1)(B).—The second paragraph of section 1631(a) (42 U.S.C. 1383(a)) is amended by striking “(A)(i) Payments” and inserting “(2)(A)(i) Payments”.

(f) AMENDMENTS RELATED TO SECTION 5105(b).—Section 1631(a)(2)(C) (42 U.S.C. 1383(a)(2)(C)) is amended—

(1) in clause (i), by striking “to representative” and inserting “to a representative”;

(2) by striking clause (ii);

(3) by redesignating clauses (iii), (iv), and (v) as clauses (ii), (iii), and (iv), respectively; and

(4) in clause (iv) (as so redesignated), by striking “(iii), and (iv)” and inserting “and (iii)”.

(g) AMENDMENTS RELATED TO SECTION 5107(a)(2)(B).—Section 1631(c)(1)(B) (42 U.S.C. 1383(c)(1)(B)) is amended by striking “paragraph (1)” each place such term appears and inserting “subparagraph (A)”.

(h) **EFFECTIVE DATE.**—Each amendment made by this section shall take effect as if included in the provision of OBRA-1990 to which the amendment relates at the time such provision became law. 42 USC 602 note.

SEC. 265. TECHNICAL CORRECTIONS RELATED TO THE HUMAN RESOURCE AND INCOME SECURITY PROVISIONS OF OBRA-1989.

(a) **AMENDMENT RELATING TO SECTION 8004(a).**—Section 408(m)(2)(A) (42 U.S.C. 608(m)(2)(A)) is amended by striking “a fiscal” and inserting “the fiscal”.

(b) **AMENDMENT RELATING TO SECTION 8006(a).**—Section 473(a)(6)(B) (42 U.S.C. 673(a)(6)(B)) is amended by striking “474(a)(3)(B)” and inserting “474(a)(3)(C)”.

(c) **AMENDMENT RELATING TO SECTION 8007(b)(3).**—Subparagraph (D) of section 475(5) (42 U.S.C. 675(5)(D)) is amended by moving such subparagraph 2 ems to the right so that the left margin of such subparagraph is aligned with the left margin of subparagraph (C) of such section.

(d) **EFFECTIVE DATE.**—Each amendment made by this section shall take effect as if the amendment had been included in the provision of OBRA-1989 to which the amendment relates, at the time the provision became law. 42 USC 608 note.

SEC. 266. TECHNICAL CORRECTION RELATED TO THE HUMAN RESOURCE AND INCOME SECURITY PROVISIONS OF OBRA-1993.

(a) **AMENDMENT RELATING TO SECTION 13713(a).**—Section 473(a)(6)(B) (42 U.S.C. 673(a)(6)(B)) is amended by striking “474(a)(3)(C)” and inserting “474(a)(3)(E)”.

(b) **EFFECTIVE DATE.**—The amendment made by this section shall take effect as if the amendment had been included in the provision of OBRA-1993 to which the amendment relates, at the time the provision became law. 42 USC 673 note.

SEC. 267. ELIMINATION OF OBSOLETE PROVISIONS RELATING TO TREATMENT OF THE EARNED INCOME TAX CREDIT.

(a) **TREATMENT OF EITC AS EARNED INCOME.**—Section 1612(a)(1) (42 U.S.C. 1382a(a)(1)) is amended by striking subparagraph (C) and by redesignating subparagraphs (D) and (E) as subparagraphs (C) and (D), respectively.

(b) **ADJUSTMENT OF BENEFITS DUE TO TREATMENT OF EITC AS EARNED INCOME.**—Section 1631(b) (42 U.S.C. 1383(b)) is amended by striking paragraph (3) and by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively.

SEC. 268. REDESIGNATION OF CERTAIN PROVISIONS.

The first paragraph 6 of section 1631(e) (42 U.S.C. 1383(e)(6)) is amended by redesignating subparagraphs (1) and (2) as subparagraphs (A) and (B), respectively.

Approved October 31, 1994.

LEGISLATIVE HISTORY—H.R. 5252:

CONGRESSIONAL RECORD, Vol. 140 (1994):

Oct. 7, considered and passed House.

Oct. 8, considered and passed Senate.