

109<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 5834

To amend title XIX of the Social Security Act to improve requirements under the Medicaid Program for items and services furnished in or through an educational program or setting to children, including children with developmental, physical, or mental health needs, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JULY 19, 2006

Mr. DINGELL (for himself, Mr. WHITFIELD, Mr. GEORGE MILLER of California, Mr. WAXMAN, Mr. MARKEY, Mrs. CAPPS, Mr. RUSH, Mr. TOWNS, Ms. SCHAKOWSKY, Mr. DAVIS of Florida, Ms. BALDWIN, Mr. PALLONE, Mr. ROSS, Mr. GENE GREEN of Texas, Mr. ENGEL, Mr. STUPAK, Mr. WYNN, Ms. DEGETTE, Mr. ALLEN, Ms. SOLIS, Mr. GONZALEZ, Mr. STRICKLAND, Mr. DOYLE, Mr. KILDEE, Mr. GRIJALVA, Mr. DAVIS of Illinois, Mr. HINOJOSA, Mr. PAYNE, Ms. LEE, Mr. FILNER, Ms. ZOE LOFGREN of California, Ms. WOOLSEY, and Mr. CARDIN) introduced the following bill; which was referred to the Committee on Energy and Commerce

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## A BILL

To amend title XIX of the Social Security Act to improve requirements under the Medicaid Program for items and services furnished in or through an educational program or setting to children, including children with developmental, physical, or mental health needs, and for other purposes.

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

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Protecting Children’s  
3 Health in Schools Act of 2006”.

4 **SEC. 2. REQUIREMENTS UNDER THE MEDICAID PROGRAM**  
5 **FOR ITEMS AND SERVICES FURNISHED IN OR**  
6 **THROUGH AN EDUCATIONAL PROGRAM OR**  
7 **SETTING TO CHILDREN, INCLUDING CHIL-**  
8 **DREN WITH DEVELOPMENTAL, PHYSICAL, OR**  
9 **MENTAL HEALTH NEEDS.**

10 (a) REQUIREMENTS FOR PAYMENTS.—Section 1903  
11 of the Social Security Act (42 U.S.C. 1396b) is amend-  
12 ed—

13 (1) in subsection (i)—

14 (A) in paragraph (22), by striking the pe-  
15 riod at the end and inserting “; or”; and

16 (B) by inserting after paragraph (22), the  
17 following new paragraphs:

18 “(23) with respect to any amount expended by,  
19 or on behalf of, the State (including by a local edu-  
20 cational agency in the State or the lead agency in  
21 the State with responsibility for administering part  
22 C of the Individuals with Disabilities Education Act)  
23 for an item or service provided under the State plan  
24 in or through an educational program or setting, or  
25 for any administrative cost incurred to carry out the  
26 State plan in or through such a program or setting,

1 or for a transportation service for an individual who  
2 has not attained age 21, unless the requirements of  
3 subsection (y) are met; or

4 “(24) with respect to any amount expended for  
5 an item or service provided under the State plan in  
6 or through an educational program or setting, or for  
7 any administrative cost incurred to carry out the  
8 plan in or through such a program or setting by, or  
9 on behalf of, the State through an agency that is not  
10 the State agency with responsibility for admin-  
11 istering the State plan (including a local educational  
12 agency in the State or the lead agency in the State  
13 with responsibility for administering part C of the  
14 Individuals with Disabilities Education Act) and  
15 that enters into a contract or other arrangement  
16 with a person or entity for or in connection with the  
17 collection or submission of claims for such an ex-  
18 penditure or cost, unless the agency—

19 “(A) if not a public agency operating a  
20 consortium with other public agencies, uses a  
21 competitive bidding process or otherwise to con-  
22 tract with such person or entity at a reasonable  
23 rate commensurate with the services performed  
24 by the person or entity; and

1           “(B) requires that any fees (including any  
2           administrative fees) to be paid to the person or  
3           entity for the collection or submission of such  
4           claims are identified as a non-contingent, speci-  
5           fied dollar amount in the contract.”; and

6           (2) by adding at the end the following new sub-  
7           section:

8           “(y) REQUIREMENTS FOR FEDERAL FINANCIAL PAR-  
9           TICIPATION FOR FURNISHING MEDICAL ASSISTANCE (IN-  
10          CLUDING MEDICALLY NEEDED TRANSPORTATION) IN OR  
11          THROUGH AN EDUCATIONAL PROGRAM OR SETTING.—  
12          For purposes of subsection (i)(23), the requirements of  
13          this subsection are the following:

14                 “(1) APPROVED METHODOLOGY FOR EXPENDI-  
15                 TURES FOR BUNDLED ITEMS, SERVICES, AND AD-  
16                 MINISTRATIVE COSTS.—

17                 “(A) IN GENERAL.—In the case of any  
18                 amount expended by, or on behalf of, the State  
19                 for a bundle of individual items, services, and  
20                 administrative costs under the State plan that  
21                 are furnished in or through an educational pro-  
22                 gram or setting, the expenditure must be made  
23                 in accordance with a methodology approved by  
24                 the Secretary which—

1 “(i) provides for an itemization to the  
2 Secretary in a manner that ensures ac-  
3 countability of the cost of the bundled  
4 items, services, and administrative costs  
5 and includes payment rates and the meth-  
6 odologies underlying the establishment of  
7 such rates;

8 “(ii) has a sound basis for deter-  
9 mining such payment rates and methodolo-  
10 gies; and

11 “(iii) matches payments for the bun-  
12 dled items, services, and administrative  
13 costs with corresponding items and services  
14 provided and administrative costs incurred  
15 under the State plan.

16 “(B) RULE OF CONSTRUCTION.—Nothing  
17 in subparagraph (A) shall be construed as—

18 “(i) requiring a State to establish and  
19 apply such a methodology through a State  
20 plan amendment;

21 “(ii) requiring a State with such an  
22 approved methodology to obtain the ap-  
23 proval of the Secretary for any increase in  
24 rates of reimbursement that are estab-  
25 lished consistent with such methodology; or

1           “(iii) prohibiting the Secretary from  
2           reviewing a State’s costs for the individual  
3           items, services, and administrative costs  
4           that make up a proposed bundle of items,  
5           services, and costs as a condition of ap-  
6           proval of the methodology that the State  
7           will establish to determine the rate of reim-  
8           bursement for such bundle of items, serv-  
9           ices, and costs.

10           “(2) APPLICATION OF MARKET RATE FOR INDI-  
11           VIDUAL ITEMS, SERVICES, ADMINISTRATIVE  
12           COSTS.—In the case of an amount expended by, or  
13           on behalf of, the State for an individual item, serv-  
14           ice, or administrative cost under the State plan that  
15           is furnished in or through an educational program  
16           or setting, the State must establish that the amount  
17           expended—

18           “(A) does not exceed the amount that  
19           would have been paid for the item, service, or  
20           administrative cost if the item or service was  
21           provided or the cost was incurred by an entity  
22           in or through a program or setting other than  
23           an educational program or setting; or

24           “(B) if the amount expended for the item,  
25           service, or administrative cost is higher than

1 the amount described in subparagraph (A), was  
2 necessary.

3 “(3) TRANSPORTATION SERVICES.—

4 “(A) IN GENERAL.—In the case of an  
5 amount expended by, or on behalf of, the State  
6 for furnishing in or through an educational pro-  
7 gram or setting a transportation service for an  
8 individual who has not attained age 21 and who  
9 is eligible for medical assistance under the  
10 State plan, the State must establish that—

11 “(i) a medical need for transportation  
12 is specifically listed in the individualized  
13 education program for the individual estab-  
14 lished pursuant to part B of the Individ-  
15 uals with Disabilities Education Act or, in  
16 the case of an infant or a toddler with a  
17 disability, in the individualized family serv-  
18 ice plan established for such infant or tod-  
19 dler pursuant to part C of such Act, or is  
20 furnished to the individual pursuant to sec-  
21 tion 504 of the Rehabilitation Act of 1973;

22 “(ii) the vehicle used to furnish such  
23 transportation service is specially equipped  
24 or staffed to accommodate individuals who  
25 have not attained age 21 with develop-

1           mental, physical, or mental health needs;  
2           and

3                   “(iii) payment for such service is  
4           made only for costs directly attributable to  
5           costs associated with transporting individ-  
6           uals who have not attained age 21 and  
7           whose developmental, physical, or mental  
8           health needs require transport in such a  
9           vehicle in order to receive the services for  
10          which medical assistance is provided under  
11          the State plan.

12                   “(B) RULE OF CONSTRUCTION.—Nothing  
13          in subparagraph (A) shall be construed as  
14          modifying the obligation of a State to ensure  
15          that an individual who has not attained age 21  
16          and who is eligible for medical assistance under  
17          the State plan receives necessary transportation  
18          services to and from a provider of medical as-  
19          sistance in or through a program or setting  
20          other than an educational program or setting.”.

21           (b) REQUIREMENTS FOR THE PROVISION OF ITEMS  
22   AND SERVICES THROUGH MEDICAID MANAGED CARE OR-  
23   GANIZATIONS.—



1           (1) CONTRACTUAL REQUIREMENTS.—Section  
2           1903(m)(2) of the Social Security Act (42 U.S.C.  
3           1396b(m)(2)) is amended—

4                   (A) in subparagraph (A), by inserting after  
5           clause (i) the following new clause:

6                   “(ii) the contract with the entity satisfies the  
7           requirements of subparagraph (C) (relating to pay-  
8           ment for, and coverage of, such services under an in-  
9           dividual’s education program, an individualized fam-  
10          ily service plan, or when furnished in or through an  
11          educational program or setting);” and

12                   (B) by inserting after subparagraph (B),  
13          the following new subparagraph:

14                   “(C) For purposes of clause (ii) of subparagraph (A),  
15          the requirements of this subparagraph are the following:

16                   “(i) The contract with the entity specifies the  
17          coverage and payment responsibilities of the entity  
18          in relation to medical assistance for items and serv-  
19          ices that are covered under the State plan and in-  
20          cluded in the contract, when such items and services  
21          are furnished in or through an educational program  
22          or setting.

23                   “(ii) In any case in which the entity is obligated  
24          under the contract to pay for items and services cov-

1       ered under the State plan, the contract with the en-  
2       tity requires the entity to—

3               “(I) enter into a provider network service  
4               agreement with the qualified provider or pro-  
5               viders furnishing such items or services in or  
6               through an educational program or setting;

7               “(II) promptly pay such providers at a rate  
8               that is at least equal to the rate that would be  
9               paid to a provider furnishing the same service  
10              in a non-educational program or setting; and

11              “(III) treat as final and binding deter-  
12              minations by State licensed providers or pro-  
13              viders eligible for reimbursement under the  
14              State plan working in an educational program  
15              or setting regarding the medical necessity of an  
16              item or service.

17              “(iii) The contract with the entity specifies the  
18              obligation of the entity to ensure that providers of  
19              items or services that are furnished in or through an  
20              educational program or setting refer children fur-  
21              nished such items or services to the entity and its  
22              provider network for additional services that are not  
23              available in or through such program or setting but  
24              that are covered under the State plan and included  
25              in the entity’s contract with the State.

1           “(iv) The contract with the entity requires, with  
2           respect to payment for, and coverage of, services for  
3           which the entity is responsible for, that the entity  
4           must demonstrate that the entity has established  
5           procedures to—

6                   “(I) ensure coordination between the State,  
7                   a local educational agency and the lead agency  
8                   in the State with responsibility for admin-  
9                   istering part C of the Individuals with Disabil-  
10                  ities Education Act with respect to those serv-  
11                  ices for an individual who has not attained age  
12                  21 and who is eligible for medical assistance  
13                  under the State plan (including an individual  
14                  who has an individualized education program  
15                  established pursuant to part B of the Individ-  
16                  uals with Disabilities Education Act or other-  
17                  wise or an infant or toddler with a disability  
18                  who has an individualized family service plan  
19                  established pursuant to part C of such Act)  
20                  which are required for the individual under the  
21                  individual’s education program or the individ-  
22                  ualized family service plan, or are furnished to  
23                  the individual pursuant to section 504 of the  
24                  Rehabilitation Act of 1973 and which are not  
25                  specifically included in the services required

1 under the contract, but are the responsibility of  
2 the State, a local educational agency, or the  
3 lead agency in the State with responsibility for  
4 administering part C of the Individuals with  
5 Disabilities Education Act; and

6 “(II) prevent duplication of services and  
7 payments under this title with respect to items  
8 and services covered under the State plan that  
9 are furnished in or through an educational pro-  
10 gram or setting to such individuals enrolled  
11 under the contract.”.

12 (2) PROHIBITION ON DUPLICATIVE PAY-  
13 MENTS.—

14 (A) IN GENERAL.—Section 1903(i) of the  
15 Social Security Act (42 U.S.C. 1396b(i)), as  
16 amended by subsection (a), is amended—

17 (i) in paragraph (24)(B), by striking  
18 the period and inserting “; or”; and

19 (ii) by inserting after paragraph (24)  
20 the following new paragraph:

21 “(25) with respect to any amount ex-  
22 pended under the State plan for an item, serv-  
23 ice, or administrative cost for which payment is  
24 or may be made directly to a person or entity  
25 (including a State, local educational agency, or

1 the lead agency in the State with responsibility  
2 for administering part C of the Individuals with  
3 Disabilities Education Act) under the State  
4 plan if payment for such item, service, or ad-  
5 ministrative cost was included in the determina-  
6 tion of a prepaid capitation or other risk-based  
7 rate of payment to an entity under a contract  
8 pursuant to section 1903(m).”.

9 (B) CONFORMING AMENDMENT.—The  
10 third sentence of section 1903(i) of such Act  
11 (42 U.S.C. 1396b(i)), as amended by subsection  
12 (a)(1)(C), is amended by striking “and (24)”  
13 and inserting “(24), and (25)”.

14 (c) ALLOWABLE SHARE OF FFP WITH RESPECT TO  
15 PAYMENT FOR SERVICES FURNISHED IN OR THROUGH  
16 AN EDUCATIONAL PROGRAM OR SETTING.—Section  
17 1903(w)(6) of the Social Security Act (42 U.S.C.  
18 1396b(w)(6)) is amended—

19 (1) in subparagraph (A), by inserting “subject  
20 to subparagraph (C),” after “subsection,”; and

21 (2) by adding at the end the following new sub-  
22 paragraph:

23 “(C) In the case of any Federal financial participa-  
24 tion paid under subsection (a) with respect to an expendi-  
25 ture for an item or service provided under the plan, or

1 for any administrative cost incurred to carry out the plan,  
2 that is furnished in or through an educational program  
3 or setting, the State shall provide that—

4           “(i) if 0 percent of the expenditure was made  
5           or the cost was incurred directly by the State, the  
6           State shall pay the local educational agency in the  
7           State or the lead agency in the State with responsi-  
8           bility for administering part C of the Individuals  
9           with Disabilities Education Act that made the ex-  
10          penditure or incurred the cost (and, if applicable,  
11          any consortium of public agencies that incurred  
12          costs in connection with the collection or submission  
13          of claims for such expenditures or costs), 100 per-  
14          cent (divided, as appropriate, between such agencies  
15          and such a consortium, if applicable) of the amount  
16          of the Federal financial participation; and

17          “(ii) if 100 or any lesser percent of the expendi-  
18          ture was made or the cost was directly incurred by  
19          the State, the State shall retain only such percent-  
20          age of the Federal financial participation paid for  
21          the expenditure or cost as does not exceed the per-  
22          centage of such expenditure or cost that was funded  
23          by State revenues that are dedicated solely for the  
24          provision of such medical assistance (and shall pay  
25          out of any remaining percentage of such Federal fi-

1 nancial participation, the percentage due to the local  
2 educational agency in the State or the lead agency  
3 in the State with responsibility for administering  
4 part C of the Individuals with Disabilities Education  
5 Act that made or incurred the remaining percentage  
6 of such expenditure or cost (and, if applicable, any  
7 consortium of public agencies that incurred costs in  
8 connection with the collection or submission of  
9 claims for such expenditures or costs)).”.

10 (d) ASSURANCE OF REIMBURSEMENT FOR ADMINIS-  
11 TRATIVE, ENROLLMENT, AND OUTREACH ACTIVITIES  
12 CONDUCTED BY LOCAL EDUCATIONAL AGENCIES.—

13 (1) MEDICAID.—Section 1902 of the Social Se-  
14 curity Act (42 U.S.C. 1396a) is amended by insert-  
15 ing after subsection (j) the following new subsection:

16 “(k) Nothing in this title shall be construed as au-  
17 thorizing the Secretary to prohibit the State agency with  
18 responsibility for the administration or supervision of the  
19 administration of the State plan from entering into inter-  
20 agency agreements with local educational agencies under  
21 which such local educational agencies shall be reimbursed  
22 for the Federal share of amounts expended for administra-  
23 tive, enrollment, and outreach activities for which payment  
24 is made to the State under section 1903(a)(7), including  
25 with respect to such activities as are conducted for pur-

1 poses of satisfying the requirements of subsection  
2 (a)(43).”.

3 (2) SCHIP.—Section 2107(e)(1) of the Social  
4 Security Act (42 U.S.C. 1397gg(e)(1)) is amended—

5 (A) by redesignating subparagraphs (B)  
6 through (D) as subparagraphs (C) through (E),  
7 respectively; and

8 (B) by inserting after subparagraph (A)  
9 the following new subparagraph:

10 “(B) Section 1902(k) (relating to inter-  
11 agency agreements with local educational agen-  
12 cies for reimbursement for expenditures for ad-  
13 ministrative, enrollment, and outreach activi-  
14 ties).”.

15 (e) CLARIFICATION OF COVERAGE OF EPSDT AND  
16 ITEMS AND SERVICES FURNISHED TO A DISABLED CHILD  
17 PURSUANT TO SECTION 504 OF THE REHABILITATION  
18 ACT OF 1973; DEFINITION OF “EDUCATIONAL PROGRAM  
19 OR SETTING”.—Section 1903(c) of the Social Security Act  
20 (42 U.S.C. 1396b(c)) is amended—

21 (1) by inserting “(1)” after “(c)”;

22 (2) by striking “Education Act or” and insert-  
23 ing “Education Act,”;



1           (3) by inserting “, or furnished to a child with  
2           a disability pursuant to section 504 of the Rehabili-  
3           tation Act of 1973” before the period; and

4           (4) by adding at the end the following new  
5           paragraphs:

6           “(2) Nothing in this title shall be construed as pro-  
7           hibiting or restricting, or authorizing the Secretary to pro-  
8           hibit or restrict, payment under subsection (a) for the fol-  
9           lowing items or services furnished in or through an edu-  
10          cational program or setting, or costs incurred with respect  
11          to the furnishing of such items or services:

12           “(A) Medical assistance for items or services  
13          described in section 1905(a)(4)(B) (relating to early  
14          and periodic screening, diagnostic, and treatment  
15          services defined in section 1905(r)) and costs in-  
16          curred for providing such items or services in ac-  
17          cordance with the requirements of section  
18          1902(a)(43).

19           “(B) Costs incurred for providing services re-  
20          lated to the administration of the State plan, includ-  
21          ing providing information regarding the availability  
22          of, and eligibility for, medical assistance under the  
23          plan, and assistance with determinations of eligi-  
24          bility and enrollment and redeterminations of eligi-  
25          bility under the plan.

1       “(3) Nothing in this title shall be construed as pro-  
2 hibiting or restricting, or authorizing the Secretary to pro-  
3 hibit or restrict, payment under subsection (a) for medical  
4 assistance furnished in or through an educational program  
5 or setting or costs described in paragraph (2)(B) solely  
6 because—

7               “(A) the State utilizes an all-inclusive payment  
8 arrangement in making payments for medical assist-  
9 ance described in subsections (a) or (r) of section  
10 1905; or

11               “(B) the State utilizes a cost allocation system  
12 that meets Federal requirements when paying for  
13 the cost of services described in section 1902(a)(43)  
14 or other administrative services directly related to  
15 the administration of the State plan.

16       “(4)(A) For purposes of this title, the term ‘edu-  
17 cational program or setting’ means any location in which  
18 the items or services included in a child’s individualized  
19 education plan established pursuant to part B of the Indi-  
20 viduals with Disabilities Education Act or otherwise, or  
21 in an infant’s or toddler’s individualized family service  
22 plan established pursuant to part C of such Act, are deliv-  
23 ered, including the home, child care setting, or school of  
24 the child, infant, or toddler.

25       “(B) Such term includes—

1           “(i) any location in which an evaluation or as-  
2           sessment is conducted, in accordance with the re-  
3           quirements of section 1902(a)(43) and subsections  
4           (a)(4)(B) and (r) of section 1905, to determine if a  
5           child is a child with a disability under section 614  
6           of the Individuals with Disabilities Education Act  
7           (20 U.S.C. 1414) who requires an individualized  
8           education program (IEP) under section 614(d) of  
9           such Act (20 U.S.C. 1414(d)) or if an infant or tod-  
10          dler is an infant or toddler with a disability under  
11          section 635(a)(3) of such Act (20 U.S.C.  
12          1435(a)(3)) who requires an individualized family  
13          service plan under section 636 of such Act (20  
14          U.S.C. 1436) and any location in which a reevalua-  
15          tion or reassessment of such a determination is con-  
16          ducted; and

17           “(ii) for purposes of subsection (m)(2)(C), any  
18          location in which items or services described in sec-  
19          tion 1905(a)(4)(B) (relating to early and periodic  
20          screening, diagnostic, and treatment services defined  
21          in section 1905(r)) are delivered and costs are in-  
22          curred for providing such items or services in ac-  
23          cordance with the requirements of section  
24          1902(a)(43).”.

1 (f) ASSURANCE OF COMPLIANCE WITH FEDERAL  
2 AND STATE REQUIREMENTS.—Section 1902(a) of the So-  
3 cial Security Act (42 U.S.C. 1396a(a)) is amended—

4 (1) in paragraph (69), by striking “and” at the  
5 end;

6 (2) in paragraph (70)(B)(iv), by striking the  
7 period at the end and inserting “; and”; and

8 (3) by inserting after paragraph (70), the fol-  
9 lowing new paragraph:

10 “(71) provide that—

11 “(A) the State will establish procedures to  
12 ensure that—

13 “(i) any provider of an item or service  
14 covered under the plan that is furnished in  
15 or through an educational program or set-  
16 ting complies with all Federal and State  
17 requirements applicable to providers of  
18 such items or services under the plan; and

19 “(ii) any educational entity that is en-  
20 gaged in the provision of an activity de-  
21 scribed in paragraph (43) or any other ac-  
22 tivity that is directly related to the admin-  
23 istration of the plan complies with all Fed-  
24 eral and State requirements applicable for  
25 payment for such activity; and

1           “(B) the State will not furnish medical as-  
2           sistance for an item or service covered under  
3           the plan in or through an educational program  
4           or setting, or undertake any activity described  
5           in paragraph (43) or any other activity that is  
6           directly related to the administration of the  
7           plan in or through such a program or setting,  
8           unless the entity responsible for providing the  
9           item or service, or undertaking such an activity,  
10          in or through the educational program or set-  
11          ting will be paid under the State plan for the  
12          costs related to the furnishing of such item or  
13          service or the undertaking of such activity.”.

14          (g) UNIFORM METHODOLOGY FOR EDUCATIONAL  
15 PROGRAM OR SETTING-BASED CLAIMS.—

16           (1) IN GENERAL.—Not later than 90 days after  
17          the date of enactment of this Act, the Secretary of  
18          Health and Human Services and the Secretary of  
19          Education, acting jointly and in consultation with  
20          State medicaid directors, State educational agencies,  
21          local educational agencies, and State agencies with  
22          responsibility for administering part C of the Indi-  
23          viduals with Disabilities Education Act, shall develop  
24          and implement a uniform methodology for claims for  
25          payment of medical assistance and related adminis-

1       trative costs furnished under title XIX of the Social  
2       Security Act in an educational program or setting.

3           (2) REQUIREMENTS.—The methodology devel-  
4       oped under paragraph (1)—

5           (A) shall not prohibit or restrict payment  
6       for medical assistance and administrative activi-  
7       ties that are provided or conducted in accord-  
8       ance with section 1903(c) of the Social Security  
9       Act (42 U.S.C. 1396b(c)); and

10          (B) with respect to administrative costs,  
11       shall be based on—

12           (i) standards related to time studies  
13       and population estimates; and

14           (ii) a national standard for deter-  
15       mining payment for such costs.

16       (h) EFFECTIVE DATE.—The amendments made by  
17       this section shall take effect on the date of enactment of  
18       this Act and shall apply to items and services provided  
19       and expenditures made on or after such date, without re-  
20       gard to whether implementing regulations are in effect.

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