

106TH CONGRESS  
1ST SESSION

# S. 445

To amend title XVIII of the Social Security Act to require the Secretary of Veterans Affairs and the Secretary of Health and Human Services to carry out a demonstration project to provide the Department of Veterans Affairs with Medicare reimbursement for Medicare health-care services provided to certain Medicare-eligible veterans.

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## IN THE SENATE OF THE UNITED STATES

FEBRUARY 23, 1999

Mr. JEFFORDS (for himself, Mr. SPECTER, Mr. ROCKEFELLER, Mr. MCCAIN, Mr. THURMOND, Mr. MURKOWSKI, Mr. CAMPBELL, Mr. CRAIG, Mr. HUTCHINSON, Ms. SNOWE, Mr. DASCHLE, Mr. GRAHAM, Mr. AKAKA, Mr. WELLSTONE, Mrs. MURRAY, Mr. HOLLINGS, Mr. LEAHY, Mr. CLELAND, Ms. LANDRIEU, and Mr. JOHNSON) introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To amend title XVIII of the Social Security Act to require the Secretary of Veterans Affairs and the Secretary of Health and Human Services to carry out a demonstration project to provide the Department of Veterans Affairs with Medicare reimbursement for Medicare health-care services provided to certain Medicare-eligible veterans.

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

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Veterans’ Equal Access  
3 to Medicare Act”.

4 **SEC. 2. MEDICARE SUBVENTION DEMONSTRATION**  
5 **PROJECT FOR VETERANS.**

6 Title XVIII of the Social Security Act (42 U.S.C.  
7 1395 et seq.) is amended by adding at the end the follow-  
8 ing:

9 “MEDICARE SUBVENTION DEMONSTRATION PROJECT FOR  
10 VETERANS

11 “SEC. 1897. (a) DEFINITIONS.—In this section:

12 “(1) ADMINISTERING SECRETARIES.—The term  
13 ‘administering Secretaries’ means the Secretary and  
14 the Secretary of Veterans Affairs acting jointly.

15 “(2) DEMONSTRATION PROJECT; PROJECT.—  
16 The terms ‘demonstration project’ and ‘project’  
17 mean the demonstration project carried out under  
18 this section.

19 “(3) DEMONSTRATION SITE.—The term ‘dem-  
20 onstration site’ means a Veterans Affairs medical fa-  
21 cility, including a group of Veterans Affairs medical  
22 facilities that provide hospital care or medical serv-  
23 ices as part of a service network or similar organiza-  
24 tion.

1           “(4) MILITARY RETIREE.—The term ‘military  
2 retiree’ means a member or former member of the  
3 Armed Forces who is entitled to retired pay.

4           “(5) TARGETED MEDICARE-ELIGIBLE VET-  
5 ERAN.—The term ‘targeted Medicare-eligible vet-  
6 eran’ means an individual who—

7                   “(A) is a veteran (as defined in section  
8 101(2) of title 38, United States Code) and is  
9 described in section 1710(a)(3) of title 38,  
10 United States Code;

11                   “(B) has attained age 65;

12                   “(C) is entitled to benefits under part A of  
13 this title; and

14                   “(D)(i) is enrolled for benefits under part  
15 B of this title; and

16                   “(ii) if such individual attained age 65 be-  
17 fore the date of enactment of the Veterans’  
18 Equal Access to Medicare Act, was so enrolled  
19 on such date.

20           “(6) TRUST FUNDS.—The term ‘trust funds’  
21 means the Federal Hospital Insurance Trust Fund  
22 established in section 1817 and the Federal Supple-  
23 mentary Medical Insurance Trust Fund established  
24 in section 1841.

1           “(7) VETERANS AFFAIRS MEDICAL FACILITY.—  
2           The term ‘Veterans Affairs medical facility’ means a  
3           medical facility as defined in section 8101 of title  
4           38, United States Code.

5           “(b) DEMONSTRATION PROJECT.—

6           “(1) IN GENERAL.—

7           “(A) ESTABLISHMENT.—The administer-  
8           ing Secretaries are authorized to establish a  
9           demonstration project (under an agreement en-  
10          tered into by the administering Secretaries)  
11          under which the Secretary shall reimburse the  
12          Secretary of Veterans Affairs, from the trust  
13          funds, for Medicare health care services fur-  
14          nished to certain targeted Medicare-eligible vet-  
15          erans at a demonstration site.

16          “(B) AGREEMENT.—The agreement en-  
17          tered into under subparagraph (A) shall include  
18          at a minimum—

19                  “(i) a description of the benefits to be  
20                  provided to the participants in the dem-  
21                  onstration project established under this  
22                  section;

23                  “(ii) a description of the eligibility  
24                  rules for participation in the demonstration  
25                  project, including any terms and conditions

1 established under subparagraph (C) and  
2 any cost-sharing required under subpara-  
3 graph (D);

4 “(iii) a description of how the dem-  
5 onstration project will satisfy the require-  
6 ments under this title (including bene-  
7 ficiary protections and quality assurance  
8 mechanisms);

9 “(iv) a description of the demonstra-  
10 tion sites selected under paragraph (2);

11 “(v) a description of how reimburse-  
12 ment and maintenance of effort require-  
13 ments under subsection (h) will be imple-  
14 mented in the demonstration project;

15 “(vi) a statement that the Secretary  
16 shall have access to all data of the Depart-  
17 ment of Veterans Affairs that the Sec-  
18 retary determines is necessary to conduct  
19 independent estimates and audits of the  
20 maintenance of effort requirement, the an-  
21 nual reconciliation, and related matters re-  
22 quired under the demonstration project;

23 “(vii) a description of any require-  
24 ment that the Secretary waives pursuant  
25 to subsection (d); and

1           “(viii) a certification, provided after  
2           review by the administering Secretaries,  
3           that any entity that is receiving payments  
4           by reason of the demonstration project has  
5           sufficient—

6                   “(I) resources and expertise to  
7                   provide, consistent with payments  
8                   under subsection (h), the full range of  
9                   benefits required to be provided to  
10                  beneficiaries under the project; and

11                   “(II) information and billing sys-  
12                   tems in place to ensure the accurate  
13                   and timely submission of claims for  
14                   benefits and to ensure that providers  
15                   of services, physicians, and other  
16                   health care professionals are reim-  
17                   bursed by the entity in a timely and  
18                   accurate manner.

19                   “(C) VOLUNTARY PARTICIPATION.—Par-  
20                   ticipation of targeted Medicare-eligible veterans  
21                   in the demonstration project shall be voluntary,  
22                   subject to the capacity of participating dem-  
23                   onstration sites and the funding limitations  
24                   specified in subsection (h), and shall be subject  
25                   to such terms and conditions as the administer-

1           ing Secretaries may establish. In the case of a  
2           demonstration site described in paragraph  
3           (2)(C)(i), targeted Medicare-eligible veterans  
4           who are military retirees shall be given pref-  
5           erence for participating in the project conducted  
6           at that site.

7           “(D) COST-SHARING.—The Secretary of  
8           Veterans Affairs may establish cost-sharing re-  
9           quirements for veterans participating in the  
10          demonstration project. If such cost-sharing re-  
11          quirements are established, those requirements  
12          shall be the same as the requirements that  
13          apply to targeted Medicare-eligible patients at  
14          medical centers that are not Veterans Affairs  
15          medical facilities.

16          “(E) DATA MATCH.—

17               “(i) ESTABLISHMENT OF DATA  
18               MATCHING PROGRAM.—The administering  
19               Secretaries shall establish a data matching  
20               program under which there is an exchange  
21               of information of the Department of Veter-  
22               ans Affairs and of the Department of  
23               Health and Human Services as is nec-  
24               essary to identify veterans (as defined in  
25               section 101(2) of title 38, United States

1 Code) who are entitled to benefits under  
2 part A or enrolled under part B, or both,  
3 in order to carry out this section. The pro-  
4 visions of section 552a of title 5, United  
5 States Code, shall apply with respect to  
6 such matching program only to the extent  
7 the administering Secretaries find it fea-  
8 sible and appropriate in carrying out this  
9 section in a timely and efficient manner.

10 “(ii) PERFORMANCE OF DATA  
11 MATCH.—The administering Secretaries,  
12 using the data matching program estab-  
13 lished under clause (i), shall perform a  
14 comparison in order to identify veterans  
15 who are entitled to benefits under part A  
16 or enrolled under part B, or both. To the  
17 extent such Secretaries deem appropriate  
18 to carry out this section, the comparison  
19 and identification may distinguish among  
20 such veterans by category of veterans, by  
21 entitlement to benefits under this title, or  
22 by other characteristics.

23 “(iii) DEADLINE FOR FIRST DATA  
24 MATCH.—Not later than October 31, 1999,

1 the administering Secretaries shall first  
2 perform a comparison under clause (ii).

3 “(iv) CERTIFICATION BY INSPECTOR  
4 GENERAL.—

5 “(I) IN GENERAL.—The admin-  
6 istering Secretaries may not conduct  
7 the program unless the Inspector Gen-  
8 eral of the Department of Health and  
9 Human Services certifies to Congress  
10 that the administering Secretaries  
11 have established the data matching  
12 program under clause (i) and have  
13 performed a comparison under clause  
14 (ii).

15 “(II) DEADLINE FOR CERTIFI-  
16 CATION.—Not later than December  
17 15, 1999, the Inspector General of the  
18 Department of Health and Human  
19 Services shall submit a report to Con-  
20 gress containing the certification  
21 under subclause (I) or the denial of  
22 such certification.

23 “(2) NUMBER OF DEMONSTRATION SITES.—

24 “(A) IN GENERAL.—Subject to subpara-  
25 graphs (B) and (C), and subsection

1 (g)(1)(D)(ii), the administering Secretaries  
2 shall establish a plan for the selection of up to  
3 10 demonstration sites located in geographically  
4 dispersed locations to participate in the project.

5 “(B) CRITERIA.—The administering Sec-  
6 retaries shall favor selection of those dem-  
7 onstration sites that consideration of the follow-  
8 ing factors indicate are suited to serve targeted  
9 Medicare-eligible veterans:

10 “(i) There is a high potential demand  
11 by targeted Medicare-eligible veterans for  
12 the services to be provided at the dem-  
13 onstration site.

14 “(ii) The demonstration site has suffi-  
15 cient capability in billing and accounting to  
16 participate in the project.

17 “(iii) The demonstration site can dem-  
18 onstrate favorable indicators of quality of  
19 care, including patient satisfaction.

20 “(iv) The demonstration site delivers  
21 a range of services required by targeted  
22 Medicare-eligible veterans.

23 “(v) The demonstration site meets  
24 other relevant factors identified in the  
25 plan.

1           “(C) REQUIRED DEMONSTRATION SITES.—

2           At least 1 of each of the following demonstra-  
3           tion sites shall be selected for inclusion in the  
4           demonstration project:

5                   “(i) DEMONSTRATION SITE NEAR  
6                   CLOSED BASE.—A demonstration site that  
7                   is in the same catchment area as a mili-  
8                   tary treatment facility referred to in sec-  
9                   tion 1074(a) of title 10, United States  
10                  Code, which was closed pursuant to  
11                  either—

12                           “(I) the Defense Base Closure  
13                           and Realignment Act of 1990 (part A  
14                           of title XXIX of Public Law 101–510;  
15                           10 U.S.C. 2687 note); or

16                           “(II) title II of the Defense Au-  
17                           thorization Amendments and Base  
18                           Closure and Realignment Act (Public  
19                           Law 100–526; 10 U.S.C. 2687 note).

20                           “(ii) DEMONSTRATION SITE IN A  
21                           RURAL AREA.—A demonstration site that  
22                           serves a predominantly rural population.

23           “(3) RESTRICTION.—No new buildings may be  
24           built or existing buildings expanded with funds from  
25           the demonstration project.

1           “(4) DURATION.—The administering Secretar-  
2           ies shall conduct the demonstration project during  
3           the 3-year period beginning on January 1, 2000.

4           “(c) CREDITING OF PAYMENTS.—A payment received  
5           by the Secretary of Veterans Affairs under the demonstra-  
6           tion project shall be credited to the applicable Department  
7           of Veterans Affairs medical appropriation and (within that  
8           appropriation) to funds that have been allotted to the  
9           demonstration site that furnished the services for which  
10          the payment is made. Any such payment received during  
11          a fiscal year for services provided during a prior fiscal year  
12          may be obligated by the Secretary of Veterans Affairs dur-  
13          ing the fiscal year during which the payment is received.

14          “(d) AUTHORITY TO WAIVE CERTAIN MEDICARE RE-  
15          QUIREMENTS.—

16                 “(1) IN GENERAL.—Except as provided in para-  
17                 graph (2), the Secretary may, to the extent nec-  
18                 essary to carry out the demonstration project, waive  
19                 any requirement under this title.

20                 “(2) BENEFICIARY PROTECTIONS FOR MAN-  
21                 AGED CARE PLANS.—In the case of a managed care  
22                 plan established by the Secretary of Veterans Affairs  
23                 pursuant to subsection (g), such plan shall comply  
24                 with the requirements of part C of this title that re-  
25                 late to beneficiary protections and other matters, in-

1 including such requirements relating to the following  
2 areas:

3 “(A) Enrollment and disenrollment.

4 “(B) Nondiscrimination.

5 “(C) Information provided to beneficiaries.

6 “(D) Cost-sharing limitations.

7 “(E) Appeal and grievance procedures.

8 “(F) Provider participation.

9 “(G) Access to services.

10 “(H) Quality assurance and external re-  
11 view.

12 “(I) Advance directives.

13 “(J) Other areas of beneficiary protections  
14 that the Secretary determines are applicable to  
15 such project.

16 “(3) DESCRIPTION OF WAIVER.—If the Sec-  
17 retary waives any requirement pursuant to para-  
18 graph (1), the Secretary shall include a description  
19 of such waiver in the agreement described in sub-  
20 section (b)(1)(B).

21 “(e) INSPECTOR GENERAL.—Nothing in the agree-  
22 ment entered into under subsection (b) shall limit the In-  
23 spector General of the Department of Health and Human  
24 Services from investigating any matters regarding the ex-  
25 penditure of funds under this title for the demonstration

1 project, including compliance with the provisions of this  
2 title and all other relevant laws.

3 “(f) REPORT.—At least 60 days prior to the com-  
4 mencement of the demonstration project, the administer-  
5 ing Secretaries shall submit a copy of the agreement en-  
6 tered into under subsection (b) to the committees of juris-  
7 diction in Congress.

8 “(g) MANAGED HEALTH CARE.—

9 “(1) MANAGED HEALTH CARE PLANS.—

10 “(A) IN GENERAL.—The Secretary of Vet-  
11 erans Affairs may establish and operate man-  
12 aged health care plans at demonstration sites.

13 “(B) REQUIREMENTS.—Any managed  
14 health care plan established in accordance with  
15 subparagraph (A) shall be operated by or  
16 through a Veterans Affairs medical facility, or  
17 a group of Veterans Affairs medical facilities,  
18 and may include the provision of health care  
19 services by public and private entities under ar-  
20 rangements made between the Department of  
21 Veterans Affairs and the other public or private  
22 entity concerned. Any such managed health  
23 care plan shall be established and operated in  
24 conformance with standards prescribed by the  
25 administering Secretaries.

1           “(C) MINIMUM BENEFITS.—The admin-  
2           istering Secretaries shall prescribe the mini-  
3           mum health care benefits to be provided under  
4           a managed health care plan to veterans enrolled  
5           in the plan, which benefits shall include at least  
6           all health care services covered under the Medi-  
7           care program under this title.

8           “(D) INCLUSION IN NUMBER OF DEM-  
9           ONSTRATION SITES.—

10           “(i) IN GENERAL.—Subject to clause  
11           (ii), if the Secretary of Veterans Affairs  
12           elects to establish a managed health care  
13           plan under this section, the establishment  
14           of such plan is a selected demonstration  
15           site for purposes of applying the numerical  
16           limitation under subsection (b)(2).

17           “(ii) LIMITATION.—The Secretary of  
18           Veterans Affairs shall not establish more  
19           than 4 managed health care plans under  
20           this section.

21           “(2) DEMONSTRATION SITE REQUIREMENTS.—  
22           The Secretary of Veterans Affairs may establish a  
23           managed health care plan under paragraph (1)  
24           using 1 or more demonstration sites and other pub-  
25           lic or private entities only after the Secretary of Vet-

1        erans Affairs submits to Congress a report setting  
2        forth a plan for the use of such sites and entities.  
3        The plan may not be implemented until the Sec-  
4        retary of Veterans Affairs has received from the In-  
5        spector General of the Department of Veterans Af-  
6        fairs, and has forwarded to Congress, certification of  
7        each of the following:

8                “(A) The cost accounting system of the  
9                Veterans Health Administration (currently  
10                known as the Decision Support System) is oper-  
11                ational and is providing reliable cost informa-  
12                tion on care delivered on an inpatient and out-  
13                patient basis at such sites and entities.

14                “(B) The demonstration sites and entities  
15                have developed a credible plan (on the basis of  
16                market surveys, data from the Decision Support  
17                System, actuarial analysis, or other appropriate  
18                methods and taking into account the level of  
19                payment under subsection (h) and the costs of  
20                providing covered services at the sites and enti-  
21                ties) to minimize, to the extent feasible, the risk  
22                that appropriated funds allocated to the sites  
23                and entities will be required to meet the obliga-  
24                tion of the sites and entities to targeted Medi-

1 care-eligible veterans under the demonstration  
2 project.

3 “(C) The demonstration sites and entities  
4 collectively have available capacity to provide  
5 the contracted benefits package to a sufficient  
6 number of targeted Medicare-eligible veterans.

7 “(D) The Veterans Affairs medical facility  
8 administering the health plan has sufficient sys-  
9 tems and safeguards in place to minimize any  
10 risk that instituting the managed care model  
11 will result in reducing the quality of care deliv-  
12 ered to participants in the demonstration  
13 project or to other veterans receiving care under  
14 paragraph (1) or (2) of section 1710(a) of title  
15 38, United States Code.

16 “(3) RESERVES.—The Secretary of Veterans  
17 Affairs shall maintain such reserves as may be nec-  
18 essary to ensure against the risk that appropriated  
19 funds, allocated to demonstration sites and public or  
20 private entities participating in the demonstration  
21 project through a managed health care plan under  
22 this section, will be required to meet the obligations  
23 of those sites and entities to targeted Medicare-eli-  
24 ble veterans.

1       “(h) PAYMENTS BASED ON REGULAR MEDICARE  
2 PAYMENT RATES.—

3               “(1) PAYMENTS.—

4                       “(A) IN GENERAL.—Subject to the suc-  
5 ceeding provisions of this subsection, the Sec-  
6 retary shall reimburse the Secretary of Veter-  
7 ans Affairs for services provided under the dem-  
8 onstration project at the following rates:

9                               “(i) NONCAPITATION.—Except as pro-  
10 vided in clause (ii) and subject to subpara-  
11 graphs (B) and (D), at a rate equal to 95  
12 percent of the amounts that otherwise  
13 would be payable under this title on a  
14 noncapitated basis for such services if the  
15 demonstration site was not part of this  
16 demonstration project, was participating in  
17 the Medicare program, and imposed  
18 charges for such services.

19                               “(ii) CAPITATION.—Subject to sub-  
20 paragraphs (B) and (D), in the case of  
21 services provided to an enrollee under a  
22 managed health care plan established  
23 under subsection (g), at a rate equal to 95  
24 percent of the amount paid to a

1 Medicare+Choice organization under part  
2 C with respect to such an enrollee.

3 “(iii) OTHER CASES.—In cases in  
4 which a payment amount may not other-  
5 wise be readily computed under clauses (i)  
6 or (ii), the Secretaries shall establish rules  
7 for computing equivalent or comparable  
8 payment amounts.

9 “(B) EXCLUSION OF CERTAIN AMOUNTS.—  
10 In computing the amount of payment under  
11 subparagraph (A), the following shall be ex-  
12 cluded:

13 “(i) DISPROPORTIONATE SHARE HOS-  
14 PITAL ADJUSTMENT.—Any amount attrib-  
15 utable to an adjustment under section  
16 1886(d)(5)(F) of the Social Security Act  
17 (42 U.S.C. 1395ww(d)(5)(F)).

18 “(ii) DIRECT GRADUATE MEDICAL  
19 EDUCATION PAYMENTS.—Any amount at-  
20 tributable to a payment under subsection  
21 (h) of such section.

22 “(iii) PERCENTAGE OF INDIRECT  
23 MEDICAL EDUCATION ADJUSTMENT.—40  
24 percent of any amount attributable to the

1 adjustment under subsection (d)(5)(B) of  
2 such section.

3 “(iv) PERCENTAGE OF CAPITAL PAY-  
4 MENTS.—67 percent of any amounts at-  
5 tributable to payments for capital-related  
6 costs under subsection (g) of such section.

7 “(C) PERIODIC PAYMENTS FROM MEDI-  
8 CARE TRUST FUNDS.—Payments under this  
9 subsection shall be made—

10 “(i) on a periodic basis consistent  
11 with the periodicity of payments under this  
12 title; and

13 “(ii) in appropriate part, as deter-  
14 mined by the Secretary, from the trust  
15 funds.

16 “(D) ANNUAL LIMIT ON MEDICARE PAY-  
17 MENTS.—The amount paid to the Department  
18 of Veterans Affairs under this subsection for  
19 any year for the demonstration project may not  
20 exceed \$50,000,000.

21 “(2) REDUCTION IN PAYMENT FOR VA FAILURE  
22 TO MAINTAIN EFFORT.—

23 “(A) IN GENERAL.—To avoid shifting onto  
24 the Medicare program under this title costs pre-  
25 viously assumed by the Department of Veterans

1 Affairs for the provision of Medicare-covered  
2 services to targeted Medicare-eligible veterans,  
3 the payment amount under this subsection for  
4 the project for a fiscal year shall be reduced by  
5 the amount (if any) by which—

6 “(i) the amount of the VA effort level  
7 for targeted veterans (as defined in sub-  
8 paragraph (B)) for the fiscal year ending  
9 in such year, is less than

10 “(ii) the amount of the VA effort level  
11 for targeted veterans for fiscal year 1998.

12 “(B) VA EFFORT LEVEL FOR TARGETED  
13 VETERANS DEFINED.—For purposes of sub-  
14 paragraph (A), the term ‘VA effort level for  
15 targeted veterans’ means, for a fiscal year, the  
16 amount, as estimated by the administering Sec-  
17 retaries, that would have been expended under  
18 the Medicare program under this title for VA-  
19 provided Medicare-covered services for targeted  
20 veterans (as defined in subparagraph (C)) for  
21 that fiscal year if benefits were available under  
22 the Medicare program for those services. Such  
23 amount does not include expenditures attrib-  
24 utable to services for which reimbursement is  
25 made under the demonstration project.

1           “(C) VA-PROVIDED MEDICARE-COVERED  
 2 SERVICES FOR TARGETED VETERANS.—For  
 3 purposes of subparagraph (B), the term ‘VA-  
 4 provided Medicare-covered services for targeted  
 5 veterans’ means, for a fiscal year, items and  
 6 services—

7           “(i) that are provided during the fis-  
 8 cal year by the Department of Veterans  
 9 Affairs to targeted Medicare-eligible veter-  
 10 ans;

11           “(ii) that constitute hospital care and  
 12 medical services under chapter 17 of title  
 13 38, United States Code; and

14           “(iii) for which benefits would be  
 15 available under the Medicare program  
 16 under this title if they were provided other  
 17 than by a Federal provider of services that  
 18 does not charge for those services.

19           “(3) ASSURING NO INCREASE IN COST TO MEDI-  
 20 CARE PROGRAM.—

21           “(A) MONITORING EFFECT OF DEM-  
 22 ONSTRATION PROGRAM ON COSTS TO MEDICARE  
 23 PROGRAM.—

24           “(i) IN GENERAL.—The Secretaries,  
 25 in consultation with the Comptroller Gen-

1 eral, shall closely monitor the expenditures  
2 made under the Medicare program for tar-  
3 geted Medicare-eligible veterans during the  
4 period of the demonstration project com-  
5 pared to the expenditures that would have  
6 been made for such veterans during that  
7 period if the demonstration project had not  
8 been conducted.

9 “(ii) ANNUAL REPORT BY THE COMP-  
10 TROLLER GENERAL.—Not later than De-  
11 cember 31 of each year during which the  
12 demonstration project is conducted, the  
13 Comptroller General shall submit to the  
14 Secretaries and the appropriate committees  
15 of Congress a report on the extent, if any,  
16 to which the costs of the Secretary under  
17 the Medicare program under this title in-  
18 creased during the preceding fiscal year as  
19 a result of the demonstration project.

20 “(B) REQUIRED RESPONSE IN CASE OF IN-  
21 CREASE IN COSTS.—

22 “(i) IN GENERAL.—If the administer-  
23 ing Secretaries find, based on subpara-  
24 graph (A), that the expenditures under the  
25 Medicare program under this title in-

1           creased (or are expected to increase) dur-  
2           ing a fiscal year because of the demonstra-  
3           tion project, the administering Secretaries  
4           shall take such steps as may be needed—

5                   “(I) to recoup for the Medicare  
6                   program the amount of such increase  
7                   in expenditures; and

8                   “(II) to prevent any such in-  
9                   crease in the future.

10           “(ii) STEPS.—Such steps—

11                   “(I) under clause (i)(I), shall in-  
12                   clude payment of the amount of such  
13                   increased expenditures by the Sec-  
14                   retary of Veterans Affairs from the  
15                   current medical care appropriation of  
16                   the Department of Veterans Affairs to  
17                   the trust funds; and

18                   “(II) under clause (i)(II), shall  
19                   include suspending or terminating the  
20                   demonstration project (in whole or in  
21                   part) or lowering the amount of pay-  
22                   ment under paragraph (1)(A).

23           “(i) EVALUATION AND REPORTS.—

24                   “(1) INDEPENDENT EVALUATION.—

1           “(A) IN GENERAL.—The administering  
2           Secretaries shall arrange for an independent en-  
3           tity with expertise in the evaluation of health  
4           care services to conduct an evaluation of the  
5           demonstration project.

6           “(B) CONTENTS.—The evaluation con-  
7           ducted under subparagraph (A) shall include an  
8           assessment, based on the agreement entered  
9           into under subsection (b), of the following:

10           “(i) The cost to the Department of  
11           Veterans Affairs of providing care to veter-  
12           ans under the project.

13           “(ii) Compliance of participating dem-  
14           onstration sites with applicable measures  
15           of quality of care, compared to such com-  
16           pliance for other Medicare-participating  
17           medical centers that are not Veterans Af-  
18           fairs medical facilities.

19           “(iii) A comparison of the costs of  
20           participation of the demonstration sites in  
21           the program with the reimbursements pro-  
22           vided for services of such sites.

23           “(iv) Any savings or costs to the  
24           Medicare program under this title from the  
25           project.

1           “(v) Any change in access to care or  
2           quality of care for targeted Medicare-eli-  
3           gible veterans participating in the project.

4           “(vi) Any effect of the project on the  
5           access to care and quality of care for tar-  
6           geted Medicare-eligible veterans not par-  
7           ticipating in the project and other veterans  
8           not participating in the project.

9           “(vii) The provision of services under  
10          managed health care plans under sub-  
11          section (g), including the circumstances (if  
12          any) under which the Secretary of Veter-  
13          ans Affairs uses reserves described in para-  
14          graph (3) of such subsection and the Sec-  
15          retary of Veterans Affairs’ response to  
16          such circumstances (including the termi-  
17          nation of managed health care plans re-  
18          quiring the use of such reserves).

19          “(viii) Any effect that the demonstra-  
20          tion project has on the enrollment in  
21          Medicare+Choice plans offered by  
22          Medicare+Choice organizations under part  
23          C of this title in the established site areas.

24          “(ix) Any additional elements that the  
25          independent entity determines is appro-

1            appropriate to assess regarding the demonstra-  
2            tion project.

3            “(C) ANNUAL REPORTS.—The independent  
4            entity conducting the evaluation under subpara-  
5            graph (A) shall submit reports on such evalua-  
6            tion to the administering Secretaries and to the  
7            committees of jurisdiction in the Congress as  
8            follows:

9                    “(i) INITIAL REPORT.—The entity  
10                   shall submit the initial report not later  
11                   than 12 months after the date on which  
12                   the demonstration project begins operation.

13                   “(ii) SECOND ANNUAL REPORT.—The  
14                   entity shall submit the second annual re-  
15                   port not later than 30 months after the  
16                   date on which the demonstration project  
17                   begins operation.

18                   “(iii) FINAL REPORT.—The entity  
19                   shall submit the final report not later than  
20                   3½ years after the date on which the dem-  
21                   onstration project begins operation.

22                   “(2) REPORT ON EXTENSION AND EXPANSION  
23                   OF DEMONSTRATION PROJECT.—Not later than 3½  
24                   years after the date on which the demonstration

1 project begins operation, the administering Secretar-  
2 ies shall submit to Congress a report containing—

3 “(A) their recommendation as to—

4 “(i) whether to extend the demonstra-  
5 tion project or make the project perma-  
6 nent;

7 “(ii) whether to expand the project to  
8 cover additional demonstration sites and to  
9 increase the maximum amount of reim-  
10 bursement (or the maximum amount of re-  
11 imbursement permitted for managed health  
12 care plans under this section) under the  
13 project in any year; and

14 “(iii) whether the terms and condi-  
15 tions of the project should be continued (or  
16 modified) if the project is extended or ex-  
17 panded; and

18 “(B) a detailed description of any costs as-  
19 sociated with their recommendation made pur-  
20 suant to clauses (i) and (ii) of subparagraph  
21 (A).”.

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