

108TH CONGRESS
1ST SESSION

S. 1127

To establish administrative law judges involved in the appeals process provided for under the medicare program under title XVIII of the Social Security Act within the Department of Health and Human Services, to ensure the independence of, and preserve the role of, such administrative law judges, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 22, 2003

Ms. STABENOW (for herself, Mr. KENNEDY, Mr. LEAHY, Mr. DODD, Mr. CORZINE, Mr. LAUTENBERG, Mr. HARKIN, Mr. BINGAMAN, Mr. DURBIN, and Mr. ROCKEFELLER) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To establish administrative law judges involved in the appeals process provided for under the medicare program under title XVIII of the Social Security Act within the Department of Health and Human Services, to ensure the independence of, and preserve the role of, such administrative law judges, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Fair And Impartial
5 Rights (FAIR) for Medicare Act of 2003”.

1 **SEC. 2. ADMINISTRATIVE LAW JUDGES WITHIN HHS; EN-**
 2 **SURING INDEPENDENCE OF ADMINISTRA-**
 3 **TIVE LAW JUDGES; PRESERVATION OF THE**
 4 **ROLE OF ADMINISTRATIVE LAW JUDGES.**

5 (a) ALJS WITHIN HHS.—Any administrative law
 6 judge performing the administrative law judge functions
 7 described in section 1869 of the Social Security Act (42
 8 U.S.C. 1395ff) shall be within the Department of Health
 9 and Human Services.

10 (b) ENSURING INDEPENDENCE OF ALJS.—

11 (1) IN GENERAL.—The Secretary of Health and
 12 Human Services shall ensure the independence of
 13 administrative law judges described in subsection
 14 (a).

15 (2) INDEPENDENCE DESCRIBED.—In order to
 16 ensure the independence described in paragraph (1),
 17 each administrative law judge described in sub-
 18 section (a) shall—

19 (A) be an impartial decisionmaker;

20 (B) be bound only by applicable statutes,
 21 regulations, and rulings issued in accordance
 22 with subchapter II of chapter 5, and chapter 7,
 23 of title 5, United States Code (commonly known
 24 as the “Administrative Procedures Act”);

25 (C) be placed by the Secretary in an ad-
 26 ministrative office that is organizationally and

1 functionally separate from the Centers for
2 Medicare & Medicaid Services; and

3 (D) report to, and be under the general su-
4 pervision of, the Secretary, but shall not report
5 to, or be subject to supervision by, another offi-
6 cer of the Department of Health and Human
7 Services.

8 (c) PRESERVATION OF THE ROLE OF ALJs.—An in-
9 dividual who is not an administrative law judge appointed
10 pursuant to section 3105 of title 5, United States Code,
11 may not perform the functions of an administrative law
12 judge specified in section 1869 of the Social Security Act
13 (42 U.S.C. 1395ff).

14 (d) CONFORMING AMENDMENT.—Section
15 1869(f)(2)(A)(i) of the Social Security Act (42 U.S.C.
16 1395ff(f)(2)(A)(i)) is amended by striking “of the Social
17 Security Administration”.

○