

DRAFT 10/27/95

Subtitle D--Fraud and Abuse

SEC. 11401. SHORT TITLE; REFERENCES IN SUBTITLE; TABLE OF
CONTENTS OF SUBTITLE.

(a) SHORT TITLE.--This subtitle may be cited as the "Federal Health Care Payment Integrity Act of 1995".

(b) REFERENCES IN SUBTITLE.--Except as otherwise specifically provided, whenever in this subtitle an amendment is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to that section or other provision of the Social Security Act.

(c) TABLE OF CONTENTS OF SUBTITLE.--The table of contents of this subtitle is as follows:

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8 **PART I--AMENDMENTS TO CURRENT LAW ENFORCEMENT AUTHORITIES**

9 **SEC. 11402. EXTENSION OF CURRENT CIVIL MONEY PENALTIES.**

10 (a) GENERAL CIVIL MONEY PENALTIES.-- Section 1128A (42
11 U.S.C. 1320a-7a) is amended--

12 (1) in the third sentence of subsection (a), by
13 striking "programs under title XVIII" and inserting Federal
14 health care program (as defined in section 11286(b)(f)(1));

15 (2) in subsection (f)--

16 (A) by redesignating paragraph (3) as paragraph

17 (4); and

18 (B) by inserting after paragraph (2) the following
19 new paragraph:

20 "(3) With respect to amounts recovered arising out of a
21 claim under a Federal health care program (as defined in
22 section 1128B(f)), the portion of such amounts as is
23 determined to have been paid by the program shall be repaid
24 to the program, and the portion of such amount attributable
25 to the amounts recovered under this section by reason of the
26 amendments made by the Federal Health Care Payment Integrity
27 Act of 1995 (as estimated by the Secretary) shall be
28 deposited into the Health Care Fraud and Abuse Control
29 Account established under section 204(b) of such Act.";

1 (3) In subsection (i)--

2 (A) in paragraph (2), by striking "title V, XVIII,
3 XIX, or XX of this Act" and inserting "a Federal health
4 care program (as defined in section 1128B(f))";

5 (B) in paragraph (4), by striking "a health
6 insurance or medical services program under title XVIII
7 or XIX of this Act" and inserting "a Federal health
8 care program (as so defined)"; and

9 (C) in paragraph (5), by striking "title V, XVIII,
10 XIX, or XX" and inserting "a Federal health care
11 program (as so defined)"; and

12 (4) by adding at the end the following new subsection:

13 "(m) (1) For purposes of this section, with respect to
14 a Federal health care program not contained in this Act,
15 references to the Secretary in this section shall be deemed
16 to be references to the Secretary or Administrator of the
17 department or agency with jurisdiction over such program and
18 references to the Inspector General of the Department of Health
19 and Human Services in this section shall be deemed to be
20 references to the Inspector General of the applicable department
21 or agency.

22 "(2) (A) The Secretary and Administrator of the departments
23 and agencies referred to in paragraph (1) may include, in any
24 action pursuant to this section, claims within the Jurisdiction
25 of other Federal departments or agencies as long as the following
26 conditions are satisfied:

1 "(i) The case involves primarily claims submitted to
2 the Federal health care programs of the department or agency
3 initiating the action.

4 "(ii) The Secretary or Administrator of the department
5 or agency initiating the action gives notice and an
6 opportunity to participate in the investigation to the
7 Inspector General of the department or agency with primary
8 jurisdiction over the Federal health care programs to which
9 the claims were submitted.

10 "(B) If the conditions specified in subparagraph (A) are
11 fulfilled, the Inspector General of the department or agency
12 initiating the action is authorized to exercise all powers
13 granted under the Inspector General Act of 1978 with respect to
14 the claims submitted to the other departments or agencies to the
15 same manner and extent as provided in that Act with respect to
16 claims submitted to such departments or agencies."

17 (b) EXCLUDED INDIVIDUAL RETAINING OWNERSHIP OR CONTROL
18 INTEREST IN PARTICIPATING ENTITY.--Section 1128A(a) (42 U.S.C.
19 1320a-7a(a)) is amended--

20 (1) by striking "or" at the end of paragraph (1) (D);

21 (2) by striking ", or" at the end of paragraph (2) and
22 inserting a semicolon;

23 (3) by striking the semicolon at the end of paragraph
24 (3) and inserting "; or"; and

25 (4) by inserting after paragraph (3) the following new
26 paragraph:

1 "(4) in the case of a person who is not an
2 organization, agency, or other entity, is excluded from
3 participating in a program under title XVIII or a State
4 health care program in accordance with this subsection or
5 under section 1128 and who, at the time of a violation of
6 this subsection, retains a direct or indirect ownership or
7 control interest of 5 percent or more, or an ownership or
8 control interest (as defined in section 1124(a)(3)) in, or
9 who is an officer or managing employee (as defined in
10 section 1126(b)) of, an entity that is participating in a
11 program under title XVIII or a State health care program;"

12 (c) EMPLOYER BILLING FOR SERVICES FURNISHED, DIRECTED, OR
13 PRESCRIBED BY AN EXCLUDED EMPLOYEE.--Section 1128A(a)(1) (42
14 U.S.C. 1320a-7a(a)(1)) is amended--

15 (1) by striking "or" at the end of subparagraph (C);

16 (2) by striking ";or" at the end of subparagraph (D)
17 and inserting ", or"; and

18 (3) by adding at the end the following new
19 subparagraph:

20 "(E) is for a medical or other item or service
21 furnished, directed, or prescribed by an individual who
22 is an employee or agent of the person during a period
23 in which such employee or agent was excluded from the
24 program under which the claim was made on any of the
25 grounds for exclusion described in subparagraph (D);".

1 (d) CIVIL MONEY PENALTIES FOR ITEMS OR SERVICES FURNISHED,
2 DIRECTED, OR PRESCRIBED BY AN EXCLUDED INDIVIDUAL.--Section
3 1128A(a) (1) (D) (42 U.S.C. 1320a-7a(a) (1) (D)) is amended by
4 inserting ", directed, or prescribed" after "furnished".

5 (e) MODIFICATIONS OF AMOUNTS OF PENALTIES AND ASSESSMENTS.--
6 Section 1128A(a) (42 U.S.C. 1320a-7a(a)), as amended by
7 subsection (b), is amended in the matter following paragraph
8 (4) --

9 (1) by striking "\$2,000" and inserting "\$10,000";

10 (2) by inserting "; in cases under paragraph (4),
11 \$10,000 for each day the prohibited relationship occurs"
12 after "false or misleading information was given"; and

13 (3) by striking "twice the amount" and inserting "3
14 times the amount".

15 (d) CLAIMS FOR ITEM OR SERVICE BASED ON INCORRECT CODING OR
16 MEDICALLY UNNECESSARY SERVICES.--Section 1128A(a) (1) (42 U.S.C.
17 1320a-7a(a) (1)) is amended--

18 (1) in subparagraph (A) by striking "claimed," and
19 inserting "claimed, including any person who engages in a
20 pattern or practice of presenting or causing to be presented
21 a claim for an item or service that is based on a code that
22 the person knows or has reason to know will result in a
23 greater payment to the person than the code the person knows
24 or has reason to know is applicable to the item or service
25 actually provided,";

26 (2) in subparagraph (C), by striking "or" at the end;

1 (3) in subparagraph (D), by striking "; or" and
2 inserting ", or"; and

3 (4) by inserting after subparagraph (D) the following
4 new subparagraph:

5 "(E) is for a medical or other item or service
6 that a person knows or has reason to know is not
7 medically necessary; or".

8 (e) PERMITTING SECRETARY TO IMPOSE CIVIL MONEY PENALTY.--
9 Section 1128A(b) (42 U.S.C. 1320a-7a(b)) is amended by adding the
10 following new subparagraph:

11 "(3) Any person (including any organization, agency, or
12 other entity, but excluding a beneficiary as defined in
13 subsection (i)(5)) who the Secretary determines has violated
14 section 1128B(b) of this title shall be subject to a civil
15 monetary penalty of not more than \$10,000 for each such
16 violation. In addition, such person shall be subject to an
17 assessment of not more than twice the total amount of the
18 remuneration offered, paid, solicited, or received in
19 violation of section 1128B(b). The total amount of
20 remuneration subject to all assessment shall be calculated
21 without regard to whether some portion thereof also may have
22 been intended to serve a purpose other than one proscribed
23 by section 1128B(b).".

24 (f) PROHIBITION AGAINST OFFERING INDUCEMENTS TO INDIVIDUALS
25 ENROLLED UNDER PROGRAMS.--

1 (1) OFFER OF REMUNERATION.-- Section 1128A(a) (42
2 U.S.C. 1320a-7a(a)) is amended--

3 (A) by striking "or" at the end of paragraph
4 (1) (D);

5 (B) by striking ", or" at the end of paragraph (2)
6 and inserting a semicolon;

7 (C) by striking the semicolon at the end of
8 paragraph (3) and inserting "; or"; and

9 (D) by inserting after paragraph (3) the following
10 new paragraph:

11 "(4) offers to or transfers remuneration to any
12 individual eligible for benefits under a Federal health
13 program that such person knows or should know is likely
14 to influence such individual to order or receive from a
15 particular provider, practitioner, or supplier any item
16 or service for which payment may be made, in whole or
17 in part, under such program;"

18 (2) REMUNERATION DEFINED.--Section 1128A(i) (42 U.S.C.
19 1320a-7a(i)) is amended by adding the following new
20 paragraph:

21 "(6) The term 'remuneration' includes the waiver of
22 coinsurance and deductible amounts (or any part thereof),
23 and transfers of items or services for free or for other
24 than fair market value. The term 'remuneration' does not
25 include--

1 "(A) the waiver of coinsurance and deductible
2 amounts by a person, if--

3 "(i) the waiver is not offered as part of any
4 advertisement or solicitation,

5 "(ii) the person does not routinely waive
6 coinsurance or deductible amounts; and

7 "(iii) the person-

8 "(I) waives the coinsurance and
9 deductible amount after determining in good
10 faith that the individual is in financial
11 need;

12 "(II) fails to collect coinsurance or
13 deductible amounts after making reasonable
14 collection efforts; or

15 "(III) provides for any permissible
16 waiver as specified in section 1128B(b) (3) or
17 in regulations issued by the Secretary;

18 "(B) differentials in coinsurance and deductible
19 amounts as part of a benefit plan design as long as the
20 differentials have been disclosed in writing to all
21 beneficiaries, third party payors, and providers, to
22 whom claims are presented and as long as the
23 differentials meet the standards as defined in
24 regulations promulgated by the Secretary not later than
25 180 days after the date of the enactment of this Act;
26 or

1 "(C) incentives given to individuals to promote
2 the delivery of preventive care as determined by the
3 Secretary in regulations so promulgated."

4 **SEC. 11403. EXCLUSION OF PERSONS WHO DEFRAUD MEDICARE.**

5 (a) MINIMUM PERIOD OF EXCLUSION FOR CERTAIN INDIVIDUALS AND
6 ENTITIES SUBJECT TO PERMISSIVE EXCLUSION FROM MEDICARE AND STATE
7 HEALTH CARE PROGRAMS.--Section 1128(c)(3) (42 U.S.C. 1320a-
8 7(c)(3)) is amended by adding at the end the following new
9 subparagraphs:

10 "(D) In the case of an exclusion of an individual or entity
11 under paragraph (1), (2), or (3) of subsection (b), the period of
12 the exclusion shall be 3 years, unless the Secretary determines
13 in accordance with published regulations that a longer period is
14 appropriate because of aggravating circumstances.

15 "(E) In the case of an exclusion of an individual or entity
16 under subsection (b)(4) or (b)(5), the period of the exclusion
17 shall not be less than the period during which the individual or
18 entity's license to provide health care is revoked, suspended, or
19 surrendered, or the individual or the entity is excluded or
20 suspended from a Federal or State health care program.

21 "(F) In the case of an exclusion of an individual or entity
22 under subsection (b)(6)(B), the period of the exclusion shall be
23 not less than 1 year."

24 (b) PERMISSIVE EXCLUSION OF INDIVIDUALS WITH OWNERSHIP OR
25 CONTROL INTEREST IN SANCTIONED ENTITIES.--Section 1128(b) (42

1 U.S.C. 1320a-7(b)) is amended by adding at the end the following
2 new paragraph:

3 "(15) INDIVIDUALS CONTROLLING A SANCTIONED ENTITY.--

4 Any individual who has a direct or indirect ownership or
5 control interest of 5 percent or more, or an ownership or
6 control interest (as defined in section 1124(a)(3)) in, or
7 who is an officer or managing employee (as defined in
8 section 1126(b)) of, an entity-

9 "(A) that has been convicted of any offense
10 described in subsection (a) or in paragraph (1), (2),
11 or (3) of this subsection; or

12 "(B) that has been excluded from participation
13 under a program title XVIII or under a State health
14 care program."

15 (c) SANCTIONS AGAINST PROVIDERS FOR EXCESSIVE FEES OR
16 PRICES.--Section 1128(b)(6)(A) (42 U.S.C. 1320a-7(b)(6)(A)) is
17 amended--

18 (1) by inserting after "substantially in excess of such
19 individuals or entity's usual charges" the following: "(as
20 specified by the Secretary in regulations)"; and

21 (2) by striking "(or in applicable cases, substantially
22 in excess of such individuals or entities' costs)" and
23 inserting ", costs or fees" before "for such items or
24 services."

25 (d) APPLICABILITY OF THE BANKRUPTCY CODE TO PROGRAM
26 SANCTIONS.--

1 (1) Section 1128 (42 U.S.C. 1320a-7) is amended by
2 adding at the end the following new subsection:

3 "(j) An exclusion imposed under this section is not subject
4 to the automatic stay imposed under the Bankruptcy Code, 11
5 U.S.C. § 362."

6 (2) Section 1128A(a) (42 U.S.C. 1320a-7a) is amended by
7 adding at the end the following sentence:

8 "An exclusion imposed under this section is not subject to
9 the automatic stay which is imposed under 11 U.S.C. § 362,
10 and any penalties and assessments imposed under this section
11 shall be nondischargeable under the Bankruptcy Code (11
12 U.S.C. § 101 et seq.)."

13 (3) Section 1892(a)(4) (42 U.S.C. 1395ccc(a)(4)) is
14 amended by adding at the end the following sentence:

15 "An exclusion imposed under paragraph (2)(C)(ii) or
16 paragraph (3)(B) is not subject to the automatic stay which
17 is imposed under the Bankruptcy Code (11 U.S.C. § 362)."

18 **SEC. 11404. IMPROVEMENTS TO ANTI-KICKBACK STATUTE.**

19 (a) APPLICATION TO ALL FEDERAL HEALTH CARE PROGRAMS.--
20 Section 1128B(b) of the Social Security Act (42 U.S.C. 1320a-7b)
21 is amended as follows:

22 (1) in the heading, by striking "MEDICARE OR STATE
23 HEALTH CARE PROGRAMS" and inserting "FEDERAL HEALTH CARE
24 PROGRAMS".

1 (2) by striking "title XVIII or a State health care
2 program" each place it appears and inserting "federal health
3 care program' ;

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

5 "(5) For purposes of this subsection, the term 'Federal
6 health care program' means-

7 "(A) any plan or program that provides health benefits,
8 whether directly, through insurance, or otherwise, which is
9 funded, in whole or in part, by the United States
10 Government; or

11 "(B) any State health care program, as defined in
12 section 1128(h).

13 "(6) (A) The Secretary and Administrator of the departments
14 and the departments and agencies with a Federal health care
15 program may conduct an investigation or audit relating to
16 violations of this subsection, claims within the Jurisdiction of
17 other Federal departments or agencies as long as the following
18 conditions are satisfied:

19 "(I) The investigation or audit involves primarily
20 claims submitted to the Federal health care programs of
21 the department or agency conducting the investigation
22 or audit.

23 "(II) The Secretary or Administrator of the
24 department or agency conducting the investigation or
25 audit gives notice and an opportunity to participate in
26 the investigation or audit to the Inspector General of

1 the department or agency with primary Jurisdiction over
2 the Federal health care programs to which the claims
3 were submitted.

4 "(B) If the conditions specified in subparagraph (A)
5 are fulfilled, the Inspector General of the department or
6 agency conducting the investigation or audit is authorized
7 to exercise all powers granted under the Inspector General
8 Act of 1978 with respect to the claims submitted to the
9 other departments or agencies to the same manner and extent
10 as provided in that Act with respect to claims submitted to
11 such departments or agencies."

12 (b) INCREASE IN FINE.--Section 1128B(b) of the Social
13 Security Act (42 U.S.C. 1320a-7b) is amended as follows by
14 striking "\$25,000" each place it appears and inserting "\$50,000";

15 (c) FEDERAL COURT CIVIL REMEDY.--Section 1128B(b) of the
16 Social Security Act (42 U.S.C. 1320a-7b) is amended--

17 (1) by redesignating paragraph (3) as paragraph (4);

18 (2) in paragraph (4) (as redesignated), by striking
19 "Paragraphs (1) and (2) " and inserting "Paragraphs (1), (2)
20 and (3)"; and

21 (3) by inserting the following new paragraph:

22 "(3) The Attorney General can bring an action in the
23 district courts to pose upon any person who carries out any
24 activity in violation of this subsection a civil penalty of
25 \$25,000 to \$50,000 for each such violation, and that person

1 shall be subject to damages of three times the total
2 remuneration offered, paid, solicited, or received.

3 " (A) A violation exists under this paragraph if
4 one or more purposes of the remuneration is unlawful,
5 and the damages shall be the full amount of such
6 remuneration;

7 " (B) The procedures for such actions with regard
8 to subpoenas, statute of limitations, standard of
9 proof, and collateral estoppel shall be governed by 31
10 U.S.C. § 3731, and the Federal Rules of Civil Procedure
11 shall apply to actions brought under this paragraph;

12 " (C) This provision does not affect the
13 availability of other criminal and civil remedies for
14 such violations."

15 (d) CLARIFICATION OF OTHER ELEMENTS OF OFFENSE.--Section
16 1128B(b) (42 U.S.C. 1320a-7b(b)) is further amended--

17 (1) by striking "and willfully" each place it appears;

18 (2) in paragraph (1) in the matter preceding
19 subparagraph (A), by striking "kind-" and inserting "kind
20 with intent to be influenced-";

21 (3) in paragraph (1) (A), by striking "in return for
22 referring" and inserting "to refer";

23 (4) in paragraph (1) (B), by striking "in return for
24 purchasing, leasing, ordering, or arranging for or
25 recommending" and inserting "to purchase, lease, order, or
26 arrange for or recommend";

1 (5) in paragraph (2) in the matter preceding
2 subparagraph (A), by striking "to induce such person" and
3 inserting "with intent to influence such person"; and

4 (6) by adding at the end of paragraphs (1) and (2) the
5 following sentence: "A violation exists under this paragraph
6 if one or more purposes of the remuneration is unlawful
7 under this paragraph."

8 (e) NEW EXCEPTION FOR CERTAIN PHS GRANTEES.--Section
9 1128B(b)(4) (42 U.S.C. 1320a-7b(b)(4)) (as redesignated by
10 subsection (c)(1) of this section) is amended--

11 (1) by striking "and" at the end of subparagraph (D);

12 (2) by redesignating subparagraph (E) as (F); and

13 (3) by inserting the following new subparagraph after
14 subparagraph (D):

15 "(F) any remuneration obtained by or given to an individual
16 or entity who received assistance under a grant or cooperative
17 agreement for the provision of health care services under title
18 V, title XX, or the Public Health Service Act, or is obligated as
19 a matter of law to provide services according to a schedule which
20 provides for discounts based on the ability of the individual
21 services to pay, if--

22 "(i) in the case of an individual or entity who
23 receives assistance under a grant or cooperative agreement
24 for the provision of health care services under title V,
25 title XX, or the Public Health Service Act, the remuneration

1 is directly and primarily related to the activity supported
2 by the grant or cooperative agreement; and

3 "(ii) the remuneration is pursuant to a written
4 arrangement for the use or procurement of space, equipment,
5 goods, or services for the referral of patients that--

6 "(I) does not result in private inurement to any
7 current employee, officer, member of the board of
8 directors, or agent of the recipient or any other
9 person involved in recommending or negotiating the
10 arrangement; and

11 "(II) does not preclude the referral of patients
12 to other providers of service of the patient's own
13 choosing and does not interfere with the ability of
14 health professionals to refer patients to providers of
15 services they believe are the most appropriate, except
16 to the extent such choices or referrals are limited by
17 the terms of a health plan in which the patient has
18 enrolled or the terms of a grant or cooperative
19 agreement described in clause (i); and".

20 **SEC. 11405. AMENDMENTS TO PRO (QUALITY OF CARE) SANCTIONS**
21 **PROVISIONS.**

22 (a) MINIMUM PERIOD OF EXCLUSION FOR PRACTITIONERS AND
23 PERSONS FAILING TO MEET STATUTORY OBLIGATIONS.--

24 (1) IN GENERAL.--Section 1156(b)(1) (42 U.S.C. 1320c-
25 5(b)(1)) is amended in the second sentence by striking "may

1 prescribe)" and inserting "may prescribe, except that such
2 period may not be less than 1 year)".

3 (2) CONFORMING AMENDMENT.--Section 1156(b)(2) (42
4 U.S.C. 1320c-5(b)(2)) is amended by striking "shall remain"
5 and inserting "shall (subject to the minimum period
6 specified in the second sentence of paragraph (1)) remain".

7 (b) REPEAL OF "UNWILLING OR UNABLE" CONDITION FOR IMPOSITION
8 OF SANCTION.--Section 1156(b)(1) (42 U.S.C. 1320c-5(b)(1) is
9 amended--

10 (1) in the second sentence, by striking "and
11 determines" and all that follows through "such
12 obligations,"; and

13 (2) by striking the third sentence.

14 (c) SANCTIONS AGAINST PRACTITIONERS AND PERSONS FOR FAILURE
15 TO COMPLY WITH STATUTORY OBLIGATIONS.--Section 1156(b)(3) (42
16 U.S.C. 1320c-5(b)(3)) is amended by striking "the actual or
17 estimated cost" and inserting "up to \$10,000 for each instance".
18 **SEC. 11406. FINAL ADVERSE ACTION DATA BASE.**

19 (a) GENERAL PURPOSE.--Not later than January 1, 1997, the
20 Secretary of Health and Human Services (in this section referred
21 to as the "Secretary") shall establish a national health care
22 fraud and abuse data collection program for the reporting of
23 final adverse actions (not including settlements in which no
24 findings of liability have been made) against health care
25 providers, suppliers, or practitioners as required by subsection
26 (b), with access as set forth in subsection (c).

1 (b) REPORTING OF INFORMATION.--

2 (1) IN GENERAL.-- Each government agency and Federal
3 health care program shall (and each other health plan may)
4 report to the Secretary any final adverse action (not
5 including settlements in which no findings of liability have
6 been made) taken against a health care provider, supplier,
7 or practitioner.

8 (2) INFORMATION TO BE REPORTED.-- The information to be
9 reported under paragraph (1) includes:

10 (A) The name and TIN (as defined in section
11 7701(a)(41) of the Internal Revenue Code of 1986) of--

12 (i) any health care provider, supplier, or
13 practitioner that is the subject of a final
14 adverse action, and

15 (ii) any individual with a relationship
16 specified in section 1128(b)(8)(A) to an entity
17 described in clause (i).

18 (B) The name (if known) of any health care entity
19 with which a health care provider, supplier, or
20 practitioner is affiliated or associated.

21 (C) The nature of the final adverse action and
22 whether such action is on appeal.

23 (D) A description of the acts or omissions and
24 injuries upon which the final adverse action was based,
25 and such other information as the Secretary determines
26 by regulation is required for appropriate

1 interpretation of information reported under this
2 section.

3 (3) CONFIDENTIALITY.--In determining what information
4 is required, the Secretary shall include procedures to
5 ensure that the privacy of individuals receiving health care
6 services is appropriately protected.

7 (4) TIMING AND FORM OF REPORTING.--The information
8 required to be reported under this subsection shall be
9 reported regularly (but not less often than monthly) and in
10 such form and manner as the Secretary prescribes. Such
11 information shall first be required to be reported on a date
12 specified by the Secretary.

13 (c) DISCLOSURE AND CORRECTION OF INFORMATION.--

14 (1) DISCLOSURE.-- With respect to the information about
15 final adverse actions (not including settlements in which no
16 findings of liability have been made) reported to the
17 Secretary under this section respecting a health care
18 provider, supplier, or practitioner, the Secretary shall, by
19 regulation, provide for--

20 (A) disclosure of the information, upon request,
21 to the health care provider, supplier, or licensed
22 practitioner, and

23 (B) procedures in the case of disputed accuracy of
24 the information.

25 (2) CORRECTIONS.--Each Government agency and health
26 plan shall report corrections of information already

1 reported about any final adverse action taken against a
2 health care provider, supplier, or practitioner, in such
3 form and manner that the Secretary prescribes by regulation.

4 (d) ACCESS TO REPORTED INFORMATION.--

5 (1) AVAILABILITY.--The information in this database
6 shall be available to Federal and State government agencies,
7 health plans, and the public pursuant to procedures that the
8 Secretary shall provide by regulation.

9 (2) FEES FOR DISCLOSURE.-- The Secretary may establish
10 or approve reasonable fees for the disclosure of information
11 in this database (other than with respect to requests by
12 Federal agencies). The amount of such a fee may be
13 sufficient to recover the full costs of carrying out the
14 provisions of this section, including reporting, disclosure
15 and administration. Such fees shall be available to the
16 Secretary or, in the Secretary's discretion to the agency
17 designated under this section to cover such costs.

18 (e) PROTECTION FROM LIABILITY FOR REPORTING.-- No person or
19 entity, including the agency designated by the Secretary in
20 subsection (b) (5) shall be held liable in any civil action with
21 respect to any report made as required by this section, without
22 knowledge of the falsity of the information contained in the
23 report.

24 (f) DEFINITIONS AND SPECIAL RULES.-- For purposes of this
25 section:

26 (1) (A) The term "final adverse action" includes:

1 (i) Civil judgments against a health care
2 provider or practitioner in Federal or State court
3 related to the delivery of a health care item or
4 service.

5 (ii) Federal or State criminal convictions
6 related to the delivery of a health care item or
7 service.

8 (iii) Actions by Federal or State agencies
9 responsible for the licensing and certification of
10 health care providers, suppliers, and licensed
11 health care practitioners, including--

12 (I) formal or official actions, such as
13 revocation or suspension of a license (and
14 the length of any such suspension),
15 reprimand, censure or probation,

16 (II) any other loss of license, or the
17 right to apply for or renew a license of the
18 provider, supplier, or practitioner, whether
19 by operation of law, voluntary surrender,
20 non-renewable or otherwise, or

21 (III) any other negative action or
22 finding by such Federal or State agency that,
23 is publicly available information.

24 (iv) Exclusion from participation in Federal
25 or State health care programs.

1 (v) Any other adjudicated actions or
2 decisions that the Secretary shall establish by
3 regulation.

4 (B) The term does not include any action respect
5 to a malpractice claim.

6 (2) The terms "licensed health care practitioner",
7 "licensed practitioner", and "practitioner" mean, with
8 respect to a State, an individual who is licensed or
9 otherwise authorized by the State to provide health care
10 services (or any individual who, without authority holds
11 himself or herself out to be so licensed or authorized).

12 (3) The term "health care provider" means a provider of
13 services as defined in section 1861(u) of the Social
14 Security Act, and any person or entity, including a health
15 maintenance organization, group medical practice, or any
16 other entity listed by the Secretary in regulation, that
17 provides health care services.

18 (4) The term "supplier" means a supplier of health care
19 items and services described in section 1819(a) and (b), and
20 section 1861 of the Social Security Act.

21 (5) The term "Government agency" shall include:

22 (A) The Department of Justice.

23 (B) The Department of Health and Human Services.

24 (C) Any other Federal agency that either
25 administers or provides payment for the delivery of

1 health care services, including, but not limited to the
2 Department of Defense and the Veterans' Administration.

3 (D) State law enforcement agencies.

4 (E) State medicaid fraud and abuse units.

5 (F) Federal or State agencies responsible for the
6 licensing and certification of health care providers
7 and licensed health care practitioners.

8 (6) the term "Federal health care program" has the
9 meaning given such term in section 1128B(b) of the Social
10 Security Act.

11 (7) The term "health plan" has the meaning given such
12 term in section 1347 of title 18 of the United States Code.

13 (8) For purposes of paragraph (1), the existence of a
14 conviction shall be determined under section 1128 of the
15 Social Security Act.

16 (g) CONFORMING AMENDMENT.--Section 1921(d) (42 U.S.C. 1396r-
17 2(d)) is amended by inserting "and section 105 of the Federal
18 Health Care Payment Integrity Act of 1995 after "section 422 of
19 the Health Care Quality Improvement Act of 1986".

20 **SEC. 11407. EXPANSION OF AUTHORITY OF MEDICAID FRAUD CONTROL**
21 **UNITS.**

22 (a) EXTENSION OF CONCURRENT AUTHORITY TO INVESTIGATE AND
23 PROSECUTE FRAUD IN OTHER FEDERAL PROGRAMS.--Section 1903(q) (3)
24 (42 U.S.C. 1396b(q) (3)) is amended by striking "in connection
25 with" and all that follows and inserting the following:

26 "in connection with--

1 "(A) any aspect of the provision of medical
2 assistance and the activities of providers of such
3 assistance under the State plan under this title; and

4 "(B) (in cases where the entity's function is also
5 described by subparagraph (A), and upon the approval of
6 the relevant Federal agency) any aspect of the
7 provision of health care services and activities of
8 providers of such services under any Federal health
9 care program (as defined in section 1128B(b)(1))."

10 (b) EXTENSION OF AUTHORITY TO INVESTIGATE AND PROSECUTE
11 PATIENT ABUSE IN NON-MEDICAID BOARD AND CARE FACILITIES.--

12 Section 1903(q)(4) (42 U.S.C. 1396(b)(q)(4)) is amended to read
13 as follows:

14 "(4) (A) The entity has--

15 "(i) procedures for reviewing complaints of abuse
16 or neglect of patients in health care facilities which
17 receive payments under the State plan under this title;

18 "(ii) at the option of the entity, procedures for
19 reviewing complaints of abuse or neglect of patients
20 residing in board and care facilities; and

21 "(iii) procedures for acting upon such complaints
22 under the criminal laws of the State or for referring
23 such complaints to other State agencies for action.

24 "(B) For purposes of this paragraph, the term 'board
25 and care facility' means a residential setting which
26 receives payment from or on behalf of two or more unrelated

1 adults who reside in such facility, and for whom one or both
2 of the following is provided:

3 "(i) Nursing care services provided by, or under
4 the supervision of, a registered nurse, licensed
5 practical nurse, or licensed nursing assistant.

6 "(ii) Personal care services that assist residents
7 with the activities of daily living, including personal
8 hygiene, dressing, bathing, eating, toileting,
9 ambulation, transfer, positioning, self-medication,
10 body care, travel to medical services, essential
11 shopping, meal preparation, laundry, and housework."

12 **SEC. 11408. RECOVERY OF OVERPAYMENTS FROM BANKRUPT PROVIDERS.**

13 (a) NONDISCHARGEABILITY OF DEBTS TO MEDICARE PROGRAM.--

14 (1) MEDICARE PART A.--Section 1815(d) (42 U.S.C.
15 1395g(d)) is amended by adding at the end the following
16 sentence: "Amounts due to the program under this part are
17 not dischargeable under any title of the Bankruptcy Code (11
18 U.S.C. 101 et seq.).".

19 (b) MEDICARE PART B.--Section 1833(j) (42 U.S.C. 13951(j))
20 is amended by adding at the end the following sentence: "Amounts
21 due to the program under this part are not dischargeable under
22 any title of the Bankruptcy Code (11 U.S.C. 101 et seq.).".

23 **SEC. 11409. GRANTS TO STATES TO REVOKE LICENSES OF UNQUALIFIED**
24 **PROVIDERS.**

25 The Secretary of Health and Human Services is authorized to
26 make grants to States for activities necessary to revoke the

1 licenses, certification, or other State authorization of health
2 care professionals and entities determined to be unqualified for
3 such authorization on the basis of exclusion from Federal health
4 care programs under section 1128 or 1128A or for any other
5 reason.

6 **PART II--RESOURCES FOR ANTI-FRAUD ACTIVITIES**

7 **SEC. 11421. MEDICARE ANTI-FRAUD AND ABUSE PROGRAM.**

8 (a) FINDINGS AND STATEMENT OF PURPOSE.--

9 (1) FINDINGS.--The Congress finds that--

10 (A) a significant amount of funds expended on the
11 Medicare program are lost to fraud, medically
12 unnecessary services and other abuse;

13 (B) The Office of Inspector General of the
14 Department of Health and Human Services (hereinafter
15 referred to as the Inspector General) is effective in
16 combating Medicare fraud and abuse and returning
17 misspent funds to the Federal Treasury at a rate many
18 times the amount invested in Inspector General
19 activities; and

20 (C) The investigations, audits and other
21 activities of the Inspector General have been severely
22 curtailed by budget constraints, particularly the
23 limits imposed by the ceilings on discretionary
24 spending.

1 (2) PURPOSE.--It is the purpose of this Act to ensure a
2 continued and adequate source of funding for the Medicare
3 anti-fraud and abuse activities of the Inspector General.

4 (b) ESTABLISHMENT OF PROGRAM.--Title XI (42 U.S.C. 1301 et
5 seq.) is amended by adding at the end thereof the following new
6 part:

7 "PART C--MEDICARE ANTI-FRAUD AND ABUSE PROGRAM

8 "PURPOSE

9 "Sec. 1171. The purpose of this part is to provide a new
10 source for funding for activities of the Office of Inspector
11 General related to preventing and detecting fraud and abuse in
12 the programs under title XVIII and determining the accuracy and
13 appropriateness of expenditures under such programs, in order to
14 ensure the continuation of such activities without interruption,
15 and the expansion of funding for such activities at rates
16 commensurate with the increase in expenditures under such title.

17 "FUNDING AVAILABLE

18 "Sec. 1172. (a) COVERED ANTI-FRAUD AND ABUSE ACTIVITIES.--
19 Funding from the trust funds established under title XVIII shall
20 be available, in accordance with subsection (b), for activities
21 conducted by the Inspector General, either directly or by
22 contract, pursuant to this Act or the Inspector General Act of
23 1978, for the purposes of--

24 "(1) Prosecuting matters related to the programs under
25 title XVIII through criminal, civil, and administrative
26 proceedings.

1 "(2) Conducting investigations relating to such
2 programs.

3 "(3) Performing financial and performance audits of
4 programs and operations relating to the such programs.

5 "(4) Performing inspections and other evaluations
6 relating to such programs.

7 "(5) Conducting provider and consumer education
8 activities regarding the requirements of this title and
9 title XVIII.

10 "(b) PAYMENTS FROM TRUST FUNDS.--Obligations incurred by the
11 Inspector General in carrying out the activities designated in
12 subsection (a) shall be paid from--

13 "(1) funds in the Federal Hospital Insurance Trust
14 Fund; and

15 "(2) funds in the Federal Supplementary Medical
16 Insurance Trust Fund,

17 in the amounts set forth in subsection (c), allocated between
18 those funds as the Secretary shall deem fair and equitable after
19 taking into consideration the expenses attributable to each of
20 the programs under title XVIII. The Secretary shall make such
21 transfers of moneys between those funds as may be appropriate to
22 settle accounts between them in cases where expenses properly
23 payable from one fund have been paid from the other fund.

24 "(c) PAYMENT AMOUNTS.--Total amounts paid from the Trust
25 Funds in accordance with subsection (b) shall equal--

26 "(1) \$130 million for fiscal year 1996;

1 "(2) \$181 million for fiscal year 1997;

2 "(3) \$204 million for fiscal year 1998; and

3 "(4) for each succeeding fiscal year, the greater of--

4 "(A) \$204 million increased by a percentage equal
5 to the percentage increase in expenditures under title
6 XVIII (other than expenditures pursuant to this part)
7 for the preceding fiscal year over fiscal year 1997;
8 and

9 "(B) an amount equal to the aggregate amount
10 expended for activities specified in subsection (a) in
11 fiscal year 1998, increased, as determined by the
12 Secretary, to reflect (i) inflation and (ii) any costs
13 attributable to oversight responsibilities added with
14 respect to periods after fiscal year 1998."

15 **SEC. 11422. REIMBURSEMENT OF HHS INSPECTOR GENERAL FOR**
16 **INVESTIGATIVE AND OTHER COSTS.**

17 (a) REIMBURSEMENTS FOR INVESTIGATIONS.--The Inspector
18 General of the Department of Health and Human Services is
19 authorized to receive and retain the current use reimbursement
20 for the costs of conducting investigations, audits, and of
21 monitoring compliance plans, when such costs are ordered by a
22 court, voluntarily agreed to by the payer, or otherwise.

23 (b) CREDITING.--Funds received by such Inspector General as
24 reimbursement for costs of conducting investigations shall be
25 deposited to the credit of the appropriation from which initially
26 paid, or to appropriations for similar purposes currently

1 available at the time of deposit, and shall remain available for
2 obligation for one year from the date of the deposit of such
3 funds.

4 **SEC. 11423. MEDICARE BENEFICIARY INTEGRITY SYSTEM.**

5 (a) IN GENERAL.--Part C of title XVIII (42 U.S.C. 1395x et
6 seq.) is amended by inserting after section 1889 the following:

7 "BENEFICIARY INTEGRITY SYSTEM

8 "Sec. 1890. (a) Obligations incurred for beneficiary
9 integrity system activities shall be paid from funds in the
10 Federal Hospital Insurance Trust Fund and the Federal
11 Supplementary Medical Insurance Trust Fund, in the amounts set
12 forth in subsection (b), allocated between those funds as the
13 Secretary shall deem fair and equitable after taking into
14 consideration the expenses attributable to each of the programs
15 under this title. The Secretary shall make such transfers of
16 moneys between those funds as may be appropriate to settle
17 accounts between them in cases where expenses properly payable
18 from one fund have been paid from the other fund.

19 "(b) Total amounts paid from the Trust Funds in accordance
20 with subsection (a) shall equal--

21 "(1) \$525,000,000 for fiscal year 1996,

22 "(2) \$550,000,000 for fiscal year 1997,

23 "(3) \$575,000,000 for fiscal year 1998,

24 "(4) \$600,000,000 for fiscal year 1999,

25 "(5) \$619,000,000 for fiscal year 2000, and

26 "(6) for each succeeding fiscal year, the greater of--

1 "(A) \$619 million increased by a percentage equal
2 to the percentage increase in expenditures under this
3 title (other than expenditures pursuant to this
4 section) for the preceding fiscal year over fiscal year
5 1999, and

6 "(B) an amount equal to the aggregate amount
7 expended for activities specified in subsection (a) in
8 fiscal year 2000, increased, as determined by the
9 Secretary, to reflect (i) inflation and (ii) any costs
10 attributable to oversight responsibilities added with
11 respect to periods after fiscal year 2000.

12 "(c) For purposes of this section, beneficiary integrity
13 system activities consist of the following:

14 "(1) Review of activities of providers of services or
15 other persons in connection with this title, including
16 medical and utilization review and fraud review.

17 "(2) Audit of cost reports.

18 "(3) Determinations as to whether payment should not
19 be, or should not have been, made under this title by reason
20 of section 1862(b), and recovery of payments that should not
21 have been made.

22 "(4) Education of providers of services, beneficiaries,
23 and other persons with respect to payment integrity and
24 beneficiary integrity system issues."

25 (b) EFFECTIVE DATE.--The amendment made by subsection (a)
26 applies to obligations incurred after fiscal year 1995.

1 **SEC. 11424. GOVERNMENT-WIDE ANTI-FRAUD REINVESTMENT FUND.**

2 (a) ESTABLISHMENT.--

3 (1) IN GENERAL.-- There is hereby established the
4 Health Care Fraud and Abuse Control Account. The Health
5 Care Fraud and Abuse Control Account shall consist of-

6 (A) such gifts and bequests as may be made as
7 provided in subparagraph (B);

8 (B) such amounts as may be deposited in the Health
9 Care Fraud and Abuse Control Account as provided in
10 sections 301(b) and 302(b) of this Act, and title XI of
11 the Social Security Act; and

12 (C) such amounts as are transferred to the Health
13 Care Fraud and Abuse Control Account under subparagraph
14 (3) (C).

15 (2) AUTHORIZATION TO ACCEPT GIFTS.-- The Health Care
16 Fraud and Abuse Control Account is authorized to accept on
17 behalf of the United States money gifts and bequests made
18 unconditionally to the Health Care Fraud and Abuse Control
19 Account for the benefit of the Health Care Fraud and Abuse
20 Control Program or any activity financed through the Health
21 Care Fraud and Abuse Control Account.

22 (3) TRANSFER OF AMOUNTS.-- The Secretary of the
23 Treasury shall transfer to the Health Care Fraud and Abuse
24 Control Account, under rules similar to the rules in section
25 9601 of the Internal Revenue Code of 1986, an amount equal
26 to the sum of the following:

1 (A) Civil monetary penalties and assessments
2 recovered (including voluntary settlement agreements)
3 under titles XI, XVIII, and XIX of the Social Security
4 Act (except as otherwise provided by law); the Program
5 Fraud Civil Remedies Act (31 U.S.C. 3801 et seq.) and
6 other civil monetary penalties and assessments imposed
7 in health care cases.

8 (B) Penalties and damages otherwise creditable to
9 Miscellaneous Receipts, Treasury, obtained (including
10 voluntary settlement agreements) under the False Claims
11 Act (31 U.S.C. 3729 et seq.), in cases involving claims
12 related to the provision of health care items and
13 services (other than funds awarded to a relator or for
14 the damages sustained by the health plan because of the
15 acts governed by section 3729).

16 (b) GENERAL USE OF FUNDS.--

17 (1) IN GENERAL.-- Amounts in the Health Care Fraud and
18 Abuse Control Account shall be paid, at the discretion
19 jointly of the Attorney General and the Secretary of Health
20 and Human Services (acting through the Inspector General of
21 the Department of Health and Human Services) to cover the
22 costs (including equipment, salaries and benefits, and
23 travel and training) of activities designed to prevent and
24 detect health care fraud and abuse, and to promote economy
25 and efficiency in Federal health care programs, such as

1 health care fraud investigations, audits, and inspections,
2 including the costs of--

3 (A) prosecuting health care matters (through
4 criminal, civil, and administrative proceedings);

5 (B) investigations;

6 (C) financial and performance audits of health
7 care programs and operations;

8 (D) inspections and other evaluations; and

9 (E) provider and consumer education regarding
10 compliance with the provisions of this title.

11 (2) Any use of funds from this Account are not required
12 to be specified in Appropriations Acts.

13 (3) FUNDS USED TO SUPPLEMENT AGENCY APPROPRIATIONS.--

14 It is intended that disbursements made from the Health Care
15 Fraud and Abuse Control Account to any Federal agency be
16 used to increase and not supplant the recipient agency's
17 appropriated operating budget.

18 (4) ANNUAL REPORT.-- The Secretary and the Attorney
19 General shall submit jointly an annual report to Congress on
20 the amount of revenue which is generated and disbursed by
21 the Health Care Fraud and Abuse Control Account in each
22 fiscal year.

23 **SEC. 11424. EXEMPTION OF MEDICARE PROGRAM INTEGRITY STAFF FROM**
24 **PERSONNEL CEILINGS.**

25 Part A of title XI (42 U.S.C. 1301 et seq.) is amended by
26 adding at the end the following new section:

1 "EXEMPTION OF MEDICARE PROGRAM INTEGRITY STAFF
2 FROM PERSONNEL CEILINGS

3 "Sec. 1146. (a) IN GENERAL.--Employees of the Department of
4 Health and Human Services assigned to duties necessary to carry
5 out the responsibilities of the Secretary to prevent,
6 investigate, and pursue criminal, civil or administrative
7 remedies for fraud or abuse against the programs under title
8 XVIII, and to promote economy and efficiency in those programs,
9 up to the numbers of full-time equivalents specified in
10 subsection (b), shall not be counted against any personnel
11 ceiling applicable to such Department.

12 "(b) NUMBERS OF POSITIONS EXEMPTED.--The numbers of full-
13 time equivalent employment positions exempted pursuant to
14 subsection (a) shall equal--

15 "(1) 1,245 for fiscal year 1996,

16 "(2) 1,657 for fiscal year 1997, and

17 "(3) 1,817 for fiscal year 1998 and each succeeding
18 fiscal year.

19 "(c) FEDERAL WORKFORCE RESTRUCTURING RESTRICTIONS
20 NOTWITHSTOOD.--The provisions of this section shall apply
21 notwithstanding the provisions of subsections (b) and (f) (3) of
22 section 5 of the Federal Workforce Restructuring Act of 1994 (5
23 U.S.C. 3101 note)."

PART III--AMENDMENTS TO CRIMINAL LAW

SEC. 11431. HEALTH CARE FRAUD.

(a) IN GENERAL.--

(1) FINES AND IMPRISONMENT FOR HEALTH CARE FRAUD VIOLATIONS.--Chapter 63 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 1347. Health care fraud.

"(a) Whoever knowingly and willfully executes, or attempts to execute, a scheme or artifice--

"(1) to defraud any health plan or other person, in connection with the delivery of or payment for health care benefits, items, or services; or

"(2) to obtain, by means of false or fraudulent pretenses, representations, or promises, any of the money or property owned by, or under the custody or control of, any health plan, or person in connection with the delivery of or payment for health care benefits, items, or services; shall be fined under this title or imprisoned not more than 10 years, or both. If the violation results in serious bodily injury (as defined in section 1365(g)(3) of this title), such person may be imprisoned for any term of years.

"(b) For purposes of this section, the term 'health plan' means a plan or program that provides health benefits, whether directly, through insurance, or otherwise, and includes--

"(1) a policy of health insurance;

"(2) a contract of a service benefit organization;

1 "(3) a membership agreement with a health maintenance
2 organization or other prepaid health plan; and

3 "(4) an employee welfare benefit plan or a multiple
4 employer welfare plan (as such terms are defined in section
5 3 of the Employee Retirement Income Security Act of 1974 (29
6 U.S.C. 1002))."

7 (2) CLERICAL AMENDMENT.-- The table of sections at the
8 beginning of chapter 63 of title 18, United States Code, is
9 amended by adding at the end the following:

10 "1347. Health care fraud."

11 (b) CRIMINAL FINES DEPOSITED IN THE HEALTH CARE FRAUD AND
12 ABUSE CONTROL ACCOUNT.--The Secretary of the Treasury shall
13 deposit into the Health Care Fraud and Abuse Control Account
14 established under section 204 an amount equal to the criminal
15 fines imposed under section 1347 of title 18, United States Code
16 (relating to health care fraud).

17 **SEC. 11432. FORFEITURES FOR FEDERAL HEALTH CARE OFFENSES.**

18 (a) IN GENERAL.--Section 982(a) of title 18, United States
19 Code, is amended by adding after paragraph (5) the following new
20 paragraph:

21 "(6) (A) The court, in imposing sentence on a person
22 convicted of a Federal health care offense, shall order the
23 person to forfeit property, real or personal, that
24 constitutes or is derived, directly or indirectly, from
25 proceeds traceable to the commission of the offense.

1 "(B) For purposes of this paragraph, the term 'Federal
2 health care offense' means a violation of, or a criminal
3 conspiracy to violate--

4 "(i) section 1347 of this title;

5 "(ii) section 1128B of the Social Security Act;

6 "(iii) sections 287, 371, 664, 666, 1001, 1027,
7 1341, 1343, 1920, or 1954 of this title if the
8 violation or conspiracy relates to health care fraud;
9 and

10 "(iv) section 501 or 511 of the Employee
11 Retirement Income Security Act of 1974, if the
12 violation or conspiracy relates to health care fraud."

13 (b) **PROPERTY FORFEITED DEPOSITED IN HEALTH CARE FRAUD AND**
14 **ABUSE CONTROL ACCOUNT.**--The Secretary of the Treasury shall
15 deposit into the Health Care Fraud and Abuse Control Account
16 established under section 204 an amount equal to amounts
17 resulting from forfeiture of property by reason of a Federal
18 health care offense pursuant to section 982(a)(6) of title 18,
19 United States Code.

20 **SEC. 11433. INJUNCTIVE RELIEF RELATING TO FEDERAL HEALTH CARE**
21 **OFFENSES.**

22 (a) **IN GENERAL.**--Section 1345(a)(1) of title 18, United
23 States Code, is amended--

24 (1) by striking "or" at the end of subparagraph (A);

25 (2) by inserting "or" at the end of subparagraph (B);

26 and

1 (3) by adding at the end the following new sub-
2 paragraph:

3 "(C) committing or about to commit a Federal
4 health care offense (as defined in section 982(a)(6)(B)
5 of this title);".

6 (b) FREEZING OF ASSETS.-- Section 1345(a)(2) of title 18,
7 United States Code, is amended by inserting "or a Federal health
8 care offense (as defined in section 982(a)(6)(B))" after
9 "title)".

10 **SEC. 11434. GRAND JURY DISCLOSURE.**

11 Section 3322 of title 18, United States Code, is amended--

12 (1) by redesignating subsections (c) and (d) as
13 subsections (d) and (e), respectively; and

14 (2) by inserting after subsection (b) the following new
15 subsection:

16 "(c) A person who is privy to grand jury information
17 concerning a Federal health care offense (as defined in
18 section 982(a)(6)(B))--

19 "(1) received in the course of duty as an attorney for
20 the Government; or

21 "(2) disclosed under rule 6(e)(3)(A)(ii) of the Federal
22 Rules of Criminal Procedure;
23 may disclose that information to an attorney for the Government
24 to use in any investigation or civil proceeding relating to
25 health care fraud.".

26 **SEC. 11435. FALSE STATEMENTS.**

1 (a) IN GENERAL.-- Chapter 47, of title 18, United States
2 Code, is amended by adding at the end the following new section:

3 "§ 1033. False statements relating to health care matters

4 "(a) Whoever, in any matter involving a health plan,
5 knowingly and willfully falsifies, conceals, or covers up by any
6 trick, scheme, or device a material fact, or makes any false,
7 fictitious, or fraudulent statements or representations, or makes
8 or uses any false writing or document knowing the same to contain
9 any false, fictitious, or fraudulent statement or entry, shall be
10 fined under this title or imprisoned not more than 5 years, or
11 both.

12 "(b) For purposes of this section, the term 'health plan'
13 has the meaning given such term in section 1347(b).".

14 (b) CLERICAL AMENDMENT.--The table of sections at the
15 beginning of chapter 47 of title 18, United States Code, is
16 amended by adding at the end the following:

17 "1033. False statements relating to health care matters.".

18 **SEC. 11436. OBSTRUCTION OF CRIMINAL INVESTIGATIONS, AUDITS OR**
19 **INSPECTIONS OF FEDERAL HEALTH CARE OFFENSES.**

20 (a) IN GENERAL.--Chapter 73 of title 18, United States Code,
21 is amended by adding at the end the following new section:

22 "§ 1518. Obstruction of criminal investigations, audits or
23 inspections of Federal health care offenses.

24 "(a) IN GENERAL.--Whoever willfully prevents, obstructs,
25 misleads, delays or attempts to present, obstruct, mislead, or
26 delay the communication of information or records relating to a

1 Federal health care offense to a Federal agent or employee
2 involved in the investigation, audit, inspection or other related
3 activity shall be fined under this title or imprisoned not more
4 than 5 years, or both.

5 "(b) FEDERAL HEALTH CARE OFFENSE.--As used in this section
6 the term 'Federal health care offense' has the same meaning given
7 such term in section 982(a)(6)(B) of this title.

8 "(c) CRIMINAL INVESTIGATOR.--As used in this section the
9 term 'criminal investigator' means any individual duly authorized
10 by a department, agency, or armed force of the United States to
11 conduct or engage in investigations for prosecutions for
12 violations of health care offenses."

13 (b) CLERICAL AMENDMENT.--The table of sections at the
14 beginning of chapter 73 of title 18, United States Code, is
15 amended by adding at the end the following:

16 "1518. Obstruction of Criminal Investigations, Audits, or
17 Inspections of Federal Health Care Offenses."

18 **SEC. 11437. THEFT OR EMBEZZLEMENT.**

19 (a) IN GENERAL.--Chapter 31 of title 18, United States Code,
20 is amended by adding at the end the following new section:

21 "§ 669. Theft or embezzlement in connection with health care.

22 "(a) IN GENERAL.--Whoever willfully embezzles, steals, or
23 otherwise without authority willfully and unlawfully converts to
24 the use of any person other than the rightful owner, or
25 intentionally misapplies any of the moneys, funds, securities,
26 premiums, credits, property, or other assets of a health plan,

1 shall be fined under this title or imprisoned not more than 10
2 years, or both.

3 "(b) HEALTH PLAN.-- As, used in this section the term
4 'health plan' has the meaning given such term in section
5 1347(b).".

6 (b) CLERICAL AMENDMENT.-- The table of sections at the
7 beginning of chapter 31 of title 18, United States Code, is
8 amended by adding at the end the following:

9 "669. Theft or Embezzlement in Connection with Health care.".

10 **SEC. 11438. LAUNDERING OF MONETARY INSTRUMENTS.**

11 Section 1956(c)(7) of title 18, United States Code,
12 is amended by adding at the end the following new subparagraph:

13 "(F) Any act or activity constituting an offense
14 involving a Federal health care offense as that term is
15 defined in section 982(a)(6)(B) of this title.".

16 **SEC. 11439. AUTHORIZED INVESTIGATIVE DEMAND PROCEDURES.**

17 (a) IN GENERAL.-- Chapter 233 of title 18, United
18 States Code, is amended by adding after section 3485 the
19 following new section:

20 "§ 3486. Authorized investigative demand procedures

21 "(a) AUTHORIZATION.--

22 "(1) In any investigation relating to functions set
23 forth in paragraph (2), the Attorney General or designee may
24 issue in writing and cause to be served a subpoena
25 compelling production of any records (including any books,
26 papers, documents, electronic media, or other objects or

1 tangible things), which may be relevant to an authorized law
2 enforcement inquiry, that a person or legal entity may
3 possess or have care, custody, or control. A custodian of
4 records may be required to give testimony concerning the
5 production and authentication of such records. The
6 production of records may be required from any place in any
7 State or in any territory, or other place subject to the
8 jurisdiction of the United States at any designated place;
9 except that such production shall not be required more than
10 500 miles distant from the place where the subpoena is
11 served. Witnesses summoned under this section shall be paid
12 the same fees and mileage that are paid witnesses in the
13 courts of the United States. A subpoena requiring the
14 production of records shall describe the objects required to
15 be produced and prescribe a return date within a reasonable
16 period of time within which the objects can be assembled and
17 made available.

18 "(2) Investigative demands utilizing an administrative
19 subpoena are authorized for any investigation with respect
20 to any act or activity constituting or involving health care
21 fraud, including a scheme or artifice--

22 "(A) to defraud any health plan or other person,
23 in connection with the delivery of or payment for
24 health care benefits, items, or services; or

25 "(B) to obtain, by means of false or fraudulent
26 pretenses, representations, or promises, any of the

1 money or property owned by, or under the custody or
2 control or, any health plan, or person in connection
3 with the delivery of or payment for health care
4 benefits, items, or services.

5 (b) SERVICE.-- A subpoena issued under this section may be
6 served by any person designated in the subpoena to serve it.
7 Service upon a natural person may be made by personal delivery of
8 the subpoena to such person. Service may be made upon a domestic
9 or foreign association which is subject to suit under a common
10 name, by delivering the subpoena to an officer, to a managing or
11 general agent, or to any other agency authorized by appointment
12 or by law to receive service of process. The affidavit of the
13 person serving the subpoena entered on a true copy thereof by the
14 person serving it shall be proof of service.

15 "(c) ENFORCEMENT.-- In the case of contumacy by or refusal
16 to obey a subpoena issued to any person, the Attorney General may
17 invoke the aid of any court of the United States within the
18 Jurisdiction of which the investigation is carried on or of which
19 the subpoenaed person is an inhabitant, or in which such person
20 carries on business or may be found, to compel compliance with
21 the subpoena. The court may issue an order requiring the
22 subpoenaed person to appear before the Attorney General to
23 produce records, if so ordered, or to give testimony touching the
24 matter under investigation. Any failure to obey the order of the
25 court may be punished by the court as a contempt thereof. All

1 process in any such case may be served in any Judicial district
2 in which such person may be found.

3 "(d) IMMUNITY FROM CIVIL LIABILITY.-- Notwithstanding any
4 Federal, State, or local law, any person, including officers,
5 agents, and employees receiving a subpoena under this section,
6 who complies in good faith with the subpoena and thus produces
7 the materials sought, shall not be liable -in any court of any
8 State or the United States to any customer or other persons for
9 such production or for nondisclosure of that production to the
10 customer.

11 "(e) USE IN ACTION AGAINST INDIVIDUALS.--

12 "(1) Health information about an individual that is
13 disclosed under this section may not be used in, or
14 disclosed to any person for use in, any administrative,
15 civil, or criminal action or investigation directed against
16 the individual who is the subject of the information unless
17 the action or investigation arises out of and is directly
18 related to receipt of health care or payment for health care
19 or action involving a fraudulent claim related to health; or
20 if authorized by an appropriate order of a court of
21 competent jurisdiction, granted after application showing
22 good cause therefore.

23 "(2) In assessing good cause, the court shall weigh the
24 public interest and the need for disclosure against the
25 injury to the patient, to the physician-patient
26 relationship, and to the treatment services.

1 "(3) Upon the granting of such order, the court, in
2 determining the extent to which any disclosure of all or any
3 part of any record is necessary, shall impose appropriate
4 safeguards against unauthorized disclosure.

5 "(f) HEALTH PLAN.-- As used in this section the term
6 'health plan' has the meaning given such term in section
7 1347(b).".

8 (b) CLERICAL AMENDMENT.-- The table of sections for chapter
9 223 of title 18, United States Code, is amended by inserting
10 after the item relating to section 3405 the following new item:
11 "§ 3486. Authorized investigative demand procedures".

12 (c) CONFORMING AMENDMENT.-- Section 1510(b)(3)(B) of title
13 18, United States Code, is amended by inserting "or a Department
14 of Justice subpoena (issued under section 3486)," after
15 "subpoena".

1 **Part IV--MEDICARE IMPROVEMENTS**

2 **Subpart A--Coordination of Benefits**

3 **SEC. 11441. CLARIFICATION OF TIME AND FILING LIMITATIONS.**

4 (a) IN GENERAL.--Section 1862(b)(2)(B) (42 U.S.C.
5 1395y(b)(2)(B)) is amended by adding at the end the following:

6 "(v) Time, filing, and related provisions
7 under primary plan.--Requirements under a primary
8 plan as to the filing of a claim, time limitations
9 for the filing of a claim, information not
10 maintained by the Secretary, or notification or
11 pre-admission review, shall not apply to a claim
12 by the United States under clause (ii) or (iii).".

13 (b) EFFECTIVE DATE.--The amendment made by subsection (a)
14 applies to items and services furnished after 1982.

15 **SEC. 11442. CLARIFICATION OF LIABILITY OF THIRD PARTY**

16 **ADMINISTRATORS.**

17 (a) IN GENERAL.--Section 1862(b)(2)(B)(ii) (42 U.S.C.
18 1395y(b)(2)(B)(ii)) is amended by inserting ", or which
19 determines claims under the primary plan" after "primary plan".

20 (b) CLAIMS BETWEEN PARTIES OTHER THAN THE UNITED STATES.--
21 Section 1862(b)(2)(B) (42 U.S.C. 1395y(b)(2)(B)) (as amended by
22 section 401(a) of this Act) is further amended by adding at the
23 end the following:

24 "(vi) Claims between parties other than the
25 United States.--A claim by the United States under

1 clause (ii) or (iii) shall not preclude claims
2 between other parties."

3 (c) EFFECTIVE DATE.--The amendments made by the previous
4 subsections apply to items and services furnished after 1982.

5 **SEC. 11443. CLARIFICATION OF PAYMENT AMOUNTS TO MEDICARE.**

6 (a) IN GENERAL.--Section 1862(b)(2)(B)(i) (42 U.S.C.
7 1395y(b)(2)(B)(i)) is amended to read as follows:

8 "(i) Repayment required.--

9 "(I) Any payment under this title, with
10 respect to any item or service for which
11 payment by a primary plan is required under
12 the preceding provisions of this subsection,
13 shall be conditioned on reimbursement to the
14 appropriate Trust Fund established by this
15 title when notice or other information is
16 received that payment for that item or
17 service has been or should have been made
18 under those provisions. If reimbursement is
19 not made to the appropriate Trust Fund before
20 the expiration of the 60-day period that
21 begins on the date such notice or other
22 information is received, the Secretary may
23 charge interest (beginning with the date on
24 which the notice or other information is
25 received) on the amount of the reimbursement
26 until reimbursement is made (at a rate

1 determined by the Secretary in accordance
2 with regulations of the Secretary of the
3 Treasury applicable to charges for late
4 payments).

5 "(II) The amount owed by a primary plan
6 under the first sentence of subclause (I) is
7 the lesser of the full primary payment
8 required (if that amount is readily
9 determinable) and the amount paid under this
10 title for that item or service."

11 (b) CONFORMING AND TECHNICAL AMENDMENTS.--

12 (1) Subparagraphs (A) (i) (I) and (B) (i) of section
13 1862(b) (1) (42 U.S.C. 1395y(b) (1)) are each amended by
14 inserting "(or eligible to be covered)" after "covered".

15 (2) Section 1862(b) (1) (C) (ii) (42 U.S.C.
16 1395y(b) (1) (C) (ii)) is amended by striking "covered by such
17 plan".

18 (3) The matter in section 1862(b) (2) (A) (42 U.S.C.
19 1395y(b) (2) (A)) preceding clause (i) is amended by striking
20 ", except as provided in subparagraph (B),".

21 (c) EFFECTIVE DATE.--The amendments made by the previous
22 subsections apply to items and services furnished after 1982.

23 **SEC. 11444. CONDITIONS FOR DOUBLE DAMAGES.**

24 (a) IN GENERAL.--Section 1862(b) (2) (B) (ii) (42 U.S.C.
25 1395y(b) (2) (B) (ii)) is amended--

1 (1) by striking ", in accordance with paragraph
2 (3) (A) ", and

3 (2) by inserting ", unless the entity demonstrates that
4 it did not know, and could not have known, of its obligation
5 to pay" after "against that entity".

6 (b) CONFORMING AMENDMENT.--Section 1862(b) (3) (A) is amended
7 by striking "(or appropriate reimbursement)".

8 **SEC. 11445. REPEAL OF EXCISE TAX.**

9 (a) IN GENERAL.--Chapter 47 of the Internal Revenue Code of
10 1986 (26 U.S.C. 5000) is repealed.

11 (b) CONFORMING AMENDMENT TO THE INTERNAL REVENUE CODE OF
12 1986.--The table of chapters of subtitle D of the Internal
13 Revenue Code of 1986 (26 U.S.C. 4001 et seq.) is amended by
14 striking the listing for chapter 47.

15 (c) CONFORMING AMENDMENTS TO THE SOCIAL SECURITY ACT.--

16 (1) Section 1862(b) (1) (A) (42 U.S.C. 1395y(b) (1) (A)) is
17 amended by striking clause (v).

18 (2) The matter in section 1862(b) (1) (C) (42 U.S.C.
19 1395y(b) (1) (C)) preceding clause (i) is amended by striking
20 "plan (as defined in subparagraph (A) (v))--" and inserting
21 "plan--".

22 (3) Section 1862(b) (1) (E) (42 U.S.C. 1395y(b) (1) (E)) is
23 amended by adding at the end the following:

24 "(iv) Group health plan defined.--The term
25 'group health plan' means a plan (including a
26 self-insured plan) of, or contributed to by, an

1 employer or employee organization to provide
2 health care (directly or otherwise) to the
3 employees, former employees, the employer, others
4 associated or formerly associated with the
5 employer in a business relationship, or their
6 families."

7 (4) Section 1862(b)(3) (42 U.S.C. 1395y(b)(3)) is
8 amended--

9 (A) by striking subparagraph (B), and

10 (B) by redesignating subparagraph (C) as (B).

11 (5) Subparagraph (A) of the first sentence of section
12 1837(i)(1) (42 U.S.C. 1395p(i)(1)), subparagraph (B) of the
13 first sentence of section 1837(i)(2) (42 U.S.C.
14 1395p(i)(2)), section 1837(i)(3)(A) (42 U.S.C.
15 1395p(i)(3)(A)), and clause (2) of the second sentence of
16 section 1839(b) (42 U.S.C. 1395r(b)), are each amended by
17 striking "1862(b)(1)(A)(v)" and inserting
18 "1862(b)(1)(E)(iv)".

19 (d) EFFECTIVE DATE.--The amendment made by subsection (a)
20 applies, with respect to the Internal Revenue Code of 1986, to
21 expenses incurred after 1994.

22 **SEC. 11446. INFORMATION REQUIREMENTS.**

23 (a) INFORMATION FROM GROUP HEALTH PLANS.--Section 1862(b)
24 (42 U.S.C. 1395y(b)) is amended by adding at the end the
25 following:

1 "(7) Information from group health plans.--

2 " (A) Provision of information by group health
3 plans.--The administrator of a group health plan (other
4 than a plan exempt, under paragraph (1) (E) (v), from the
5 requirements of paragraph (1)) shall provide to the
6 Secretary any or all of the information elements listed
7 in subparagraph (C), and in such manner and at such
8 times (but not more frequently than four times per
9 year), as the Secretary may specify, with respect to
10 each individual covered under the plan and entitled to
11 benefits under this title.

12 " (B) Provision of information by employers and
13 employee organizations.--An employer (or employee
14 organization) that maintains or participates in a group
15 health plan (other than a plan exempt, under paragraph
16 (1) (E) (v), from the requirements of paragraph (1))
17 shall provide to the administrator of the plan any or
18 all of the information elements listed in subparagraph
19 (C), and in such manner and at such times (but not more
20 frequently than four times per year), as the Secretary
21 may specify, with respect to each individual covered
22 under the plan and entitled to benefits under this
23 title.

24 " (C) Information elements to be provided.--The
25 information elements to be provided under subparagraph
26 (A) or (B) are:

1 "(i) Elements concerning the individual.--

2 "(I) The individual's name.

3 "(II) The individual's date of birth.

4 "(III) The individual's sex.

5 "(IV) The individual's social security
6 insurance number.

7 "(V) The number assigned by the
8 Secretary to the individual for claims under
9 this title.

10 "(VI) The family relationship of the
11 individual to the person who has current or
12 former employment status with the employer.

13 "(ii) Elements concerning the family member
14 with current or former employment status.--

15 "(I) The name of the person in the
16 individual's family who has current or former
17 employment status with the employer.

18 "(II) That person's social security
19 insurance number.

20 "(III) The number or other identifier
21 assigned by the plan to that person.

22 "(IV) The periods of coverage for that
23 person under the plan.

24 "(V) The employment status of that
25 person (current or former) during those
26 periods of coverage.

1 "(VI) The classes (of that person's
2 family members) covered under the plan.

3 "(iii) Plan elements.--

4 "(I) The nature of the items and
5 services covered under the plan.

6 "(II) The name and address to which
7 claims under the plan are to be sent.

8 "(iv) Elements concerning the employer.--

9 "(I) The employer's name.

10 "(II) The employer's address.

11 "(III) The employer identification
12 number of the employer.

13 "(D) Use of identifiers.--The administrator of a
14 group health plan shall utilize an identifier for the
15 plan (that the Secretary may furnish) in providing
16 information under subparagraph (A) and in other
17 transactions, as may be specified by the Secretary,
18 related to the provisions of this subsection.

19 "(E) Penalty for noncompliance.--Any entity that
20 knowingly and willfully fails to comply with a
21 requirement imposed by the previous subparagraphs shall
22 be subject to a civil money penalty not to exceed \$1000
23 for each incident of such failure. The provisions of
24 section 1128A (other than subsections (a) and (b))
25 shall apply to a civil money penalty under the previous

1 sentence in the same manner as those provisions apply
2 to a penalty or proceeding under section 1128A(a).".

3 (b) EFFECTIVE DATE.--The amendment made by subsection (a) is
4 effective 180 days after the date of enactment of this Act.

5 **SEC. 11447. TECHNICAL CHANGES CONCERNING MINIMUM SIZES OF GROUP**

6 **HEALTH PLANS.**

7 (a) CONSOLIDATION OF REQUIREMENTS.--

8 (1) Section 1862(b)(1)(A) (42 U.S.C. 1395y(b)(1)(A))
9 (as amended by section 401(c)(1) of this Act) is further
10 amended--

11 (A) by striking clauses (ii) and (iii), and

12 (B) by renumbering clause (iv) as (ii).

13 (2) Section 1862(b)(1)(B) (42 U.S.C. 1395y(b)(1)(B)) is
14 amended--

15 (A) in clause (i), by striking "large group health
16 plan (as defined in clause (iv))" and inserting "group
17 health plan", and

18 (B) by striking clause (iv).

19 (3) Section 1862(b)(1)(E) (42 U.S.C. 1395y(b)(1)(E))
20 (as amended by section 405(c)(3) of this Act) is further
21 amended by adding at the end the following:

22 "(v) Exclusion of group health plans of small
23 and medium employers.--

24 "(I) Subparagraph (A) shall not apply to
25 a group health plan unless the plan covers
26 employees of at least one employer that has

1 20 or more employees on at least 50 percent
2 of its business days in each of 20 or more
3 calendar weeks in the current or preceding
4 calendar year."

5 "(II) Subparagraph (B) shall not apply
6 to a group health plan unless the plan covers
7 employees of at least one employer that has
8 100 or more employees on at least 50 percent
9 of its business days in each of 20 or more
10 calendar weeks in the current or preceding
11 calendar year."

12 (b) CONFORMING AMENDMENTS.--

13 (1) The second sentence of section 1862(b)(2)(A) (42
14 U.S.C. 1395y(b)(2)(A)) is amended by striking "or large
15 group health plan".

16 (2) Section 1862(b)(3)(C) (42 U.S.C. 1395y(b)(3)(C)) is
17 amended--

18 (A) in the heading, by striking "or a large group
19 health plan", and

20 (B) in the first sentence, by striking "or a large
21 group health plan".

22 (3) (A) Subparagraph (A) of the first sentence of
23 section 1837(i)(1) (42 U.S.C. 1395p(i)(1)) is amended by
24 striking "(or the individual's spouse's) current employment
25 status" and inserting "current employment status (or the

1 current employment status of a family member of the
2 individual).".

3 (B) Section 1837(i)(1) (42 U.S.C. 1395p(i)(1)) is
4 amended by striking the second sentence.

5 (4) (A) Subparagraph (B) of the first sentence of
6 section 1837(i)(2) (42 U.S.C. 1395p(i)(2)) is amended by
7 striking "(or the individual's spouse's) current employment
8 status" and inserting "current employment status (or the
9 current employment status of a family member of the
10 individual).".

11 (B) Section 1837(i)(2) (42 U.S.C. 1395p(i)(2)) is
12 amended by striking the second sentence.

13 (5) Section 1837(i)(3) (42 U.S.C. 1395p(i)(3)) is
14 amended--

15 (A) by striking subparagraph (B), and

16 (B) by striking "(3)(A)" and inserting "(3)".

17 (6) Clause (2) of the second sentence of section
18 1839(b) (42 U.S.C. 1395r(b)) is amended by striking "by
19 reason of the individual's (or the individual's spouse's)
20 current employment status or months during which the
21 individual has not attained the age of 65 and for which the
22 individual can demonstrate that the individual was enrolled
23 in a large group health plan".

1 "(C) provide consultative services to institutions or
2 agencies to enable them to establish and maintain fiscal
3 records necessary for purposes of this part and otherwise to
4 qualify as providers of services,

5 "(D) serve as a center for, and communicate to
6 individuals entitled to benefits under this part and to
7 providers of services, any information or instructions
8 furnished to the agency or organization by the Secretary,
9 and serve as a channel of communication from individuals
10 entitled to benefits under this part and from providers of
11 services to the Secretary,

12 "(E) make such audits of the records of providers of
13 services as may be necessary to insure that proper payments
14 are made under this part,

15 "(F) perform the functions described by subsection (d),
16 and

17 "(G) perform such other functions as are necessary to
18 carry out the purposes of this part.

19 "(2) As used in this title and title XI, the term 'fiscal
20 intermediary' means an agency or organization with a contract
21 under this section."

22 (2) Subsections (d) and (e) of section 1816 (42 U.S.C.
23 1395h) are amended to read as follows:

24 "(d) Each provider of services shall have a fiscal
25 intermediary that--

1 "(1) acts as a single point of contact for the provider
2 of services under this part,

3 "(2) makes its services sufficiently available to meet
4 the needs of the provider of services, and

5 "(3) is responsible and accountable for arranging the
6 resolution of issues raised under this part by the provider
7 of services.

8 "(e) (1) (A) The Secretary shall, at least every five years,
9 permit each provider of services (other than a home health agency
10 or a hospice program) to choose an agency or organization (from
11 at least three proposed by the Secretary, of which at least one
12 shall have an office in the geographic area of the provider of
13 services, except as provided by subparagraph (B) (ii) (II)) as the
14 fiscal intermediary under subsection (d) for that provider of
15 services. If a contract with that fiscal intermediary is
16 discontinued, the Secretary shall permit the provider of services
17 to choose under the same conditions from three other agencies or
18 organizations.

19 "(B) (i) The Secretary, in carrying out subparagraph (A),
20 shall permit a group of hospitals (or a group of another class of
21 providers other than home health agencies or hospice programs)
22 under common ownership by, or control of, a particular entity to
23 choose one agency or organization (from at least three proposed
24 by the Secretary) as the fiscal intermediary under subsection (d)
25 for all the providers in that group if the conditions specified
26 in clause (ii) are met.

1 "(ii) The conditions for clause (i) to apply are that--

2 "(I) the group includes all the providers of services
3 of that class that are under common ownership by, or control
4 of, that particular entity, and

5 "(II) all the providers of services in that group agree
6 that none of the agencies or organizations proposed by the
7 Secretary is required to have an office in any particular
8 geographic area.

9 "(2) The Secretary, in evaluating the performance of a
10 fiscal intermediary, shall solicit comments from providers of
11 services."

12 (3) (A) Section 1816(b) (1) (A) (42 U.S.C. 1395h(b) (1) (A))
13 is amended by striking "after applying the standards,
14 criteria, and procedures" and inserting "after evaluating
15 the ability of the agency or organization to fulfill the
16 contract performance requirements".

17 (B) The first sentence of section 1816(f) (1) (42 U.S.C.
18 1395h(f) (1)) is amended--

19 (i) by striking "develop standards, criteria, and
20 procedures" and inserting ", after public notice and
21 opportunity for comment, develop contract performance
22 requirements", and

23 (ii) by striking ", and the Secretary shall
24 establish standards and criteria with respect to the
25 efficient and effective administration of this part".

1 (C) The second sentence of section 1842(b)(2)(A) (42
2 U.S.C. 1395u(b)(2)(A)) is amended to read as follows: "The
3 Secretary shall, after public notice and opportunity for
4 comment, develop contract performance requirements for the
5 efficient and effective performance of contract obligations
6 under this section."

7 (D) Section 1842(b)(2)(A) (42 U.S.C. 1395u(b)(2)(A)) is
8 amended by striking the third sentence.

9 (E) The matter in section 1842(b)(2)(B) (42 U.S.C.
10 1395u(b)(2)(B)) preceding clause (i) is amended by striking
11 "establish standards" and inserting "develop contract
12 performance requirements".

13 (F) Section 1842(b)(2)(D) (42 U.S.C. 1395u(b)(2)(D)) is
14 amended by striking "standards and criteria" each place it
15 occurs and inserting "contract performance requirements".

16 (4) (A) The matter in section 1816(b) (42 U.S.C.
17 1395h(b)) preceding paragraph (1) is amended by striking "an
18 agreement" and inserting "a contract".

19 (B) Paragraphs (1)(B) and (2)(A) of section 1816(b) (42
20 U.S.C. 1395h(b)) are each amended by striking "agreement"
21 and inserting "contract".

22 (C) The first sentence of section 1816(c)(1) (42 U.S.C.
23 1395h(c)(1)) is amended by striking "An agreement" and
24 inserting "A contract".

1 (D) The last sentence of section 1816(c)(1) (42 U.S.C.
2 1395h(c)(1)) is amended by striking "an agreement" and
3 inserting "a contract".

4 (E) The matter in section 1816(c)(2)(A) (42 U.S.C.
5 1395h(c)(2)(A)) preceding clause (i) is amended by striking
6 "agreement" and inserting "contract".

7 (F) Section 1816(c)(3)(A) (42 U.S.C. 1395h(c)(3)(A)) is
8 amended by striking "agreement" and inserting "contract".

9 (G) The first sentence of section 1816(f)(1) (42 U.S.C.
10 1395h(f)(1)) is amended by striking "an agreement" and
11 inserting "a contract".

12 (H) Section 1816(h) (42 U.S.C. 1395h(h)) is amended--

13 (i) by striking "An agreement" and inserting "A
14 contract", and

15 (ii) by striking "the agreement" each place it
16 occurs and inserting "the contract".

17 (I) Section 1816(i)(1) (42 U.S.C. 1395h(i)(1)) is
18 amended by striking "an agreement" and inserting "a contract".

19 (J) Section 1816(j) (42 U.S.C. 1395h(j)) is amended by
20 striking "An agreement" and inserting "A contract".

21 (K) Section 1816(k) (42 U.S.C. 1395h(k)) is amended by
22 striking "An agreement" and inserting "A contract".

23 (L) The matter in section 1842(a) (42 U.S.C. 1395u(a))
24 preceding paragraph (1) is amended by striking "agreements"
25 and inserting "contracts".

1 (M) Section 1842(h)(3)(A) (42 U.S.C. 1395u(h)(3)(A)) is
2 amended by striking "an agreement" and inserting "a
3 contract".

4 (5) Section 1816(f)(1) (42 U.S.C. 1395h(f)(1)) is
5 amended by striking the second sentence.

6 (6) (A) The matter in section 1816(c)(2)(A) (42 U.S.C.
7 1395h(c)(2)(A)) preceding clause (i) is amended by inserting
8 "that provides for making payments under this part" after
9 "this section".

10 (B) Section 1816(c)(3)(A) (42 U.S.C. 1395h(c)(3)(A)) is
11 amended by inserting "that provides for making payments
12 under this part" after "this section".

13 (C) Section 1816(k) (42 U.S.C. 1395h(k)) is amended by
14 inserting "(as appropriate)" after "submit".

15 (D) The matter in section 1842(a) (42 U.S.C. 1395u(a))
16 preceding paragraph (1) is amended by striking "some or all
17 of the following functions" and inserting "any or all of the
18 following functions, or parts of those functions".

19 (E) The first sentence of section 1842(b)(2)(C) (42
20 U.S.C. 1395u(b)(2)(C)) is amended by inserting "(as
21 appropriate)" after "carriers".

22 (F) The matter preceding subparagraph (A) in the first
23 sentence of section 1842(b)(3) (42 U.S.C. 1395u(b)(3)) is
24 amended by inserting "(as appropriate)" after "contract".

1 (G) The matter in section 1842(b)(7)(A) (42 U.S.C.
2 1395u(b)(7)(A)) preceding clause (i) is amended by striking
3 "the carrier" and inserting "a carrier".

4 (H) The matter in section 1842(b)(11)(A) (42 U.S.C.
5 1395u(b)(11)(A)) preceding clause (i) is amended by
6 inserting "(as appropriate)" after "each carrier".

7 (I) The first sentence of section 1842(h)(2) (42 U.S.C.
8 1395u(b)(2)) is amended by inserting "(as appropriate)"
9 after "shall".

10 (J) Section 1842(h)(5)(A) (42 U.S.C. 1395u(h)(5)(A)) is
11 amended by inserting "(as appropriate)" after "carriers".

12 (7)(A) Section 1816(c)(2)(C) (42 U.S.C. 1395h(c)(2)(C))
13 is amended by striking "hospital, rural primary care
14 hospital, skilled nursing facility, home health agency,
15 hospice program, comprehensive outpatient rehabilitation
16 facility, or rehabilitation agency" and inserting "provider
17 of services".

18 (B) The matter in section 1816(j) (42 U.S.C. 1395h(j))
19 preceding paragraph (1) is amended by striking "for home
20 health services, extended care services, or post-hospital
21 extended care services".

22 (8) Section 1842(a)(3) (42 U.S.C. 1395u(a)(3)) is
23 amended by inserting "(to and from individuals enrolled
24 under this part and to and from physicians and other
25 entities that furnish items and services)" after
26 "communication".

1 (c) ELIMINATION OF SPECIAL PROVISIONS FOR TERMINATIONS OF
2 CONTRACTS.--

3 (1) The matter in section 1816(b) (42 U.S.C. 1395h(b))
4 preceding paragraph (1) is amended by striking "or renew".

5 (2) The last sentence of section 1816(c) (1) (42 U.S.C.
6 1395h(c) (1)) is amended by striking "or renewing".

7 (3) Section 1816(f) (1) (42 U.S.C. 1395h(f) (1)) is
8 amended by striking ", renew, or terminate" and ", whether
9 the Secretary should assign or reassign a provider of
10 services to an agency or organization,".

11 (4) Section 1816(g) (42 U.S.C. 1395h(g)) is repealed.

12 (5) The last sentence of section 1842(b) (2) (A) (42
13 U.S.C. 1395u(b) (2) (A)) is amended by striking "or renewing".

14 (6) Section 1842(b) (42 U.S.C. 1395u(b)) is amended by
15 striking paragraph (5).

16 (d) REPEAL OF FISCAL INTERMEDIARY REQUIREMENTS THAT ARE NOT
17 COST-EFFECTIVE.--Section 1816(f) (2) (42 U.S.C. 1395h(f) (2)) is
18 amended to read as follows:

19 "(2) The contract performance requirements developed under
20 paragraph (1) shall include, with respect to claims for services
21 furnished under this part by any provider of services other than
22 a hospital, whether such agency or organization is able to
23 process 75 percent of reconsiderations within 60 days and 90
24 percent of reconsiderations within 90 days."

1 (e) REPEAL OF COST REIMBURSEMENT REQUIREMENTS.--

2 (1) The first sentence of section 1816(c)(1) (42 U.S.C.
3 1395h(c)(1)) is amended--

4 (A) by striking the comma after "appropriate" and
5 inserting "and", and

6 (B) by striking everything after "subsection (a)"
7 up to the period.

8 (2) Section 1816(c)(1) (42 U.S.C. 1395h(c)(1)) is
9 further amended by striking the second and third sentences.

10 (3) The first sentence of section 1842(c)(1)(A) (42
11 U.S.C. 1395u(c)(1)(A)) is amended--

12 (A) by striking "shall provide" the first place it
13 occurs and inserting "may provide", and

14 (B) by striking everything after "this part" up to
15 the period.

16 (4) Section 1842(c)(1) (42 U.S.C. 1395u(c)(1)) is
17 further amended by striking the remaining sentences.

18 (5) Section 2326(a) of the Deficit Reduction Act of
19 1984 (42 U.S.C. 1395h nt) is repealed.

20 (f) COMPETITION REQUIRED FOR NEW CONTRACTS AND IN CASES OF
21 POOR PERFORMANCE.--

22 (1) Section 1816(c) (42 U.S.C. 1395h(c)) is amended by
23 adding at the end the following:

24 "(4) (A) A contract with a fiscal intermediary under this
25 section may be renewed from term to term without regard to any
26 provision of law requiring competition if the fiscal intermediary

1 has met or exceeded the performance requirements established in
2 the current contract.

3 "(B) Functions may be transferred among fiscal
4 intermediaries without regard to any provision of law requiring
5 competition."

6 (2) Section 1842(b) (42 U.S.C. 1395u(b)) is amended by
7 striking everything before paragraph (2) and inserting the
8 following:

9 "(b) (1) (A) A contract with a carrier under subsection (a)
10 may be renewed from term to term without regard to any provision
11 of law requiring competition if the carrier has met or exceeded
12 the performance requirements established in the current contract.

13 "(B) Functions may be transferred among carriers without
14 regard to any provision of law requiring competition."

15 (g) WAIVER OF COMPETITIVE REQUIREMENTS FOR INITIAL
16 CONTRACTS.--

17 (1) Contracts whose periods begin during the one year
18 period that begins on the first day of the fourth calendar
19 month that begins after the date of enactment of this Act
20 may be entered into under section 1816(a) of the Social
21 Security Act (42 U.S.C. 1395h(a)) without regard to any
22 provision of law requiring competition.

23 (2) The amendments made by subsection (f) apply to
24 contracts whose periods begin after the end of the one year
25 period specified in paragraph (1) of this subsection.

1 (h) EFFECTIVE DATES.--

2 (1) The amendments made by subsection (c) apply to
3 contracts whose periods end at, or after, the end of the
4 third calendar month that begins after the date of enactment
5 of this Act.

6 (2) The amendments made by subsections (a), (b), (d),
7 and (e) apply to contracts whose periods begin after the
8 third calendar month that begins after the date of enactment
9 of this Act.

10 **Subpart C--Provisions Relating to Part B of Medicare**

11 **SEC. 11461. REPLACEMENT OF REASONABLE CHARGE METHODOLOGY BY FEE**
12 **SCHEDULES.**

13 (a) IN GENERAL.--The matter in section 1833(a)(1) (42 U.S.C.
14 13951(a)(1)) preceding clause (A) is amended by striking "the
15 reasonable charges for the services" and inserting "the lesser of
16 the actual charges for the services and the amounts determined by
17 the applicable fee schedules developed by the Secretary for the
18 particular services".

19 (b) CONFORMING AMENDMENTS.--

20 (1) Section 1833(a)(1) (42 U.S.C. 13951(a)(1)) is
21 amended--

22 (A) in clause (A), by striking "reasonable charges
23 for" and inserting "payment bases otherwise applicable
24 to",

25 (B) in clause (B), by striking "reasonable
26 charges" and inserting "fee schedule amounts", and

1 (C) by inserting after clause (F) the following:
2 "(G) with respect to services described in clause (i),
3 (ii), or (iv) of section 1861(s) (2) (K) (relating to
4 physician assistants and nurse practitioners), the
5 amounts paid shall be 80 percent of the lesser of the
6 actual charge for the services and the applicable
7 amount determined under subclause (I) or (II) of
8 section 1842(b) (12) (A) (ii),".

9 (2) Section 1833(a) (2) (42 U.S.C. 13951(a) (2)) is
10 amended--

11 (A) in the matter in subparagraph (B) preceding
12 clause (i), by striking "(C), (D)," and inserting "(D),
13 and

14 (B) by striking subparagraph (C).

15 (3) Section 1833(1) (42 U.S.C. 13951(1)) is amended--

16 (A) in paragraph (3)--

17 (i) by striking subparagraph (B), and

18 (ii) by striking "(3) (A)" and inserting

19 "(3)", and

20 (B) by striking paragraph (6).

21 (4) The heading to section 1834(g) (1) (A) (ii) (42 U.S.C.
22 1395m(g) (1) (A) (ii)) is amended by striking "Reasonable
23 charges for professional" and inserting "Professional".

24 (5) Section 1842(a) (42 U.S.C. 1395u(a)) is amended--

1 (A) in the matter preceding paragraph (1), by
2 striking "reasonable charge" and inserting "fee
3 schedule", and

4 (B) in paragraph (1) (A), by striking "reasonable
5 charge" and inserting "other".

6 (6) (A) The matter preceding clause (i) in subparagraph
7 (B) of the first sentence of section 1842(b) (3) (42 U.S.C.
8 1395u(b) (3)) is amended by striking everything after "assure
9 that," and inserting the following: "where payment under
10 this part for a service is on a basis other than a cost
11 basis, such payment will (except as otherwise provided in
12 section 1870(f)) be made--".

13 (B) Subparagraph (B) (ii) (I) of the first sentence of
14 section 1842(b) (3) (42 U.S.C. 1395u(b) (3)) is amended to
15 read as follows: "(I) the amount determined by the
16 applicable payment basis under this part is the full charge
17 for the service,".

18 (C) Section 1842(b) (3) (42 U.S.C. 1395u(b) (3)) is
19 amended by striking the second, third, fourth, fifth, sixth,
20 eighth, and ninth sentences.

21 (7) (A) Section 1842(b) (4) (42 U.S.C. 1395u(b) (4)) is
22 amended to read as follows:

23 "(4) In the case of an enteral or parenteral pump that is
24 furnished on a rental basis during a period of medical need--

25 "(A) monthly rental payments shall not be made under
26 this part for more than 15 months during that period, and

1 "(B) after monthly rental payments have been made for
2 15 months during that period, payment under this part shall
3 be made for maintenance and servicing of the pump in such
4 amounts as the Secretary determines to be reasonable and
5 necessary to ensure the proper operation of the pump."

6 (B) Section 6112(b) (42 U.S.C. 1395m nt) of the Omnibus
7 Reconciliation Act of 1989 is repealed.

8 (8) Section 1842(b) (7) (42 U.S.C. 1395u(b) (7)) is
9 amended--

10 (A) in the matter in subparagraph (D) (i) preceding
11 subclause (I), by striking ", to the extent that such
12 payment is otherwise allowed under this paragraph,"

13 (B) in subparagraph (D) (ii), by striking
14 "subparagraph" and inserting "paragraph",

15 (C) by striking "(7) (A) In the case of" through
16 the end of subparagraph (C),

17 (D) by striking "(D) (i)" and inserting "(7) (A)",

18 (E) by redesignating clauses (ii) and (iii) as
19 subparagraphs (B) and (C), respectively, and

20 (F) by redesignating subclauses (I), (II), and
21 (III) of subparagraph (A) (as redesignated by
22 subparagraph (D) of this paragraph) as clauses (i),
23 (ii), and (iii), respectively.

24 (9) (A) Section 1842(b) (42 U.S.C. 1395u(b)) is amended
25 by striking paragraphs (8) and (9).

1 (B) The first sentence of section 1834(a)(10)(B) (42
2 U.S.C. 1395m(a)(10)(B)) is amended by striking everything
3 after "is authorized to" up to the period and inserting the
4 following: "describe by regulation the factors to be used in
5 determining the cases (of particular items) in which the
6 application of this subsection results in the determination
7 of an amount that, by reason of its being grossly excessive
8 or grossly deficient, is not inherently reasonable, and to
9 provide in those cases for the factors that will be
10 considered in establishing an amount that is realistic and
11 equitable".

12 (10) Section 1842(b)(10) (42 U.S.C. 1395u(b)(10)) is
13 repealed.

14 (11) Section 1842(b)(11) (42 U.S.C. 1395u(b)(11)) is
15 amended--

16 (A) by striking subparagraphs (B) through (D),

17 (B) by striking "(11)(A)" and inserting "(11)",

18 and

19 (C) by redesignating clauses (i) and (ii) as
20 subparagraphs (A) and (B), respectively.

21 (12) Section 1842(b)(12)(A)(ii) (42 U.S.C.
22 1395u(b)(12)(A)(ii)) is amended--

23 (A) in the matter preceding subclause (I), by
24 striking "prevailing charges determined under paragraph
25 (3)" and inserting "the amounts determined under
26 section 1833(a)(1)(G)", and

1 (B) in subclause (II), by striking "prevailing
2 charge rate" and all that follows up to the period and
3 inserting "fee schedule amount specified in section
4 1848 for such services performed by physicians".

5 (13) Paragraphs (14) through (17) of section 1842(b)
6 (42 U.S.C. 1395u(b)) are repealed.

7 (14) (A) Section 1842(b) (18) (A) (42 U.S.C.
8 1395u(b) (18) (A)) is amended by striking "reasonable charge
9 or".

10 (B) Paragraph (18) of section 1842(b) (42 U.S.C.
11 1395u(b)) is renumbered as paragraph (14).

12 (15) (A) The matter in section 1842(j) (42 U.S.C.
13 1395u(j)) preceding paragraph (2) is amended to read as
14 follows:

15 "(j) (1) See subsections (k), (l), (m), (n), and (p) as to
16 the cases in which sanctions may be applied under paragraph
17 (2).".

18 (B) Section 1842(j) (4) (42 U.S.C. 1395u(j) (4)) is
19 amended by striking "under paragraph (1)".

20 (16) Section 1842(n) (1) (A) (42 U.S.C. 1395u(n) (1) (A))
21 is amended by striking "reasonable charge (or other
22 applicable limit)" and inserting "other applicable limit".

23 (17) Section 1842(q) (42 U.S.C. 1395u(q)) is amended--

24 (A) by striking paragraph (1) (B), and

25 (B) by striking "(q) (1) (A)" and inserting

26 "(q) (1)".

1 (18) Section 1845(b)(1) (42 U.S.C. 1395w-1(b)(1)) is
2 amended by striking "adjustments to the reasonable charge
3 levels for physicians' services recognized under section
4 1842(b) and".

5 (19) Section 1848(i)(3) (42 U.S.C. 1395w-4(i)(3)) is
6 repealed.

7 (20) Clause (ii) of the first sentence of section
8 1866(a)(2)(A) (42 U.S.C. 1395cc(a)(2)(A)) is amended by
9 striking "reasonable charges" through "provider)" and
10 inserting "amount customarily charged for such items and
11 services by such provider".

12 (21) Section 1881(b)(3)(A) (42 U.S.C. 1395rr(b)(3)(A))
13 is amended by striking "a reasonable charge" through
14 "section 1848)" and inserting "the basis described in
15 section 1848".

16 (22) Section 9340 of the Omnibus Budget Reconciliation
17 Act of 1986 (42 U.S.C. 1395u nt) is repealed.

18 (c) EFFECTIVE DATES.--The amendments made by the preceding
19 subsections, to the extent they substitute fee schedules for
20 reasonable charges, apply to particular services as of the date
21 specified by the Secretary of Health and Human Services.

22 (d) INITIAL BUDGET NEUTRALITY.--The Secretary, in developing
23 a fee schedule for particular services (under the amendments made
24 by subsections (a) and (b)), shall set amounts for the first year
25 period to which the fee schedule applies at a level such that the
26 total payments under title XVIII of the Social Security Act (42

1 U.S.C. 1395 et seq.) for those services for that year period
2 shall be approximately equal to the estimated total payments if
3 those amendments had not been made.

4 **SEC. 11462. APPLICATION OF INHERENT REASONABLENESS TO SURGICAL**
5 **DRESSINGS.**

6 Section 1834(i) (42 U.S.C. 1395m(i)) is amended by adding at
7 the end the following:

8 "(3) Adjustment for inherent reasonableness.--The
9 provisions of subsection (a)(10)(B) shall also apply to
10 surgical dressings."

11 **SEC. 11463. APPLICATION OF COMPETITIVE ACQUISITION PROCESS TO**
12 **CERTAIN PART B ITEMS AND SERVICES.**

13 (a) GENERAL RULE.--Part B of title XVIII (42 U.S.C. 1395j et
14 seq.) is amended by inserting after section 1846 the following:

15 "COMPETITIVE ACQUISITION OF ITEMS AND SERVICES

16 "SEC. 1847. (a) ESTABLISHMENT OF BIDDING AREAS.--

17 "(1) IN GENERAL.--The Secretary shall establish
18 competitive acquisition areas for the purposes of awarding
19 contracts for the furnishing under this part of the items
20 and services described in subsection (c) after 1995. The
21 Secretary may establish different competitive acquisition
22 areas under this subsection for different classes of items
23 and services under this part.

24 "(2) CRITERIA FOR ESTABLISHMENT.--The competitive
25 acquisition areas established under paragraph (1) shall--

1 "(A) initially be, or be within, metropolitan
2 statistical areas, and

3 "(B) be chosen based on the availability and
4 accessibility of entities able to furnish items and
5 services, and the probable savings to be realized by
6 the use of competitive bidding in the furnishing of
7 items and services in the area.

8 "(b) AWARDING OF CONTRACTS IN AREAS.--

9 "(1) IN GENERAL.--The Secretary shall conduct a
10 competition among individuals and entities supplying items
11 and services under this part for each competitive
12 acquisition area established under subsection (a) for each
13 class of items and services.

14 "(2) CONDITIONS FOR AWARDING CONTRACT.--The Secretary
15 may not award a contract to any entity under the competition
16 conducted pursuant to paragraph (1) to furnish an item or
17 service under this part unless the Secretary finds that the
18 entity meets quality standards specified by the Secretary
19 for the furnishing of the item or service.

20 "(3) CONTENTS OF CONTRACT.--A contract entered into
21 with an entity under the competition conducted pursuant to
22 paragraph (1) shall specify (for all of the items and
23 services within a class)--

24 "(A) the quantity of items and services the entity
25 shall provide; and

1 "(B) such other terms and conditions as the
2 Secretary may require.

3 "(c) SERVICES DESCRIBED.--The items and services to which
4 the provisions of this section shall apply are as follows:

5 " (1) Magnetic resonance imaging tests and
6 computerized axial tomography scans, including a
7 physician's interpretation of the results of such tests
8 and scans.

9 " (2) Enteral and parenteral nutrients, supplies,
10 and equipment.

11 " (3) Oxygen and oxygen equipment.

12 " (4) Such other items as the Secretary may
13 specify."

14 (b) ITEMS AND SERVICES TO BE FURNISHED ONLY THROUGH
15 COMPETITIVE ACQUISITION.--Section 1862(a) (42 U.S.C. 1395y(a)) is
16 amended--

17 (1) by striking "or" at the end of paragraph (14),

18 (2) by striking the period at the end of paragraph (15)
19 and inserting ";or", and

20 (3) by inserting after paragraph (15) the following:

21 "(16) where such expenses are for an item or service
22 furnished in a competitive acquisition area (as established
23 by the Secretary under section 1847(a)) by an entity other
24 than an entity with which the Secretary has entered into a
25 contract under section 1847(b) for the furnishing of such an

1 item or service in that area, unless the Secretary finds
2 that such expenses were incurred in a case of urgent need."

3 (c) REDUCTION IN PAYMENT AMOUNTS IF COMPETITIVE ACQUISITION
4 FAILS TO ACHIEVE MINIMUM REDUCTION IN PAYMENTS.--Notwithstanding
5 any provision of title XVIII of the Social Security Act (42
6 U.S.C. 1395 et seq.), if the establishment of competitive
7 acquisition areas under section 1847 of that Act (as added by
8 this part) and the furnishing of items and services under that
9 section during 1997 does not result in a reduction of at least 15
10 percent in the projected payment amounts that would apply to a
11 class of items or services under part B of that title (42 U.S.C.
12 1395j et seq.) if that class of items or services were not to be
13 furnished under that section in 1997, the Secretary shall reduce
14 for that year the payment amounts for that class of items and
15 services by the percentage the Secretary determines necessary to
16 result in that reduction for that year (and those reduced amounts
17 shall be considered the full payment amounts for that year in
18 calculating payment amounts for future years).

19 (d) EFFECTIVE DATE.--The amendments made by subsections (a)
20 and (b) apply to items and services furnished under part B of
21 title XVIII of the Social Security Act (42 U.S.C. 1395j et seq.)
22 after 1995.

1 **SEC. 11464. APPLICATION OF COMPETITIVE ACQUISITION PROCESS TO**
2 **LABORATORY SERVICES.**

3 (a) IN GENERAL.--Section 1847(c), as added by section 323(a)
4 of this Act, is amended by renumbering paragraph (4) as (5) and
5 inserting after paragraph (3) the following:

6 "(4) Clinical diagnostic laboratory tests."

7 (b) REDUCTION IN PAYMENT AMOUNTS IF COMPETITIVE ACQUISITION
8 FAILS TO ACHIEVE MINIMUM REDUCTION IN PAYMENTS.--See section
9 324(c) for provisions that address reductions in payment amounts.

10 (c) EFFECTIVE DATE.--The amendment made by subsection (a)
11 applies to tests furnished under part B of title XVIII of the
12 Social Security Act (42 U.S.C. 1395j et seq.) after 1995.

13 **SEC. 11465. CHANGES IN PAYMENTS FOR CLINICAL LABORATORY TESTS.**

14 (a) IN GENERAL.--Section 1833(h)(2)(A)(iii) (42 U.S.C.
15 1395l(h)(2)(A)(iii)) is amended--

16 (1) by striking the clause designation "(iii)" and
17 inserting "(iii)(I)", and

18 (2) by adding at the end the following;

19 "(II) The Secretary shall pay for tests classified as
20 automated tests on the basis of a nationally uniform amount for a
21 group of tests (of whatever number) performed together.

22 "(III) The Secretary shall pay for tests for amylase,
23 apolipoprotein A, apolipoprotein B, creatine kinase, gamma
24 glutamyl transferase, iron, lipase, magnesium, thyroxine,
25 triglyceride, or triiodothyronine uptake on the same basis as the
26 Secretary pays for other tests classified as automated tests.

1 "(IV) The Secretary may, from time to time, reclassify
2 specific tests as automated or not automated, based on the volume
3 of a test and the relative frequency by which the test is
4 performed on automated equipment."

5 (b) EFFECTIVE DATE AND INITIAL PAYMENT LEVELS.--

6 (1) The amendments made by subsection (a) apply to
7 tests performed after 1996.

8 (2) The Secretary shall set payment amounts under
9 subclause (II) of section 1833(h)(2)(A)(iii) of the Social
10 Security Act (42 U.S.C. 13951(h)(2)(A)(iii)) such that the
11 aggregate payments for the six month period beginning with
12 July 1995 under that subclause would have equalled the
13 actual aggregate payments for the tests described in that
14 subclause during that period.

15 **Subpart D--Provisions Relating to Parts A and B of Medicare**
16 **SEC. 11471. SKILLED NURSING FACILITIES TO BILL FOR ALL ITEMS AND**
17 **SERVICES (OTHER THAN PHYSICIANS' AND RELATED**
18 **SERVICES) FURNISHED TO THEIR PATIENTS.**

19 (a) IN GENERAL.--

20 (1) Section 1862(a)(14) (42 U.S.C. 1395y(a)(14)) is
21 amended by striking "or rural primary care hospital" each
22 place it occurs and inserting ", rural primary care
23 hospital, or skilled nursing facility".

24 (2) Section 1866(a)(1)(H) (42 U.S.C. 1395cc(a)(1)(H))
25 is amended--

1 (A) by inserting "or skilled nursing facilities"
2 after "hospitals", and

3 (B) by inserting "or skilled nursing facility"
4 after "hospital" each place it occurs.

5 (b) EFFECTIVE DATE.--The amendments made by subsection (a)
6 apply to items and services furnished after the third calendar
7 month beginning after the date of enactment of this Act.

8 **SEC. 11472. DISCLOSURE OF TAXPAYER IDENTIFYING NUMBERS AND OTHER**
9 **INFORMATION.**

10 (a) PROVIDERS OF SERVICES AND CERTAIN OTHER ENTITIES.--
11 Section 1124 (42 U.S.C. 1320a-3) is amended by adding at the end
12 the following:

13 "(c) The Secretary may also require a disclosing entity to
14 supply the Secretary with the taxpayer identifying number (TIN)
15 of the disclosing entity, of any person concerning whom
16 information is to be supplied under subsection (a), or of any
17 other disclosing entity listed under subsection (b).".

18 (b) ENTITIES THAT FURNISH ITEMS AND SERVICES UNDER PART B.--

19 (1) Section 1124A(c)(1) (42 U.S.C. 1320a-3a(c)(1)) is
20 amended by striking "on an assignment-related basis".

21 (2) Section 1124A(a) (42 U.S.C. 1320a-3a(a)) is
22 amended--

23 (A) by striking "and" at the end of paragraph (1),

24 (B) by striking the period at the end of paragraph

25 (2) and adding "; and", and

26 (C) by adding at the end the following:

1 "(3) on the identity of each individual described in
2 section 1866(a)(1)(D).".

3 (3) Section 1124A (42 U.S.C. 1320a-3a) is amended--

4 (A) by redesignating subsection (c) as (d), and

5 (B) by inserting after subsection (b) the

6 following:

7 "(d) The Secretary may also require a disclosing part B
8 provider to provide the Secretary with the taxpayer identifying
9 number (TIN) of the disclosing part B provider, of any person
10 concerning whom information is to be supplied under subsection
11 (a)(1), and of any managing employee or entity listed under
12 subsection (a)(2).".

13 (c) VERIFICATION OF TINS WITH THE SECRETARY OF THE
14 TREASURY.--Section 6103(m) of the Internal Revenue Code of 1986
15 (26 U.S.C. 6103(m)) is amended by adding at the end the
16 following:

17 "(8) Individuals and other entities involved in
18 furnishing health care items and services under Federal (or
19 federally supported) programs.--Upon written request by the
20 Secretary of Health and Human Services, the Secretary shall
21 disclose to the Secretary of Health and Human Services the
22 name of each person or entity whose TIN has been obtained
23 under section 1124(c) or 1124A(d) of the Social Security
24 Act.".

1 **SEC. 11473. USE OF WAGE INDEX FOR AREA IN WHICH HOME HEALTH**
2 **SERVICES ARE FURNISHED.**

3 (a) IN GENERAL.--Section 1861(v)(1)(L)(iii) (42 U.S.C.
4 1395x(v)(1)(L)(iii)) is amended by striking "the home health
5 agency is located" and inserting "services are furnished".

6 (b) EFFECTIVE DATE.--The amendment made by subsection (a)
7 applies to services furnished after 1996.