

112TH CONGRESS  
1ST SESSION

# S. 1251

To amend titles XVIII and XIX of the Social Security Act to curb waste, fraud, and abuse in the Medicare and Medicaid programs.

---

## IN THE SENATE OF THE UNITED STATES

JUNE 22, 2011

Mr. CARPER (for himself, Mr. COBURN, Mr. BENNET, Mr. ENZI, Mr. CORKER, Mr. BROWN of Massachusetts, Ms. KLOBUCHAR, and Mr. THUNE) introduced the following bill; which was read twice and referred to the Committee on Finance

---

## A BILL

To amend titles XVIII and XIX of the Social Security Act to curb waste, fraud, and abuse in the Medicare and Medicaid programs.

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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the  
5 “Medicare and Medicaid Fighting Fraud and Abuse to  
6 Save Taxpayers’ Dollars Act” or the “Medicare and Med-  
7 icaid FAST Act”.

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

Sec. 1. Short title; table of contents.

## TITLE I—PREVENTING PRESCRIPTION DRUG WASTE, FRAUD, AND ABUSE

- Sec. 101. Requiring valid National Provider Identifiers of prescribers on pharmacy claims and limiting access to the National Provider Identifier Registry.
- Sec. 102. Encouraging the establishment of State Prescription Drug Monitoring Programs.
- Sec. 103. Updating of DEA database of controlled substances providers.

## TITLE II—CURBING IMPROPER PAYMENTS

- Sec. 201. Addressing vulnerabilities identified by Recovery Audit Contractors.
- Sec. 202. Improving Senior Medicare Patrol and fraud reporting rewards.
- Sec. 203. Prohibiting the display of Social Security account numbers on newly issued Medicare identification cards and communications provided to Medicare beneficiaries.
- Sec. 204. Requiring prepayment review of all claims for durable medical equipment at high risk of waste, fraud, and abuse.
- Sec. 205. Strengthening Medicaid Program integrity through flexibility.

## TITLE III—IMPROVING DATA SHARING ACROSS AGENCIES AND PROGRAMS

- Sec. 301. Improving data sharing across agencies and programs.
- Sec. 302. Expanding automated prepayment review of Medicare claims.
- Sec. 303. Improving the sharing of data between the Federal Government and State Medicaid programs.
- Sec. 304. Improving claims processing and detection of fraud within the Medicaid and CHIP programs.
- Sec. 305. Reports.

## TITLE IV—IMPROVING CMS CONTRACTOR PERFORMANCE

- Sec. 401. Establishing Medicare administrative contractor error reduction incentives.
- Sec. 402. Separating provider enrollment and screening from Medicare administrative contractors.
- Sec. 403. Developing measurable performance metrics for Medicare contractors.

## TITLE V—OTHER PROVISIONS

- Sec. 501. Strengthening penalties for the illegal distribution of a Medicare, Medicaid, or CHIP beneficiary identification or billing privileges.
- Sec. 502. Providing implementation funding.

1 **TITLE I—PREVENTING PRE-**  
 2 **SCRIPTION DRUG WASTE,**  
 3 **FRAUD, AND ABUSE**

4 **SEC. 101. REQUIRING VALID NATIONAL PROVIDER IDENTI-**  
 5 **FIERS OF PRESCRIBERS ON PHARMACY**  
 6 **CLAIMS AND LIMITING ACCESS TO THE NA-**  
 7 **TIONAL PROVIDER IDENTIFIER REGISTRY.**

8 (a) REQUIRING VALID NATIONAL PROVIDER IDENTI-  
 9 FIERS OF PRESCRIBERS ON PHARMACY CLAIMS.—Section  
 10 1860D–4(c) of the Social Security Act (42 U.S.C. 1395w–  
 11 104(c)) is amended by adding at the end the following new  
 12 paragraph:

13 “(4) REQUIRING VALID NATIONAL PROVIDER  
 14 IDENTIFIERS OF PRESCRIBERS ON PHARMACY  
 15 CLAIMS.—

16 “(A) IN GENERAL.—For plan year 2013  
 17 and subsequent plan years, subject to subpara-  
 18 graph (B), the Secretary shall prohibit PDP  
 19 sponsors of prescription drug plans from paying  
 20 claims for prescription drugs under this part  
 21 that do not include the valid National Provider  
 22 Identifier for the drug’s prescriber.

23 “(B) PROCEDURES.—The Secretary shall  
 24 establish—

1 “(i) procedures for determining the  
2 validity of National Provider Identifiers  
3 under subparagraph (A); and

4 “(ii) procedures for transferring to  
5 the Inspector General of the Department  
6 of Health and Human Services and appro-  
7 priate law enforcement agencies and other  
8 oversight entities information on those Na-  
9 tional Provider Identifiers and pharmacy  
10 claims, including records related to such  
11 claims, that the Secretary determines are  
12 invalid under clause (i).

13 “(C) REPORT.—Not later than January 1,  
14 2014, the Inspector General of the Department  
15 of Health and Human Services shall submit to  
16 Congress a report on the effectiveness of the  
17 procedures established under subparagraph  
18 (B).”.

19 (b) LIMITING ACCESS TO NATIONAL PROVIDER  
20 IDENTIFIER REGISTRY.—

21 (1) IN GENERAL.—The Secretary of Health and  
22 Human Services (in this subsection referred to as  
23 the “Secretary”), in consultation with the Attorney  
24 General, the Inspector General of the Department of  
25 Health and Human Services, the Chairman of the

1 Federal Trade Commission, and affected parties (in-  
 2 cluding prescription drug plans under part D of title  
 3 XVIII of the Social Security Act (42 U.S.C. 1395w–  
 4 101 et seq.), MA–PD plans under part C of title  
 5 XVIII of the Social Security Act (42 U.S.C. 1395w–  
 6 21 et seq.), pharmacies, physicians, and pharmacy  
 7 computer vendors), shall establish procedures and  
 8 rules to restrict access to the National Provider  
 9 Identifier Registry in order to deter its fraudulent  
 10 use.

11 (2) ACCESS.—The procedures established under  
 12 paragraph (1) shall provide governmental and non-  
 13 governmental entities, as appropriate, access to such  
 14 Registry under data use agreements and in accord-  
 15 ance with rules established by the Secretary under  
 16 such paragraph.

17 **SEC. 102. ENCOURAGING THE ESTABLISHMENT OF STATE**  
 18 **PRESCRIPTION DRUG MONITORING PRO-**  
 19 **GRAMS.**

20 (a) ENCOURAGING THE ESTABLISHMENT OF STATE  
 21 PRESCRIPTION DRUG MONITORING PROGRAMS.—Title  
 22 XIX of the Social Security Act (42 U.S.C. 1396 et seq.)  
 23 is amended by adding at the end the following new section:

1 **“SEC. 1947. ENCOURAGING THE ESTABLISHMENT OF STATE**  
2 **PRESCRIPTION DRUG MONITORING PRO-**  
3 **GRAMS.**

4 “(a) IN GENERAL.—To encourage the establishment  
5 and use of a State Prescription Drug Monitoring Pro-  
6 gram, notwithstanding sections 1905(b) and 1927(g), and  
7 for purposes of paragraphs (2)(B) and (3)(A) of section  
8 1903(d), if a State has established a State Prescription  
9 Drug Monitoring Program that has been certified as meet-  
10 ing the requirements under subsection (b), with respect  
11 to any amounts recovered by or paid to a State subsequent  
12 to the date of such certification that are related to an over-  
13 payment due to fraud, waste, or abuse in connection the  
14 provision of covered services under the State plan, the  
15 Federal medical assistance percentage with respect to such  
16 amounts shall be decreased by 10 percentage points. A  
17 State may use such amounts recovered by or paid to the  
18 State to support the State Prescription Drug Monitoring  
19 Program established by the State.

20 “(b) REQUIREMENTS.—For purposes of subsection  
21 (a), the requirements of this subsection are that the Attor-  
22 ney General certifies to the Secretary that the State has  
23 established a State Prescription Drug Monitoring Pro-  
24 gram. In making a certification under the preceding sen-  
25 tence, the Attorney General shall take into consideration  
26 requirements with respect to Prescription Drug Moni-

1 toring Programs under the Harold Rogers Prescription  
 2 Drug Monitoring Program administered by the Depart-  
 3 ment of Justice or the National All Schedules Prescription  
 4 Electronic Reporting program administered by the De-  
 5 partment of Health and Human Services.

6 “(c) COMMISSION TO EXAMINE INTEROPERABILITY  
 7 AND OTHER RELATED ISSUES.—

8 “(1) ESTABLISHMENT.—The Secretary and the  
 9 Attorney General shall jointly establish a Commis-  
 10 sion to examine interoperability and other issues re-  
 11 lated to State Prescription Drug Monitoring Pro-  
 12 grams, including—

13 “(A) best practices with respect to uniform  
 14 electronic formats for the reporting, sharing,  
 15 and disclosure of information under such Pro-  
 16 grams; and

17 “(B) the ability to interface with such Pro-  
 18 grams.

19 “(2) MEMBERSHIP.—The Commission shall be  
 20 composed of the following members:

21 “(A) The Secretary.

22 “(B) The Attorney General.

23 “(C) The heads of other appropriate agen-  
 24 cies (as determined jointly by the Secretary and  
 25 the Attorney General).

1           “(D) Stakeholders appointed jointly by the  
2           Secretary and the Attorney General.

3           “(3) NO COMPENSATION OF MEMBERS.—

4           “(A) NON-FEDERAL EMPLOYEES.—A  
5           member of the Commission who is not an offi-  
6           cer or employee of the Federal Government  
7           shall serve without compensation.

8           “(B) FEDERAL EMPLOYEES.—A member  
9           of the Commission who is an officer or em-  
10          ployee of the Federal Government shall serve  
11          without compensation in addition to the com-  
12          pensation received for the services of the mem-  
13          ber as an officer or employee of the Federal  
14          Government.

15          “(4) DURATION.—The Commission shall termi-  
16          nate on the date that is 3 years after the date of en-  
17          actment of the Medicare and Medicaid Fighting  
18          Fraud and Abuse to Save Taxpayers’ Dollars Act”.

19          (b) INCLUSION OF PRESCRIPTION DRUG MONI-  
20          TORING PROGRAMS IN MEDICARE PART D OVERSIGHT.—  
21          Not later than 180 days after the date of enactment of  
22          this Act, the Secretary of Health and Human Services  
23          shall submit to Congress a plan on how Medicare part D  
24          oversight contractors and other oversight activities under  
25          part D of title XVIII of the Social Security Act (42 U.S.C.



1 1395w–101 et seq.) can utilize State Prescription Drug  
 2 Monitoring Programs.

3 **SEC. 103. UPDATING OF DEA DATABASE OF CONTROLLED**  
 4 **SUBSTANCES PROVIDERS.**

5 (a) IN GENERAL.—

6 (1) UPDATING BASED ON DEATH MASTER  
 7 FILE.—Not less frequently than on a daily basis, the  
 8 Attorney General shall update the database of the  
 9 Drug Enforcement Agency of persons registered to  
 10 manufacture, distribute, or dispense a controlled  
 11 substance under part C of title II of the Controlled  
 12 Substances Act (21 U.S.C. 821 et seq.) to reflect  
 13 any changes in the information in the Death Master  
 14 File of the Social Security Administration.

15 (2) UPDATING BASED ON OTHER INFORMATION  
 16 REPORTED TO THE SOCIAL SECURITY ADMINISTRA-  
 17 TION.—The Attorney General shall enter into an  
 18 agreement with the Commissioner of Social Security  
 19 to obtain information regarding deaths reported to  
 20 the Commissioner, including death information re-  
 21 ported to the Commissioner under section 205(r) of  
 22 the Social Security Act (42 U.S.C. 405(r)), in order  
 23 to update the database of the Drug Enforcement  
 24 Agency of persons registered to manufacture, dis-  
 25 tribute, or dispense a controlled substance under

1 part C of title II of the Controlled Substances Act  
2 (21 U.S.C. 821 et seq.) to reflect any deaths re-  
3 ported to the Commissioner of Social Security. The  
4 Attorney General shall take any actions required by  
5 the agreement with the Commissioner to maintain  
6 the confidentiality of such data and to assure that  
7 the data is used solely for the purposes of this para-  
8 graph.

9 (b) LIMITING ACCESS TO DEA DATABASE OF REG-  
10 ISTRANTS.—

11 (1) IN GENERAL.—The Attorney General, in  
12 consultation with the Secretary of Health and  
13 Human Services, the Inspector General of the De-  
14 partment of Health and Human Services, the Chair-  
15 man of the Federal Trade Commission, and affected  
16 parties (including prescription drug plans under part  
17 D of title XVIII of the Social Security Act (42  
18 U.S.C. 1395w–101 et seq.), MA–PD plans under  
19 part C of title XVIII of the Social Security Act (42  
20 U.S.C. 1395w–21 et seq.), pharmacies, physicians,  
21 and pharmacy computer vendors), shall establish  
22 procedures and rules to restrict access to the data-  
23 base of the Drug Enforcement Agency of persons  
24 registered to manufacturer, distribute, or dispense a  
25 controlled substance under part C of title II of the

1        Controlled Substances Act (21 U.S.C. 821 et seq.)  
2        in order to deter its fraudulent use.

3            (2) ACCESS.—The procedures established under  
4        paragraph (1) shall provide governmental and non-  
5        governmental entities, as appropriate, access to such  
6        database under data use agreements and in accord-  
7        ance with rules established by the Attorney General  
8        under such paragraph.

9        (c) REVIEW AND INVESTIGATION OF INVALID DEA  
10       REGISTRATION NUMBERS.—The Attorney General, in  
11       consultation with the Secretary of Health and Human  
12       Services, the Inspector General of the Department of  
13       Health and Human Services, the Chairman of the Federal  
14       Trade Commission, and affected parties (including pre-  
15       scription drug plans under part D of title XVIII of the  
16       Social Security Act (42 U.S.C. 1395w–101 et seq.), MA-  
17       PD plans under part C of title XVIII of the Social Secu-  
18       rity Act (42 U.S.C. 1395w–21 et seq.), pharmacies, physi-  
19       cians, and pharmacy computer vendors), shall establish  
20       procedures and rules to review and investigate pharmacy  
21       claims under such part D that contain a registration num-  
22       ber that was not assigned by the Attorney General under  
23       the Controlled Substances Act (21 U.S.C. 801 et seq.) to  
24       a practitioner (as defined in section 102 of such Act (21  
25       U.S.C. 802)). Such procedures shall include the matching

1 of National Provider Identifiers submitted under section  
 2 1860D–4(c)(4) of the Social Security Act, as added by  
 3 section 101(a), to such registration numbers and the in-  
 4 vestigation of such registration numbers that are matched  
 5 to a National Provider Identifier determined to be invalid  
 6 under such section.

7 (d) SENSE OF CONGRESS.—It is the sense of Con-  
 8 gress that the Attorney General should include in the up-  
 9 dates required under subsection (a) any other information  
 10 determined relevant by the Attorney General, such as in-  
 11 formation from State Medical Boards.

## 12 **TITLE II—CURBING IMPROPER** 13 **PAYMENTS**

### 14 **SEC. 201. ADDRESSING VULNERABILITIES IDENTIFIED BY** 15 **RECOVERY AUDIT CONTRACTORS.**

16 Section 1893(h) of the Social Security Act (42 U.S.C.  
 17 1395ddd(h)) is amended—

18 (1) in paragraph (1)(C), by inserting “and for  
 19 provider education and overpayment appeals” before  
 20 the period;

21 (2) in paragraph (8)—

22 (A) by striking “REPORT.—The Secretary”  
 23 and inserting “REPORT.—

24 “(A) IN GENERAL.—Subject to subpara-  
 25 graph (C), the Secretary”; and

1 (B) by adding after subparagraph (A), as  
2 inserted by subparagraph (A), the following new  
3 subparagraphs:

4 “(B) INCLUSION OF IMPROPER PAYMENT  
5 VULNERABILITIES IDENTIFIED.—Each report  
6 submitted under subparagraph (A) shall, sub-  
7 ject to subparagraph (C), include—

8 “(i) a description of—

9 “(I) the types and financial cost  
10 to the program under this title of im-  
11 proper payment vulnerabilities identi-  
12 fied by recovery audit contractors  
13 under this subsection; and

14 “(II) how the Secretary is ad-  
15 dressing such improper payment  
16 vulnerabilities; and

17 “(ii) an assessment of the effective-  
18 ness of changes made to payment policies  
19 and procedures under this title in order to  
20 address the vulnerabilities so identified.

21 “(C) LIMITATION.—The Secretary shall  
22 ensure that each report submitted under sub-  
23 paragraph (A) does not include information  
24 that the Secretary determines would be sen-

1           sitive or would otherwise negatively impact pro-  
 2           gram integrity.”; and

3           (3) by adding at the end the following new  
 4   paragraph:

5           “(10) ADDRESSING IMPROPER PAYMENT  
 6   VULNERABILITIES.—The Secretary shall address im-  
 7   proper payment vulnerabilities identified by recovery  
 8   audit contractors under this subsection in a timely  
 9   manner.”.

10 **SEC. 202. IMPROVING SENIOR MEDICARE PATROL AND**  
 11 **FRAUD REPORTING REWARDS.**

12       (a) IN GENERAL.—The Secretary shall develop a  
 13 plan, including suggested legislative changes to implement  
 14 such plan, under which the Secretary shall revise the bene-  
 15 ficiary incentive program under section 203(b) of the  
 16 Health Insurance Portability and Accountability Act of  
 17 1996 (42 U.S.C. 1395b–5(b)) to encourage greater par-  
 18 ticipation by individuals to report fraud and abuse in the  
 19 Medicare program. Such plan shall include recommenda-  
 20 tions for ways to enhance rewards for individuals report-  
 21 ing under the incentive program, including providing a  
 22 monetary reward prior to the full recovery of an overpay-  
 23 ment.

24       (b) PUBLIC AWARENESS AND EDUCATION CAM-  
 25 PAIGN.—The plan developed under subsection (a) shall

1 also require the Secretary to use the Senior Medicare Pa-  
2 trols authorized under section 411 of the Older Americans  
3 Act of 1965 (42 U.S.C. 3032) to conduct a public aware-  
4 ness and education campaign to encourage participation  
5 in the revised beneficiary incentive program under sub-  
6 section (a).

7 (c) SUBMISSION OF PLAN.—Not later than 180 days  
8 after the date of enactment of this Act, the Secretary shall  
9 submit to Congress the plan developed under subsection  
10 (a).

11 (d) DEFINITIONS.—In this section:

12 (1) MEDICARE BENEFICIARY.—The term  
13 “Medicare beneficiary” means an individual entitled  
14 to, or enrolled for, benefits under part A of title  
15 XVIII of the Social Security Act (42 U.S.C. 1395c  
16 et seq.) or enrolled for benefits under part B of such  
17 title (42 U.S.C. 1395j et seq.).

18 (2) MEDICARE PROGRAM.—The term “Medicare  
19 program” means the program under title XVIII of  
20 the Social Security Act (42 U.S.C. 1395 et seq.).

21 (3) SECRETARY.—The term “Secretary” means  
22 the Secretary of Health and Human Services.

1 **SEC. 203. PROHIBITING THE DISPLAY OF SOCIAL SECURITY**  
 2 **ACCOUNT NUMBERS ON NEWLY ISSUED**  
 3 **MEDICARE IDENTIFICATION CARDS AND**  
 4 **COMMUNICATIONS PROVIDED TO MEDICARE**  
 5 **BENEFICIARIES.**

6 (a) IN GENERAL.—Not later than 2 years after the  
 7 date of enactment of this Act, the Secretary of Health and  
 8 Human Services, in consultation with the Commissioner  
 9 of Social Security, shall establish and begin to implement  
 10 procedures to eliminate the unnecessary collection, use,  
 11 and display of Social Security account numbers of Medi-  
 12 care beneficiaries.

13 (b) NEWLY ISSUED MEDICARE CARDS AND COMMU-  
 14 NICATIONS PROVIDED TO BENEFICIARIES.—

15 (1) NEWLY ISSUED CARDS.—

16 (A) IN GENERAL.—Not later than 4 years  
 17 after the date of enactment of this Act, the Sec-  
 18 retary of Health and Human Services, in con-  
 19 sultation with the Commissioner of Social Secu-  
 20 rity, shall ensure that each newly issued Medi-  
 21 care identification card meets the requirements  
 22 described in subparagraph (B).

23 (B) REQUIREMENTS.—

24 (i) IN GENERAL.—Subject to clauses  
 25 (ii) and (iii), the requirements described in  
 26 this subparagraph are, with respect to a



1 Medicare identification card, that the card  
2 does not display or electronically store (in  
3 an unencrypted format) a Medicare bene-  
4 ficiary's Social Security account number.

5 (ii) EXCEPTION.—The Secretary may  
6 waive the requirements under clause (i) in  
7 the case where the health insurance claim  
8 number of a beneficiary is the Social Secu-  
9 rity number of the beneficiary, the bene-  
10 ficiary's spouse, or another individual.

11 (iii) USE OF PARTIAL ACCOUNT NUM-  
12 BER.—The Secretary of Health and  
13 Human Services, in consultation with the  
14 Commissioner of Social Security, may pro-  
15 vide for the use of a partial Social Security  
16 account number on a Medicare identifica-  
17 tion card if the Secretary determines that  
18 such use does not allow an unacceptable  
19 risk of fraudulent use.

20 (2) COMMUNICATIONS PROVIDED TO BENE-  
21 FICIARIES.—Not later than 4 years after the date of  
22 enactment of this Act, the Secretary of Health and  
23 Human Services shall prohibit the display of a Medi-  
24 care beneficiary's Social Security account number on  
25 written or electronic communication provided to the

1 beneficiary unless the Secretary, in consultation with  
 2 the Commissioner of Social Security, determines  
 3 that inclusion of Social Security account numbers on  
 4 such communications is essential for the operation of  
 5 the Medicare program.

6 (c) MEDICARE BENEFICIARY DEFINED.—In this sec-  
 7 tion, the term “Medicare beneficiary” means an individual  
 8 who is entitled to, or enrolled for, benefits under part A  
 9 of title XVIII of the Social Security Act or enrolled under  
 10 part B of such title.

11 (d) CONFORMING AMENDMENTS.—

12 (1) REFERENCE IN THE SOCIAL SECURITY  
 13 ACT.—Section 205(c)(2)(C) of the Social Security  
 14 Act (42 U.S.C. 405(c)(2)(C)) is amended—

15 (A) by moving clause (x), as added by sec-  
 16 tion 1414(a)(2) of the Patient Protection and  
 17 Affordable Care Act (Public Law 111–148), 6  
 18 ems to the left;

19 (B) by redesignating clause (x), as added  
 20 by section 2(a)(1) of the Social Security Num-  
 21 ber Protection Act of 2010 (42 U.S.C. 1305  
 22 note), as clause (xii); and

23 (C) by adding after clause (xii), as redesign-  
 24 ated by subparagraph (B), the following new  
 25 clause:

1       “(xiii) Subject to section 203 of the Medicare and  
 2 Medicaid Fighting Fraud and Abuse to Save Taxpayers’  
 3 Dollars Act, social security account numbers shall not be  
 4 displayed on Medicare identification cards or on commu-  
 5 nications provided to Medicare beneficiaries.”.

6           (2) ACCESS TO INFORMATION.—Section 205(r)  
 7 of the Social Security Act (405 U.S.C. 405(r)) is  
 8 amended by adding at the end the following new  
 9 paragraph:

10       “(10) To prevent and identify fraudulent activity, the  
 11 Commissioner shall upon the request of the Attorney Gen-  
 12 eral or upon the request of the Secretary of Health and  
 13 Human Services enter into a reimbursable agreement with  
 14 the Attorney General or the Secretary to provide informa-  
 15 tion collected under paragraph (1) if—

16           “(A) the requirements of subparagraphs (A)  
 17 and (B) of paragraph (3) are met; and

18           “(B) such agreement includes appropriate pro-  
 19 visions to protect the confidentiality of information  
 20 provided by the Commissioner under such agree-  
 21 ment.”.

22       (e) PILOT PROGRAM.—

23           (1) ESTABLISHMENT.—The Secretary shall es-  
 24 tablish a pilot program utilizing smart card tech-  
 25 nology to evaluate—

1 (A) the applicability of smart card tech-  
2 nology to the Medicare program under title  
3 XVIII of the Social Security Act (42 U.S.C.  
4 1395 et seq.), including the applicability of such  
5 technology to Medicare beneficiaries or Medi-  
6 care providers; and

7 (B) whether such cards would be effective  
8 in preventing fraud under the Medicare pro-  
9 gram.

10 (2) IMPLEMENTATION.—

11 (A) INITIAL IMPLEMENTATION.—The Sec-  
12 retary shall implement the pilot program under  
13 this subsection not later than 1 year after the  
14 date of enactment of this Act.

15 (B) SCOPE AND DURATION.—The Sec-  
16 retary shall conduct the pilot program—

17 (i) in not less than 2 States; and

18 (ii) for a period of not less than 180  
19 days or more than 2 years.

20 (3) REPORT.—Not later than 12 months after  
21 the completion of the pilot program under this sub-  
22 section, the Secretary shall submit to the appro-  
23 priate committees of Congress and make available to  
24 the public a report that includes the following:

1 (A) A summary of the pilot program and  
 2 findings, including—

3 (i) the costs or savings to the Medi-  
 4 care program as a result of the implemen-  
 5 tation of the pilot program;

6 (ii) whether the use of smart card  
 7 technology resulted in improvements in the  
 8 quality of care provided to Medicare bene-  
 9 ficiaries under the pilot program; and

10 (iii) whether such technology was use-  
 11 ful in preventing or detecting fraud, waste,  
 12 and abuse in the Medicare program.

13 (B) Recommendations regarding whether  
 14 the use of smart card technology should be ex-  
 15 panded under the Medicare program.

16 (4) DEFINITIONS.—In this subsection:

17 (A) MEDICARE BENEFICIARY.—The term  
 18 “Medicare beneficiary” means an individual en-  
 19 titled to, or enrolled for, benefits under part A  
 20 of title XVIII of the Social Security Act (42  
 21 U.S.C. 1395c et seq.) or enrolled for benefits  
 22 under part B of such title (42 U.S.C. 1395j et  
 23 seq.).

24 (B) MEDICARE PROVIDER.—The term  
 25 “Medicare provider” includes a provider of serv-

ices (as defined in section 1861(u) of the Social Security Act (42 U.S.C. 1395x(u))) and a supplier (as defined in section 1861(d) of such Act (42 U.S.C. 1395x(d))).

(C) SECRETARY.—The term “Secretary” means the Secretary of Health and Human Services.

(D) SMART CARD.—The term “smart card” means identification used by a Medicare beneficiary or a Medicare provider that includes anti-fraud attributes. Such a card—

(i) may rely on existing commercial data transfer networks or on a network of proprietary card readers or databases; and

(ii) may include—

(I) cards using technology adapted from the financial services industry;

(II) cards containing individual biometric identification, provided that such identification is encrypted and not contained in any central database;

(III) cards adapting technology and processes utilized in the TRICARE program under chapter 55

of title 10, United States Code, or by  
the Veterans Administration; or

(IV) such other technology as the  
Secretary determines appropriate.

**SEC. 204. REQUIRING PREPAYMENT REVIEW OF ALL  
CLAIMS FOR DURABLE MEDICAL EQUIPMENT  
AT HIGH RISK OF WASTE, FRAUD, AND  
ABUSE.**

Section 1834(a) of the Social Security Act (42 U.S.C.  
1395m(a)) is amended by adding at the end the following  
new paragraph:

“(22) PREPAYMENT REVIEW FOR DURABLE  
MEDICAL EQUIPMENT AT HIGH RISK OF FRAUD.—  
Not later than 270 days after the date of enactment  
of the Medicare and Medicaid Fighting Fraud and  
Abuse to Save Taxpayers’ Dollars Act, the Sec-  
retary, in consultation with the Inspector General of  
the Department of Health and Human Services,  
shall establish policies and procedures for prepay-  
ment review, which may include pre-certification, for  
all claims for reimbursement under this title for du-  
rable medical equipment at high risk of waste,  
fraud, and abuse, as determined by the Secretary,  
including power wheelchairs.”.

1 **SEC. 205. STRENGTHENING MEDICAID PROGRAM INTEG-**  
 2 **RITY THROUGH FLEXIBILITY.**

3 Section 1936 of the Social Security Act (42 U.S.C.  
 4 1396u-6) is amended—

5 (1) in subsection (a), by inserting “, or other-  
 6 wise,” after “entities”; and

7 (2) in subsection (e)—

8 (A) in paragraph (1), in the matter pre-  
 9 ceding subparagraph (A), by inserting “(includ-  
 10 ing the costs of equipment, salaries and bene-  
 11 fits, and travel and training)” after “Program  
 12 under this section”; and

13 (B) in paragraph (3), by striking “by 100”  
 14 and inserting “by 100, or such number as de-  
 15 termined necessary by the Secretary to carry  
 16 out the Program,”.

17 **TITLE III—IMPROVING DATA**  
 18 **SHARING ACROSS AGENCIES**  
 19 **AND PROGRAMS**

20 **SEC. 301. IMPROVING DATA SHARING ACROSS AGENCIES**  
 21 **AND PROGRAMS.**

22 (a) IN GENERAL.—In order to ensure that the Sec-  
 23 retary, Medicare program safeguard contractors and other  
 24 oversight contractors (as defined in subsection (g)(4)), the  
 25 Inspector General of the Department of Health and  
 26 Human Services, the Attorney General, and State and



1 local law enforcement are able to operate with greater co-  
2 ordination to curb fraud and improper payments, the Sec-  
3 retary, the Inspector General of the Department of Health  
4 and Human Services, and the Attorney General shall pro-  
5 vide for increased coordination and data sharing as de-  
6 scribed in the succeeding subsections.

7 (b) IMPROVING DATA SHARING INTERNALLY AND  
8 WITH CMS CONTRACTORS.—

9 (1) IN GENERAL.—The Secretary shall establish  
10 policies and procedures to ensure that claims and  
11 other data, including the data described in para-  
12 graph (3), is accessible to Medicare program safe-  
13 guard contractors and other oversight contractors  
14 not less frequently than on a daily basis.

15 (2) ANALYSIS OF DATA.—The Secretary shall  
16 require Medicare program safeguard contractors and  
17 other oversight contractors to analyze the data  
18 accessed under paragraph (1) on an ongoing basis  
19 for purposes of conducting pre- and post-payment  
20 reviews under the Medicare program.

21 (3) DATA DESCRIBED.—The following data is  
22 described in this paragraph:

23 (A) Claims payment, claims denial, and  
24 other claims data under the Medicare program

1 from the common working file and the Medicare  
 2 national claims history database.

3 (B) Data on providers of services and sup-  
 4 pliers under the Medicare program, including  
 5 data from the Medicare Provider Enrollment,  
 6 Chain, and Ownership System (PECOS) of the  
 7 Centers for Medicare & Medicaid Services.

8 (C) Medicare beneficiary data, including  
 9 data from the Enrollment DataBase of the Cen-  
 10 ters for Medicare & Medicaid Services.

11 (c) PROVIDER DATABASE REVIEWS AND

12 VERIFICATION.—

13 (1) IN GENERAL.—

14 (A) REVIEW AND UPDATE OF MEDICARE  
 15 PROVIDER DATABASES.—The Secretary shall  
 16 establish policies and procedures, which may in-  
 17 clude contractors, to review and update on a  
 18 daily basis Medicare provider databases, includ-  
 19 ing the review and update of the Medicare Pro-  
 20 vider Enrollment, Chain, and Ownership Sys-  
 21 tem (PECOS) of the Centers for Medicare &  
 22 Medicaid Services against death data of the So-  
 23 cial Security Administration, for accuracy and  
 24 completeness. Such policies and procedures  
 25 shall also include data matches on a daily basis,

1 as determined appropriate by the Secretary,  
2 against other databases as determined appro-  
3 priate by the Secretary, including the database  
4 of the Drug Enforcement Agency of persons  
5 registered to manufacture, distribute, or dis-  
6 pense a controlled substance under part C of  
7 title II of the Controlled Substances Act (21  
8 U.S.C. 821 et seq.), State medical licensing  
9 data, databases of suspended or debarred Fed-  
10 eral contractors, including the Excluded Parties  
11 List System of the General Services Adminis-  
12 tration, the Debt Check program of the Depart-  
13 ment of the Treasury, a list of incarcerated in-  
14 dividuals from the Department of Justice and  
15 each State's Department of Corrections, and  
16 the List of Excluded Individuals/Entities of the  
17 Office of Inspector General of the Department  
18 of Health and Human Services.

19 (B) CONSULTATION.—The policies and  
20 procedures under subparagraph (A) shall re-  
21 quire the Secretary to periodically consult with  
22 external organizations, including the Federation  
23 of State Medical Boards, to determine data  
24 sources and screening tools best suited to detect  
25 fraudulent applications for enrollment under

1 section 1866(j) of the Social Security Act (42  
2 U.S.C. 1395cc(j)) submitted by providers of  
3 medical or other items or services and suppliers  
4 under the Medicare program.

5 (C) DATA MATCHING.—

6 (i) IN GENERAL.—The policies and  
7 procedures under subparagraph (A) may  
8 include entering into agreements with the  
9 Commissioner of Social Security pursuant  
10 to section 205(r) of the Social Security Act  
11 (42 U.S.C. 405(r)) to match data against  
12 the death information maintained by the  
13 Commissioner, and matching against the  
14 database of the Drug Enforcement Agency  
15 of persons registered to manufacture, dis-  
16 tribute, or dispense a controlled substance  
17 under part C of title II of the Controlled  
18 Substances Act (21 U.S.C. 821 et seq.),  
19 and other Federal databases, as deter-  
20 mined appropriate by the Secretary.

21 (ii) CONFIDENTIALITY OF DATA OB-  
22 TAINED.—The Secretary shall take any ac-  
23 tions required by an agreement described  
24 in clause (i) or any other agreement with  
25 the Commissioner of Social Security to ob-

tain data from the Commissioner for purposes of this section to maintain the confidentiality of data obtained from the Commissioner and to assure that the data is used solely for the purposes of this section.

(D) ONGOING ANALYSIS.—The Secretary shall use analytic software for the conduct of ongoing analysis of Medicare provider databases described in subparagraph (A) to verify and update data supplied by providers of services and suppliers under the Medicare program. The Secretary may use commercial database sources for purposes of verifying such data.

(2) ACCESS TO NATIONAL DIRECTORY OF NEW HIRES.—Section 453(j) of the Social Security Act (42 U.S.C. 653(j)) is amended by adding at the end the following new paragraph:

“(12) PROVISION OF NEW HIRE INFORMATION TO THE CENTERS FOR MEDICARE & MEDICAID SERVICES AND APPLICABLE STATE HEALTH SUBSIDY PROGRAMS.—The National Directory of New Hires shall provide the Administrator of the Centers for Medicare & Medicaid Services and, for purposes of carrying out section 1413(c)(3)(A)(ii) of Public Law 111–148, each applicable State health subsidy pro-

1        gram (as defined in section 1413(e) of such Public  
 2        Law) with all information in the National Direc-  
 3        tory.”

4            (3) ACCESS TO LIST OF CONVICTED INDIVID-  
 5        UALS.—The Attorney General shall provide the Sec-  
 6        retary of Health and Human Services access to a  
 7        list of convicted individuals for use in preventing  
 8        waste, fraud, and abuse under the Medicare and  
 9        Medicaid programs.

10        (d) BENEFICIARY DATABASE REVIEW AND  
 11        VERIFICATION.—

12            (1) IN GENERAL.—The Secretary shall establish  
 13        policies and procedures, which may include contrac-  
 14        tors, to review and update on a daily basis Medicare  
 15        beneficiary databases, including the Enrollment  
 16        DataBase of the Centers for Medicare & Medicaid  
 17        Services, for accuracy and completeness. Such poli-  
 18        cies and procedures shall include data matches  
 19        against death data of the Social Security Adminis-  
 20        tration and also on a daily basis, as determined ap-  
 21        propriate by the Secretary, other Federal databases  
 22        as determined appropriate by the Secretary, includ-  
 23        ing a list of incarcerated individuals from the De-  
 24        partment of Justice and each State’s Department of  
 25        Corrections.

1           (2) ONGOING ANALYSIS.—The Secretary shall  
2       use analytic software for the conduct of ongoing  
3       analysis of Medicare beneficiary databases described  
4       in paragraph (1) to verify and update data supplied  
5       by providers of services and suppliers under the  
6       Medicare program. The Secretary may use commer-  
7       cial database sources for purposes of verifying such  
8       data.

9       (e) CONTINUED EFFORTS ON INTEGRATED DATA  
10      REPOSITORY AND ONE PI PROJECT; EXPANDED ACCESS  
11      BY AGENCIES.—

12           (1) CONTINUED EFFORTS ON INTEGRATED  
13      DATA REPOSITORY AND ONE PI PROJECT.—

14           (A) IN GENERAL.—The Secretary shall—

15               (i) continue to incorporate Medicare  
16               claims and payment, provider, and bene-  
17               ficiary data into the Integrated Data Re-  
18               pository under section 1128J(a)(1) of the  
19               Social Security Act, as added by section  
20               6402(a) of the Patient Protection and Af-  
21               fordable Care Act; and

22               (ii) fully implement the waste, fraud,  
23               and abuse detection solution of the Centers  
24               for Medicare & Medicaid Services, called  
25               the “One PI project”.

1 (B) UPDATING OF IDR ON DAILY BASIS.—

2 The Secretary shall establish policies and proce-  
3 dures to ensure that the Integrated Data Re-  
4 pository is updated with Medicare claims pay-  
5 ment data and data from the Medicare provider  
6 databases described in subsection (c)(1) and  
7 Medicare beneficiary databases described in  
8 subsection (d)(1), including the common work-  
9 ing file, on a daily basis.

10 (C) ACCESS TO IDR.—The Secretary shall

11 ensure that Medicare program safeguard con-  
12 tractors and other oversight contractors have  
13 access to the full range of data contained in the  
14 Integrated Data Repository and related analytic  
15 tools by not later than September 30, 2012.  
16 Such access shall include both real-time portal  
17 access and other means in accordance with pro-  
18 tocols established by the Secretary.

19 (D) LAW ENFORCEMENT ACCESS.—The

20 Secretary shall ensure that Federal and other  
21 appropriate law enforcement agencies, including  
22 the Inspector General of the Department of  
23 Health and Human Services and the Attorney  
24 General, have access to the full range of data  
25 contained in the Integrated Data Repository



1 and related analytic tools by not later than Sep-  
 2 tember 30, 2012. Such access shall include both  
 3 real-time portal access and other means in ac-  
 4 cordance with protocols established by the Sec-  
 5 retary.

6 (E) DATE CERTAIN FOR INCLUSION OF  
 7 PREPAYMENT CLAIMS DATA.—The Secretary  
 8 shall ensure that the Integrated Data Reposi-  
 9 tory includes access to prepayment claims data  
 10 by not later than September 30, 2012.

11 (F) DATE CERTAIN FOR INCLUSION OF  
 12 MEDICAID PROGRAM DATA.—The Secretary  
 13 shall ensure that the Integrated Data Reposi-  
 14 tory includes access to or incorporates Medicaid  
 15 program data by not later than September 30,  
 16 2014 (or, if States are unable to provide certain  
 17 data to the Secretary by such date, a substan-  
 18 tial amount of the Medicaid program data that  
 19 is available as of such date).

20 (2) EXPANDED DATABASE ACCESS TO APPRO-  
 21 PRIATE STATE ENTITIES.—

22 (A) ACCESS TO INTEGRATED DATA REPOS-  
 23 ITORY.—For purposes of enhancing data shar-  
 24 ing in order to identify programmatic weak-  
 25 nesses and improving the timeliness of analysis

and actions to prevent waste, fraud, and abuse, relevant State agencies, including the State Medicaid plans under title XIX of the Social Security Act, State child health plans under title XXI of such Act, and State Medicaid fraud control units (as described in section 1903(q) of the Social Security Act (42 U.S.C. 1396b(q))), shall have access to the full range of data contained in the Integrated Data Repository, including the One PI system established under the One PI project, as directed by the Secretary, by not later than September 30, 2013. The Secretary may, in consultation with the Inspector General of the Department of Health and Human Services, give such access to State attorneys general and State law enforcement agencies.

(B) CONFORMING AMENDMENTS.—Section 1128J(a)(2) of the Social Security Act, as added by section 6402(a) of the Patient Protection and Affordable Care Act (Public Law 111–148) is amended—

(i) by striking “DATABASES.—”  
and inserting “DATABASES.—”

1 “(A) ACCESS FOR THE CONDUCT OF LAW  
2 ENFORCEMENT AND OVERSIGHT ACTIVITIES.—  
3 For purposes”;

4 (ii) in subparagraph (A), as added by  
5 subclause (I), by inserting “, including, in  
6 accordance with section 301(e)(1)(D) of  
7 the Medicare and Medicaid Fighting Fraud  
8 and Abuse to Save Taxpayers’ Dollars Act,  
9 the Integrated Data Repository under  
10 paragraph (1)” before the period at the  
11 end; and

12 (iii) by adding at the end the fol-  
13 lowing new subparagraph:

14 “(B) ACCESS TO REDUCE WASTE, FRAUD,  
15 AND ABUSE.—For purposes of reducing waste,  
16 fraud, and abuse, and to the extent consistent  
17 with applicable information, privacy, security,  
18 and disclosure laws, including the regulations  
19 promulgated under the Health Insurance Port-  
20 ability and Accountability Act of 1996 and sec-  
21 tion 552a of title 5, United States Code, and  
22 subject to any information systems security re-  
23 quirements under such laws or otherwise re-  
24 quired by the Secretary, the Secretary, in con-  
25 sultation with the Inspector General of the De-

partment of Health and Human Services, shall allow appropriate State agency access to claims and payment data of the Department of Health and Human Services and its contractors related to titles XVIII, XIX, and XXI, including, in accordance with section 301(e)(2)(A) of the Medicare and Medicaid Fighting Fraud and Abuse to Save Taxpayers' Dollars Act, the Integrated Data Repository under paragraph (1).”.

(f) GENERAL PROTOCOLS AND SECURITY.—

(1) IN GENERAL.—The Secretary shall ensure that any data provided to an entity or individual under the provisions of or amendments made by this section is provided to such entity or individual in accordance with protocols established by the Secretary under paragraph (2). The Secretary shall consult with the Inspector General of the Department of Health and Human Services prior to implementing this subsection.

(2) PROTOCOLS.—

(A) IN GENERAL.—The Secretary shall establish protocols to ensure the secure transfer and storage of any data provided to another entity or individual under the provisions of or amendments made by this section.

1 (B) CONSIDERATION OF RECOMMENDA-  
 2 TIONS OF THE INSPECTOR GENERAL OF THE  
 3 DEPARTMENT OF HEALTH AND HUMAN SERV-  
 4 ICES.—In establishing protocols under subpara-  
 5 graph (A), the Secretary shall take into account  
 6 recommendations submitted to the Secretary by  
 7 the Inspector General of the Department of  
 8 Health and Human Services with respect to the  
 9 secure transfer and storage of such data.

10 (g) DEFINITIONS.—In this section:

11 (1) FEDERAL HEALTH CARE PROGRAM.—The  
 12 term “Federal health care program” has the mean-  
 13 ing given such term in section 1128B(f) of the So-  
 14 cial Security Act (42 U.S.C. 1320a–7b(f)).

15 (2) MEDICAID PROGRAM.—The term “Medicaid  
 16 program” means the program under title XIX of the  
 17 Social Security Act (42 U.S.C. 1396 et seq.).

18 (3) MEDICARE PROGRAM.—The term “Medicare  
 19 program” means the program under title XVIII of  
 20 the Social Security Act (42 U.S.C. 1395 et seq.).

21 (4) MEDICARE PROGRAM SAFEGUARD CONTRAC-  
 22 TORS AND OTHER OVERSIGHT CONTRACTORS.—The  
 23 term “Medicare program safeguard contractors and  
 24 other oversight contractors” includes zone program  
 25 integrity contractors, program safeguard or integrity

1 contractors, recovery audit contractors under section  
 2 1893(h) of the Social Security Act (42 U.S.C.  
 3 1395ddd(h)), special investigative units at Medicare  
 4 contractors (as defined in section 1889(g) of the So-  
 5 cial Security Act (42 U.S.C. 1395zz(g))), and any  
 6 other oversight contractors designated by the Sec-  
 7 retary.

8 (5) PROVIDER OF SERVICES.—The term “pro-  
 9 vider of services” has the meaning given such term  
 10 in section 1861(u) of the Social Security Act (42  
 11 U.S.C. 1395x(u)).

12 (6) SECRETARY.—The term “Secretary” means  
 13 the Secretary of Health and Human Services.

14 (7) STATE.—The term “State” includes the  
 15 District of Columbia, the Commonwealth of Puerto  
 16 Rico, the Virgin Islands, Guam, and American  
 17 Samoa.

18 (8) SUPPLIER.—The term “supplier” has the  
 19 meaning given such term in section 1861(d) of the  
 20 Social Security Act (42 U.S.C. 1395x(d)).

21 **SEC. 302. EXPANDING AUTOMATED PREPAYMENT REVIEW**  
 22 **OF MEDICARE CLAIMS.**

23 (a) AUTOMATED PREPAYMENT REVIEW.—

24 (1) IN GENERAL.—Subject to subsection (b),  
 25 the Secretary shall establish automated prepayment

1 review of all Medicare claims under parts A and B  
 2 of title XVIII of the Social Security Act (42 U.S.C.  
 3 1395 et seq.) by not later than September 30, 2012.

4 (2) IMPLEMENTATION.—The provisions of this  
 5 section shall be implemented in conjunction with,  
 6 and as part of, any predictive modeling and other  
 7 analytics technologies implemented under section  
 8 4241 of the Small Business Jobs Act of 2010 (42  
 9 U.S.C. 1320a–7n), except that any requirement  
 10 under such section 4241 that conflicts with a re-  
 11 quirement under this section shall not apply to this  
 12 section.

13 (b) ELEMENTS.—Such automated prepayment review  
 14 shall include the following:

15 (1) PROGRAM INTEGRITY SYSTEM.—

16 (A) IN GENERAL.—Subject to subpara-  
 17 graph (D), a program integrity system under  
 18 which relevant claims under such parts A and  
 19 B are compared in order to—

20 (i) identify errors or fraud under the  
 21 Medicare program, including—

22 (I) duplicate claims for items or  
 23 services; and

24 (II) claims where payment of  
 25 benefits under one such part is only

1                   available if such payment is not avail-  
2                   able under another such part; and  
3                   (ii) obtain such other information or  
4                   conduct such other analysis as the Sec-  
5                   retary determines is useful for program in-  
6                   tegrity purposes.

7                   (B) IMPLEMENTATION.—Not later than  
8                   September 30, 2013, the Secretary shall ensure  
9                   that all relevant daily claims data under such  
10                  parts A and B are compared as part of such  
11                  program integrity system.

12                  (C) PLAN FOR INCLUSION OF PART D  
13                  CLAIMS DATA.—Not later than September 30,  
14                  2013, the Secretary shall establish a plan for  
15                  including Medicare claims under part D of such  
16                  title XVIII (42 U.S.C. 1395w–101 et seq.) for  
17                  use in comparisons under such program integ-  
18                  rity system.

19                  (D) NO IMPACT ON PROMPT PAYMENT RE-  
20                  QUIREMENTS.—In no case shall the program in-  
21                  tegrity system under this paragraph have any  
22                  impact on prompt payment requirements under  
23                  such parts A and B, including such require-  
24                  ments under sections 1816(c)(2) and



1           1842(c)(2) of the Social Security Act (42  
2           U.S.C. 1395h(c)(2); 1395u(c)(2)).

3           (2)    AUTOMATED    RISK-BASED    PROVIDER  
4    VERIFICATION.—

5                   (A) IN GENERAL.—An automated risk-  
6           based verification system for the purpose of  
7           verification and analysis of providers of services  
8           and suppliers under the Medicare program on  
9           an ongoing basis, including during the period  
10          between the enrollment of the provider of serv-  
11          ices or supplier under section 1866(j) of the So-  
12          cial Security Act (42 U.S.C. 1395cc(j)) and the  
13          revalidation (or any subsequent revalidation) of  
14          such provider of services or supplier under such  
15          section. Subject to subparagraph (C), such sys-  
16          tem shall include criminal background checks  
17          for providers of services and suppliers who the  
18          Secretary determines present a high risk of  
19          waste, fraud, and abuse.

20                   (B) IMPLEMENTATION.—The Secretary  
21          shall establish the system under subparagraph  
22          (A) not later than September 30, 2013.

23                   (C) NO DUPLICATION OF SCREENING  
24          UNDER ENROLLMENT PROCESS.—The system  
25          under subparagraph (A) shall be in addition to

1 and shall not duplicate any screening, including  
 2 any criminal background check, conducted  
 3 under section 1866(j)(2) of the Social Security  
 4 Act (42 U.S.C. 1395cc(j)(2)).

5 (D) PROHIBITION ON DISCLOSURE OF  
 6 RISK-BASED DATA AND ANALYSIS.—The Sec-  
 7 retary shall not disclose to the public any data  
 8 collected or analysis conducted under the auto-  
 9 mated risk-based verification system under sub-  
 10 paragraph (A).

11 (3) TRACKING REJECTED CLAIMS.—

12 (A) IN GENERAL.—For the purpose of  
 13 identifying and analyzing potentially fraudulent  
 14 and otherwise inappropriate claims under the  
 15 Medicare program, a process for identifying and  
 16 tracking, including by provider of services or  
 17 supplier, claims for payment under the Medi-  
 18 care program that were rejected or denied  
 19 under the automated edit process of a medicare  
 20 administrative contractor under section 1874A  
 21 of the Social Security Act (42 U.S.C. 1395kk).

22 (B) IMPLEMENTATION.—The Secretary  
 23 shall establish the process under subparagraph  
 24 (A) not later than September 30, 2013.

25 (c) DEFINITIONS.—In this section:

1           (1) MEDICARE PROGRAM.—The term “Medicare  
2           program” means the program under title XVIII of  
3           the Social Security Act (42 U.S.C. 1395 et seq.).

4           (2) AUTOMATED PREPAYMENT REVIEW.—The  
5           term “automated prepayment review” means screen-  
6           ing using automated data analysis and intelligent  
7           analysis prior to making payment. Such term does  
8           not include prepayment medical review.

9           (3) PROVIDER OF SERVICES.—The term “pro-  
10          vider of services” has the meaning given that term  
11          in section 1861(u) of such Act (42 U.S.C.  
12          1395ww(u)).

13          (4) SECRETARY.—The term “Secretary” means  
14          the Secretary of Health and Human Services.

15          (5) SUPPLIER.—The term “supplier” has the  
16          meaning given such term in section 1861(d) of such  
17          Act (42 U.S.C. 1395ww(d)).

18   **SEC. 303. IMPROVING THE SHARING OF DATA BETWEEN**  
19                           **THE FEDERAL GOVERNMENT AND STATE**  
20                           **MEDICAID PROGRAMS.**

21          (a) IN GENERAL.—The Secretary of Health and  
22          Human Services (in this section referred to as the “Sec-  
23          retary”) shall establish a plan to encourage and facilitate  
24          the inclusion of States in the Medicare-Medicaid Data  
25          Match Program (commonly referred to as the “Medi-Medi

1 Program”) under section 1893(g) of the Social Security  
 2 Act (42 U.S.C. 1395ddd(g)).

3 (b) PROGRAM REVISIONS TO IMPROVE MEDI-MEDI  
 4 DATA MATCH PROGRAM PARTICIPATION BY STATES.—  
 5 Section 1893(g)(1)(A) of the Social Security Act (42  
 6 U.S.C. 1395ddd(g)(1)(A)) is amended—

7 (1) in the matter preceding clause (i), by insert-  
 8 ing “or otherwise” after “eligible entities”;

9 (2) in clause (i)—

10 (A) by inserting “to review claims data”  
 11 after “algorithms”; and

12 (B) by striking “service, time, or patient”  
 13 and inserting “provider, service, time, or pa-  
 14 tient”;

15 (3) in clause (ii)—

16 (A) by inserting “to investigate and re-  
 17 cover amounts with respect to suspect claims”  
 18 after “appropriate actions”; and

19 (B) by striking “; and” and inserting a  
 20 semicolon;

21 (4) in clause (iii), by striking the period and in-  
 22 serting “; and”; and

23 (5) by adding at end the following new clause:

24 “(iv) furthering the Secretary’s de-  
 25 sign, development, installation, or enhance-

1                   ment of an automated data system archi-  
2                   ture—

3                   “(I) to collect, integrate, and as-  
4                   sess data for purposes of program in-  
5                   tegrity, program oversight, and ad-  
6                   ministration, including the Medi-Medi  
7                   Program; and

8                   “(II) that improves the coordina-  
9                   tion of requests for data from  
10                  States.”.

11           (c) PROVIDING STATES WITH DATA ON IMPROPER  
12 PAYMENTS MADE FOR ITEMS OR SERVICES PROVIDED TO  
13 DUAL ELIGIBLE INDIVIDUALS.—

14           (1) IN GENERAL.—The Secretary shall develop  
15           and implement a plan that allows each State agency  
16           responsible for administering a State plan for med-  
17           ical assistance under title XIX of the Social Security  
18           Act access to relevant data on improper or erroneous  
19           payments made under the Medicare program under  
20           title XVIII of the Social Security Act (42 U.S.C.  
21           1395 et seq.) for health care items or services pro-  
22           vided to dual eligible individuals.

23           (2) DUAL ELIGIBLE INDIVIDUAL DEFINED.—In  
24           this section, the term “dual eligible individual”  
25           means an individual who is entitled to, or enrolled

for, benefits under part A of title XVIII of the Social Security Act (42 U.S.C. 1395c et seq.), or enrolled for benefits under part B of title XVIII of such Act (42 U.S.C. 1395j et seq.), and is eligible for medical assistance under a State plan under title XIX of such Act (42 U.S.C. 1396 et seq.) or under a waiver of such plan.

**SEC. 304. IMPROVING CLAIMS PROCESSING AND DETECTION OF FRAUD WITHIN THE MEDICAID AND CHIP PROGRAMS.**

(a) MEDICAID.—Section 1903(i) of the Social Security Act (42 U.S.C. 1396b(i)), as amended by section 2001(a)(2)(B) of the Patient Protection and Affordable Care Act (Public Law 111–148), is amended—

(1) in paragraph (25), by striking “or” at the end;

(2) in paragraph (26), by striking the period and inserting “; or”; and

(3) by adding at the end the following new paragraph:

“(27) with respect to amounts expended for an item or service for which medical assistance is provided under the State plan or under a waiver of such plan unless the claim for payment for such item or service contains—

“(A) a valid beneficiary identification number that, for purposes of the individual who received such item or service, has been determined by the State agency to correspond to an individual who is eligible to receive benefits under the State plan or waiver; and

“(B) a valid provider identifier that, for purposes of the provider that furnished such item or service, has been determined by the State agency to correspond to a participating provider that is eligible to receive payment for furnishing such item or service under the State plan or waiver.”.

(b) CHIP.—Section 2107(e)(1)(I) of the Social Security Act (42 U.S.C. 1397gg(e)(1)(I)) is amended by striking “and (17)” and inserting “(17), and (27)”.

**SEC. 305. REPORTS.**

(a) REPORT TO CONGRESS ON PLAN FOR IMPLEMENTATION.—

(1) REPORT.—

(A) IN GENERAL.—Not later than 270 days after the date of enactment of this Act, the Secretary of Health and Human Services, in consultation with the Commissioner of Social Security and the Attorney General, shall submit

to Congress a report containing a plan for implementing the provisions of and amendments made by sections 301 through 304, including, with respect to the implementation of section 303, the plan described in subparagraph (B).

(B) PLAN FOR INCREASING RECOVERY OF OVERPAYMENTS.—The report submitted under subparagraph (A) shall include a plan, developed by the Secretary of Health and Human Services, in consultation with the inspector General of the Department of Health and Human Services, to increase the recovery of overpayments for health care items or services provided to dual eligible individuals (as defined in section 303(c)(2)).

(2) INCLUSION IN ANNUAL HEALTH CARE FRAUD AND ABUSE CONTROL ACCOUNT REPORT.—Section 1817(k)(5) of the Social Security Act (42 U.S.C. 1395i(k)(5)) is amended—

(A) in subparagraph (A), by striking “and” at the end;

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

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



1           “(C) effective beginning with the report  
2           submitted January 1 following the date the re-  
3           port under section 306(a)(1) of the Medicare  
4           and Medicaid Fighting Fraud and Abuse to  
5           Save Taxpayers’ Dollars Act is submitted, any  
6           updates to the plan included in the report  
7           under such section 306(a)(1), including any po-  
8           tential challenges to meeting the deadlines for  
9           implementation of the provisions of and amend-  
10          ments made by sections 301 through 304 of  
11          such Act.”.

12          (b) REPORT TO CONGRESS ON INTERAGENCY CO-  
13          OPERATION AND DATA SHARING.—Not later than 180  
14          days after the date of enactment of this Act, the Secretary  
15          of Health and Human Services, in consultation with the  
16          Administrator of the Veterans Administration, the Sec-  
17          retary of Defense, the Director of the Office of Personnel  
18          Management, and the head of any other relevant Federal  
19          agency that administers a Federal health care program,  
20          shall submit to Congress a report on the potential of data  
21          sharing, including the sharing or data checking of Medi-  
22          care provider and Medicare beneficiary databases, to pre-  
23          vent and detect potential fraud and improper payments  
24          under the Medicare program.

# **TITLE IV—IMPROVING CMS CONTRACTOR PERFORMANCE**

## **SEC. 401. ESTABLISHING MEDICARE ADMINISTRATIVE CONTRACTOR ERROR REDUCTION INCENTIVES.**

(a) IN GENERAL.—Section 1874A(b)(1)(D) of the Social Security Act (42 U.S.C. 1395kk(b)(1)(D)) is amended—

(1) by striking “QUALITY.—The Secretary” and inserting “QUALITY.—

“(i) IN GENERAL.—Subject to clauses

(ii) and (iii), the Secretary”; and

(2) by inserting after clause (i), as added by paragraph (1), the following new clauses:

“(ii) IMPROPER PAYMENT ERROR RATE REDUCTION INCENTIVE PLAN.—The Secretary shall establish a plan to provide incentives for medicare administrative contractors to reduce the improper payment error rates in their jurisdictions.

“(iii) CONTENTS OF PLAN.—The plan established under clause (ii)—

“(I) may include a sliding scale of bonus payments and additional incentives to medicare administrative contractors that reduce the improper

1 payment error rates in their jurisdic-  
 2 tions to certain benchmark levels; and  
 3 “(II) shall include penalties, in-  
 4 cluding substantial reductions in  
 5 award fee payments under award fee  
 6 contracts, for any medicare adminis-  
 7 trative contractor that reaches an  
 8 upper end error threshold or other  
 9 threshold as determined by the Sec-  
 10 retary.”.

11 (b) EFFECTIVE DATE.—The amendments made by  
 12 this section shall apply to contracts entered into on or  
 13 after the date that is 12 months after the date of enact-  
 14 ment of this Act and to current contracts through modi-  
 15 fication when practicable.

16 **SEC. 402. SEPARATING PROVIDER ENROLLMENT AND**  
 17 **SCREENING FROM MEDICARE ADMINISTRA-**  
 18 **TIVE CONTRACTORS.**

19 (a) IN GENERAL.—Section 1866(j)(1) of the Social  
 20 Security Act (42 U.S.C. 1395cc(j)(1)) is amended by add-  
 21 ing at the end the following new subparagraph:

22 “(D) IMPLEMENTATION.—The enrollment  
 23 process established under subparagraph (A)  
 24 and the provider screening under paragraph (2)  
 25 shall be carried out under one or more con-

1           tracts with entities. Such contracts shall be sep-  
 2           arate from any contract to serve as a medicare  
 3           administrative contractor under section  
 4           1874A.”.

5           (b) EFFECTIVE DATE.—The amendment made by  
 6 subsection (a) shall apply to contracts entered into on or  
 7 after the date that is 24 months after the date of enact-  
 8 ment of this Act and to current contracts through modi-  
 9 fication when practicable.

10 **SEC. 403. DEVELOPING MEASURABLE PERFORMANCE**  
 11 **METRICS FOR MEDICARE CONTRACTORS.**

12           (a) REPORT.—Not later than 12 months after the  
 13 date of enactment of this Act, the Secretary of Health and  
 14 Human Services (in this section referred to as the “Sec-  
 15 retary”) shall submit to Congress a report containing  
 16 measurable metrics for improving Medicare contractor  
 17 performance, including Medicare administrative contrac-  
 18 tors under section 1874A of the Social Security Act (42  
 19 U.S.C. 1395kk), program safeguard contractors and other  
 20 similar contractors, Medicare Drug Integrity Contractors,  
 21 qualified independent contractors with a contract under  
 22 section 1869(c) of the Social Security Act (42 U.S.C.  
 23 1395ff(c)), and other contractors that perform adminis-  
 24 trative or oversight functions under the Medicare program

1 under title XVIII of the Social Security Act (42 U.S.C.  
2 1395 et seq.).

3 (b) CONTENTS OF REPORT.—The report submitted  
4 under subsection (a) shall include the Secretary’s rec-  
5 ommendations for the development of measurable per-  
6 formance metrics for Medicare contractors (or updated  
7 and revised measurable performance metrics), together  
8 with recommendations for such legislation and administra-  
9 tive action as the Secretary considers appropriate.

10 (c) RELATIONSHIP TO GOVERNMENT PERFORMANCE  
11 AND RESULTS ACT.—The metrics submitted in the report  
12 under subsection (a) may include performance goals or  
13 performance indicators established under the provisions of  
14 and amendments made by the GPRA Modernization Act  
15 of 2010 (Public Law 111–352).

16 (d) REVIEW BY THE COMPTROLLER GENERAL.—Not  
17 later than 270 days after the date on which the report  
18 is submitted under subsection (a), the Comptroller Gen-  
19 eral of the United States shall submit to Congress a report  
20 containing a review of the report submitted under such  
21 subsection.

# 1     **TITLE V—OTHER PROVISIONS**

## 2     **SEC. 501. STRENGTHENING PENALTIES FOR THE ILLEGAL** 3                     **DISTRIBUTION OF A MEDICARE, MEDICAID,** 4                     **OR CHIP BENEFICIARY IDENTIFICATION OR** 5                     **BILLING PRIVILEGES.**

6         Section 1128B(b) of the Social Security Act (42  
7     U.S.C. 1320a–7b(b)) is amended by adding at the end the  
8     following:

9             “(4) Whoever knowingly, intentionally, and with  
10       the intent to defraud purchases, sells or distributes,  
11       or arranges for the purchase, sale, or distribution of  
12       a Medicare, Medicaid, or CHIP beneficiary identi-  
13       fication number or billing privileges under title  
14       XVIII, title XIX, or title XXI, including a provider  
15       identifier, shall be imprisoned for not more than 10  
16       years or fined not more than \$500,000 (\$1,000,000  
17       in the case of a corporation), or both.”.

## 18    **SEC. 502. PROVIDING IMPLEMENTATION FUNDING.**

19       (a) IN GENERAL.—For purposes of carrying out the  
20     provisions of and amendments made by this Act, in addi-  
21     tion to funds otherwise available, there are appropriated  
22     to the Secretary of Health and Human Services for the  
23     Centers for Medicare & Medicaid Services Program Man-  
24     agement Account, from amounts in the general fund of  
25     the Treasury not otherwise appropriated, \$75,000,000 for

1 the period of fiscal years 2012 through 2016. Amounts  
2 appropriated under the preceding sentence shall remain  
3 available until expended.

4 (b) REVISION TO THE MEDICARE IMPROVEMENT  
5 FUND.—Section 1898(b)(1)(B) of the Social Security Act  
6 (42 U.S.C. 1395iii(b)(1)(B)) is amended by striking  
7 “\$275,000,000” and inserting “\$200,000,000”.

○