

115TH CONGRESS
2D SESSION

H. R. 5757

To amend title XI of the Social Security Act to expand the permissive exclusion from Federal health programs to include certain individuals with prior interest in sanctioned entities and entities affiliated with sanctioned entities, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 10, 2018

Ms. FRANKEL of Florida (for herself and Mr. KEATING) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend title XI of the Social Security Act to expand the permissive exclusion from Federal health programs to include certain individuals with prior interest in sanctioned entities and entities affiliated with sanctioned entities, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Fighting Medicare
5 Fraud Act of 2018”.

1 **SEC. 2. PERMISSIVE EXCLUSION FROM FEDERAL HEALTH**
2 **PROGRAMS EXPANDED TO CERTAIN INDIVID-**
3 **UALS WITH PRIOR INTEREST IN SANCTIONED**
4 **ENTITIES AND ENTITIES AFFILIATED WITH**
5 **SANCTIONED ENTITIES.**

6 Paragraph (15) of section 1128(b) of the Social Secu-
7 rity Act (42 U.S.C. 1320a-7(b)) is amended to read as
8 follows:

9 “(15) INDIVIDUALS AND ENTITIES AFFILIATED
10 WITH A SANCTIONED ENTITY.—(A) Any of the fol-
11 lowing:

12 “(i) Any individual who—

13 “(I) is a person with an ownership or
14 control interest in a sanctioned entity or
15 an affiliated entity of such sanctioned enti-
16 ty (or was a person with such an owner-
17 ship or control interest at the time of any
18 of the conduct that formed a basis for the
19 conviction or exclusion described in sub-
20 paragraph (B)); and

21 “(II) knows or should have known (as
22 defined in section 1128A(i)(7)) (or knew or
23 should have known) of such conduct.

24 “(ii) Any individual who is an officer or
25 managing employee (as defined in section
26 1126(b)) of a sanctioned entity or affiliated en-

1 tity of such sanctioned entity (or was such an
2 officer or managing employee at the time of any
3 of the conduct that formed a basis for the con-
4 viction or exclusion described in subparagraph
5 (B)).

6 “(iii) Any affiliated entity of a sanctioned
7 entity.

8 “(B) For purposes of this paragraph, the term
9 ‘sanctioned entity’ means an entity—

10 “(i) that has been convicted of any offense
11 described in subsection (a) of this section or in
12 paragraph (1), (2), or (3) of this subsection; or

13 “(ii) that has been excluded from partici-
14 pation under a program under title XVIII or
15 under a State health care program.

16 “(C) For purposes of subparagraph (A), the
17 term ‘affiliated entity’ means, with respect to a
18 sanctioned entity, an entity that is (or was at the
19 time of any of the conduct that formed the basis for
20 the conviction or exclusion described in subpara-
21 graph (B)) affiliated with such sanctioned entity,
22 and includes an entity—

23 “(i) that is a person with an ownership or
24 control interest in such sanctioned entity (or
25 was such a person with respect to such sanc-

1 tioned entity at the time of any conduct that
2 formed the basis for the conviction described in
3 subparagraph (B));

4 “(ii) with respect to which a sanctioned en-
5 tity is a person with an ownership or control in-
6 terest in such entity (or was such a person with
7 respect to such entity at the time of any con-
8 duct that formed the basis for the conviction
9 described in subparagraph (B));

10 “(iii) with respect to which a person with
11 an ownership or control interest in such entity
12 also has such an interest in such sanctioned en-
13 tity; and

14 “(iv) with respect to which a person who is
15 an officer or managing employee (as defined in
16 section 1126(b)) of such entity also is such an
17 officer or managing employee of such sanc-
18 tioned entity.

19 “(D) For purposes of this paragraph, the term
20 ‘person with an ownership or control interest’ has
21 the meaning given such term in section
22 1124(a)(3).”.

1 **SEC. 3. REPORTS ON INCIDENCES OF FRAUD AND ABUSE**
2 **UNDER MEDICARE PARTS C AND D.**

3 (a) IN GENERAL.—Section 1857(d) of the Social Se-
4 curity Act (42 U.S.C. 1395w–27(d)) is amended by adding
5 at the end the following new paragraph:

6 “(7) REPORT ON INCIDENCES OF FRAUD AND
7 ABUSE.—

8 “(A) IN GENERAL.—A contract under this
9 section with an MA organization offering an
10 MA plan shall provide that such MA organiza-
11 tion report to the Secretary (or to any person
12 or organization designated by the Secretary for
13 such purpose) any instances of fraud or abuse
14 related to the payment or delivery of health
15 benefits under such contract not later than 60
16 days after such organization identifies such in-
17 stance.

18 “(B) GUIDANCE.—Not later than 90 days
19 after the date of the enactment of this para-
20 graph, the Secretary, in consultation with the
21 Inspector General of the Department of Health
22 and Human Services and the Attorney General,
23 shall issue to MA organizations (and PDP
24 sponsors) guidance for defining the terms
25 ‘fraud’ and ‘abuse’ for purposes of subpara-
26 graph (A).”.

1 (b) CONFORMING AMENDMENT TO PART D.—Section
2 1860D–12(b)(3)(C) of the Social Security Act (42 U.S.C.
3 1395w–112(b)(3)(C)) is amended by inserting before the
4 period at the end the following: “, except in applying para-
5 graph (7) of such section any reference to an MA organi-
6 zation, with respect to an MA plan, shall be deemed a ref-
7 erence to a PDP sponsor or MA organization, with respect
8 to a prescription drug plan or MA–PD plan”.

9 (c) EFFECTIVE DATE.—The amendments made by
10 subsections (a) and (b) shall apply with respect to plan
11 years beginning on or after the date of the enactment of
12 this Act.

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