

103<sup>D</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 2138

To provide for budget reconciliation with respect to part B of the medicare program, the medicaid program, and other health programs within the jurisdiction of the Committee on Energy and Commerce.

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IN THE HOUSE OF REPRESENTATIVES

MAY 17, 1993

Mr. WAXMAN introduced the following bill; which was referred jointly to the Committees on Energy and Commerce and Ways and Means

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## A BILL

To provide for budget reconciliation with respect to part B of the medicare program, the medicaid program, and other health programs within the jurisdiction of the Committee on Energy and Commerce.

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

3 **TITLE I—SHORT TITLE**

4 **SEC. 101. SHORT TITLE.**

5 This Act may be cited as the “Medicare and Medicaid  
6 Budget Reconciliation Act of 1993”.

1 **TITLE II—TABLE OF CONTENTS**

2 **SEC. 201. TABLE OF CONTENTS.**

3 The table of contents of this Act is as follows:

TITLE I—SHORT TITLE

Sec. 101. Short title.

TITLE II—TABLE OF CONTENTS

Sec. 201. Table of contents.

TITLE III—REFERENCES TO OMNIBUS BUDGET RECONCILIATION  
ACT OF 1993

Sec. 302. References to Omnibus Budget Reconciliation Act of 1993.

TITLE IV—OTHER REFERENCES IN ACT

Sec. 401. Other references in act.

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- Sec. 5002. Reduction in performance standard rate of increase and increase in maximum reduction permitted in default update.
- Sec. 5003. Classification of primary care services as a separate category of services.
- Sec. 5004. Phased-in reduction in practice expense relative value units for certain services.
- Sec. 5005. Limitation on payment for the anesthesia care team.
- Sec. 5006. Basing payments for anesthesia services on actual time.
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- Sec. 5021. Extension of 10 percent reduction in payments for capital-related costs of outpatient hospital services.
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- Sec. 5036. Restrictions on certain marketing and sales activities.
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- Sec. 5038. Beneficiary liability for noncovered services.
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- Sec. 5061. Payments for clinical diagnostic laboratory tests.
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- Sec. 5066. Extension of municipal health service demonstration projects.
- Sec. 5067. Treatment of certain Indian health programs and facilities as Federally-qualified health centers.
- Sec. 5068. Interest payments.
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- Sec. 5146. Renewal of unfunded demonstration project for low-income pregnant women and children.
- Sec. 5147. Optional medicaid coverage of TB-related services for certain TB-infected individuals.
- Sec. 5148. Application of mammography certification requirements under the medicaid program.
- Sec. 5149. Removal of sunset on extension of eligibility for working families.
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- Sec. 5155. Corrections relating to section 4602 (outreach locations).
- Sec. 5156. Corrections relating to section 4604 (payment for hospital services for children under 6 years of age).
- Sec. 5157. Corrections relating to section 4703 (payment adjustments for disproportionate share hospitals).

- Sec. 5158. Corrections relating to section 4704 (Federally-qualified health centers).
- Sec. 5159. Corrections relating to section 4708 (substitute physicians).
- Sec. 5160. Corrections relating to section 4711 (home and community care for frail elderly).
- Sec. 5161. Corrections relating to section 4712 (community supported living arrangements services).
- Sec. 5162. Correction relating to section 4713 (COBRA continuation coverage).
- Sec. 5163. Correction relating to section 4716 (medicaid transition for family assistance).
- Sec. 5164. Corrections relating to section 4723 (medicaid spenddown option).
- Sec. 5165. Corrections relating to section 4724 (optional State disability determinations).
- Sec. 5166. Correction relating to section 4732 (special rules for health maintenance organizations).
- Sec. 5167. Corrections relating to section 4741 (home and community-based waivers).
- Sec. 5168. Corrections relating to section 4744 (frail elderly waivers).
- Sec. 5169. Corrections relating to section 4747 (coverage of HIV-positive individuals).
- Sec. 5170. Correction relating to section 4751 (advance directives).
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- Sec. 5181. Establishment of entitlement and monitoring programs with respect to childhood immunizations.

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- “Sec. 2151. Delivery to States of sufficient quantities of pediatric vaccines.
- “Sec. 2152. Entitlements.
- “Sec. 2153. Voluntary participation of health care providers.
- “Sec. 2154. Intrastate distribution of pediatric vaccines.
- “Sec. 2155. General provisions.
- “Sec. 2156. State option regarding immunization of additional categories of children.
- “Sec. 2157. State application for vaccines.
- “Sec. 2158. Contracts with manufacturers of pediatric vaccines.
- “Sec. 2159. Certain administrative variations.
- “Sec. 2160. List of pediatric vaccines; schedule for administration.
- “Sec. 2161. Childhood Immunization Trust Fund.
- “Sec. 2162. Definitions.
- “Sec. 2163. Termination of program.

##### “PART B—NATIONAL SYSTEM FOR MONITORING IMMUNIZATION STATUS OF CHILDREN

- “Sec. 2171. Formula grants for State registries with respect to monitoring.
- “Sec. 2172. Registry data.

- “Sec. 2173. General provisions.
- “Sec. 2174. Application for grant.
- “Sec. 2175. Determination of amount of allotment.
- “Sec. 2176. Definitions.
- “Sec. 2177. Authorization of appropriations.

“PART C—FUNDING FOR OTHER PURPOSES REGARDING CHILDHOOD  
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- “Sec. 2181. Grants regarding Year 2000 health objectives.

- Sec. 5182. National Vaccine Injury Compensation Program amendments.
- Sec. 5183. Medicaid immunization provisions.
- Sec. 5184. Availability of medicaid payments for childhood vaccine replacement programs.
- Sec. 5185. Healthy start for infants.
- Sec. 5186. Increase in authorization of appropriations for the Maternal and Child Health Services Block Grant Program.
- Sec. 5187. Miscellaneous technical corrections to Public Health Service Act provisions.

1 **TITLE III—REFERENCES TO OM-**  
2 **NIBUS BUDGET RECONCILI-**  
3 **ATION ACT OF 1993**

4 **SEC. 302. REFERENCES TO OMNIBUS BUDGET RECONCILI-**  
5 **ATION ACT OF 1993.**

6 Any reference in this Act (or in any amendment made  
7 by this Act) to the Omnibus Budget Reconciliation Act  
8 of 1993 shall be deemed to be a reference to this Act.

9 **TITLE IV—OTHER REFERENCES**  
10 **IN ACT**

11 **SEC. 401. OTHER REFERENCES IN ACT.**

12 (a) AMENDMENTS TO SOCIAL SECURITY ACT.—Ex-  
13 cept as otherwise specifically provided, whenever in this  
14 Act an amendment is expressed in terms of an amendment  
15 to or repeal of a section or other provision, the reference

1 shall be considered to be made to that section or other  
2 provision of the Social Security Act.

3 (b) REFERENCES TO OBRA.—In this Act, the terms  
4 “OBRA–1986”, “OBRA–1987”, “OBRA–1989”, and  
5 “OBRA–1990” refer to the Omnibus Budget Reconcili-  
6 ation Act of 1986 (Public Law 99–509), the Omnibus  
7 Budget Reconciliation Act of 1987 (Public Law 100–203),  
8 the Omnibus Budget Reconciliation Act of 1989 (Public  
9 Law 101–239), and the Omnibus Budget Reconciliation  
10 Act of 1990 (Public Law 101–508), respectively.

11 **TITLE V—RECONCILIATION PRO-**  
12 **VISIONS RELATING TO MEDI-**  
13 **CARE, MEDICAID, AND OTHER**  
14 **HEALTH PROGRAMS**

15 **Subtitle A—Medicare Program**

16 **CHAPTER 1—PROVISIONS RELATING TO**  
17 **PART B**

18 **Subchapter A—Physicians’ Services**

19 **SEC. 5001. REDUCTION IN DEFAULT UPDATE FOR CONVER-**  
20 **SION FACTOR FOR 1994.**

21 Section 1848(d)(3)(A) (42 U.S.C. 1395w–  
22 4(d)(3)(A)) is amended—

23 (1) in clause (i), by striking “clause (iii)” and  
24 inserting “clauses (iii) and (iv)”, and

1           (2) by adding at the end the following new  
2 clause:

3                   “(iv) ADJUSTMENT IN PERCENTAGE  
4 INCREASE FOR 1994.—In applying clause  
5 (i) for services (other than primary care  
6 services) furnished in 1994, the percentage  
7 increase in the appropriate update index  
8 shall be reduced by—

9                           “(I) 3 percentage points for sur-  
10 gical services (as defined for purposes  
11 of subsection (j)(1)), and

12                           “(II) 2 percentage points for  
13 other services.”.

14 **SEC. 5002. REDUCTION IN PERFORMANCE STANDARD RATE**  
15 **OF INCREASE AND INCREASE IN MAXIMUM**  
16 **REDUCTION PERMITTED IN DEFAULT UP-**  
17 **DATE.**

18           (a) REDUCTION IN PERFORMANCE STANDARD FAC-  
19 TOR.—Section 1848(f)(2)(B) (42 U.S.C. 1395w-  
20 4(f)(2)(B)) is amended—

21                   (1) by striking “and” at the end of clause (ii),  
22 and

23                   (2) by striking clause (iii) and inserting the fol-  
24 lowing:

25                           “(iii) for 1993 is 2 percentage points,

1                   “(iv) for 1994 is 3½ percentage  
2                   points, and

3                   “(v) for each succeeding year is 4 per-  
4                   centage points.”.

5           (b) INCREASE IN MAXIMUM REDUCTION PERMITTED  
6 IN DEFAULT UPDATE.—Section 1848(d)(3)(B)(ii) (42  
7 U.S.C. 1395w-4(d)(3)(B)(ii)) is amended—

8                   (1) in subclause (II), by striking “or 1995”,  
9                   and

10                   (2) in subclause (III), by striking “3” and in-  
11                   serting “5”.

12 **SEC. 5003. CLASSIFICATION OF PRIMARY CARE SERVICES**  
13 **AS A SEPARATE CATEGORY OF SERVICES.**

14           (a) IN GENERAL.—Section 1848(j)(1) (42 U.S.C.  
15 1395w-4(j)(1)) is amended by inserting “, primary care  
16 services (as defined in section 1842(i)(4)),” after “Sec-  
17 retary”.

18           (b) EFFECTIVE DATE.—The amendment made by  
19 subsection (a) shall apply—

20                   (1) to volume performance standard rates of in-  
21                   crease established under section 1848(f) of the So-  
22                   cial Security Act for fiscal years beginning with fis-  
23                   cal year 1994, and

24                   (2) to updates in the conversion factors for phy-  
25                   sicians’ services established under section 1848(d) of

1 such Act for physicians' services to be furnished in  
2 calendar years beginning with 1996.

3 **SEC. 5004. PHASED-IN REDUCTION IN PRACTICE EXPENSE**  
4 **RELATIVE VALUE UNITS FOR CERTAIN SERV-**  
5 **ICES.**

6 (a) IN GENERAL.—Section 1848(c)(2) (42 U.S.C.  
7 1395w-4(c)(2)) is amended by adding at the end the fol-  
8 lowing new subparagraph:

9 “(E) REDUCTION IN PRACTICE EXPENSE  
10 RELATIVE VALUE UNITS FOR CERTAIN SERV-  
11 ICES.—

12 “(i) IN GENERAL.—Subject to clause  
13 (ii), the Secretary shall reduce the practice  
14 expense relative value units applied to serv-  
15 ices described in clause (iii) furnished in—

16 “(I) 1994, by 25 percent of the  
17 number by which the number of prac-  
18 tice expense relative value units (de-  
19 termined for 1994 without regard to  
20 this subparagraph) exceeds the num-  
21 ber of work relative value units deter-  
22 mined for 1994,

23 “(II) 1995, by an additional 25  
24 percent of such excess, and

1                   “(III) 1996 and subsequent  
2                   years, by an additional 25 percent of  
3                   such excess.

4                   “(ii) FLOOR ON REDUCTIONS.—The  
5                   practice expense relative value units for a  
6                   physicians’ service shall not be reduced  
7                   under this subparagraph to a number less  
8                   than 110 percent of the number of work  
9                   relative value units.

10                   “(iii) SERVICES COVERED.—For pur-  
11                   poses of clause (i), the services described in  
12                   this clause are physicians’ services that are  
13                   not described in clause (iv) and for  
14                   which—

15                   “(I) there are work relative value  
16                   units, and

17                   “(II) the number of practice ex-  
18                   pense relative value units (determined  
19                   for 1994) exceeds 110 percent of the  
20                   number of work relative value units  
21                   (determined for such year).

22                   “(iv) EXCLUDED SERVICES.—For  
23                   purposes of clause (iii), the services de-  
24                   scribed in this clause are—

25                   “(I) anesthesia services,

1 “(II) radiology services, and  
2 “(III) services which the Sec-  
3 retary determines at least 75 percent  
4 of which are provided under this title  
5 in an office setting.”.

6 (b) DEVELOPMENT OF RESOURCE-BASED METH-  
7 ODOLOGY FOR PRACTICE EXPENSES.—

8 (1) The Secretary of Health and Human Serv-  
9 ices shall develop a methodology for implementing in  
10 1997 a resource-based system for determining prac-  
11 tice expense relative value units for each physician’s  
12 service.

13 (2) The Secretary shall transmit a report by  
14 June 30, 1996, on the methodology developed under  
15 paragraph (1) to the Committees on Ways and  
16 Means and Energy and Commerce of the House of  
17 Representatives and the Committee on Finance of  
18 the Senate. The report shall include a presentation  
19 of data utilized in developing the methodology and  
20 an explanation of the methodology.

21 **SEC. 5005. LIMITATION ON PAYMENT FOR THE ANESTHESIA**  
22 **CARE TEAM.**

23 (a) LIMIT ON PAYMENT TO A PHYSICIAN FOR MEDI-  
24 CAL DIRECTION.—

1 (1) IN GENERAL.—Section 1848(a) (42 U.S.C.  
2 1395w-4(a)) is amended by adding at the end the  
3 following new paragraph:

4 “(5) SPECIAL RULE FOR MEDICAL DIREC-  
5 TION.—

6 “(A) IN GENERAL.—With respect to physi-  
7 cians’ services furnished on or after January 1,  
8 1994, and consisting of medical direction of  
9 two, three, or four concurrent anesthesia cases,  
10 the fee schedule amount to be applied shall not  
11 exceed one-half of the amount described in sub-  
12 paragraph (B).

13 “(B) AMOUNT.—The amount described in  
14 this subparagraph, for a physician’s medical di-  
15 rection of the performance of anesthesia serv-  
16 ices, is the following percentage of the fee  
17 schedule amount otherwise applicable under this  
18 section if the anesthesia services were person-  
19 ally performed by the physician alone:

20 “(i) For services furnished during  
21 1994, 120 percent.

22 “(ii) For services furnished during  
23 1995, 115 percent.

24 “(iii) For services furnished during  
25 1996, 110 percent.

1           “(iv) For services furnished during  
2           1997, 105 percent.

3           “(v) For services furnished after  
4           1997, 100 percent.”.

5           (2) ELIMINATION OF REDUCTION FOR MEDICAL  
6           DIRECTION OF MULTIPLE NURSE ANESTHETISTS.—  
7           Section 1842(b) (42 U.S.C. 1395u(b)) is amended  
8           by striking paragraph (13).

9           (b) PAYMENT TO A CERTIFIED REGISTERED NURSE  
10          ANESTHETIST FOR MEDICALLY DIRECTED SERVICES.—  
11          Subparagraph (B) of section 1833(l)(4) (42 U.S.C.  
12          1395l(l)(4)) is amended—

13               (1) in clause (i), by inserting “and before Janu-  
14               ary 1, 1994,” after “1991,”;

15               (2) in clause (ii)—

16                       (A) by adding “and” at the end of  
17                       subclause (II),

18                       (B) by striking the comma at the end of  
19                       subclause (III) and inserting a period, and

20                       (C) by striking subclauses (IV) through  
21                       (VII); and

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

24               “(iii) In the case of services of a certified registered  
25          nurse anesthetist who is medically directed by a physician

1 and that are furnished on or after January 1, 1994, the  
2 fee schedule amount shall be one-half of the amount de-  
3 scribed in section 1848(a)(5)(B) with respect to the physi-  
4 cian.”.

5 **SEC. 5006. BASING PAYMENTS FOR ANESTHESIA SERVICES**  
6 **ON ACTUAL TIME.**

7 (a) PHYSICIANS’ SERVICES.—Section 1848(b)(2)(B)  
8 (42 U.S.C. 1395w-4(b)(2)(B)) is amended by adding at  
9 the end the following: “For anesthesia services furnished  
10 on or after January 1, 1994, the Secretary may not mod-  
11 ify the methodology in effect as of January 1, 1993, for  
12 determining the amount of time that may be billed for  
13 such services under this section.”.

14 (b) SERVICES OF CERTIFIED REGISTERED NURSE  
15 ANESTHETISTS.—Section 1833(l)(1)(B) (42 U.S.C.  
16 1395l(l)(1)(B)) is amended by adding at the end the fol-  
17 lowing: “For anesthesia services furnished on or after  
18 January 1, 1994, the Secretary may not modify the meth-  
19 odology in effect as of January 1, 1993, for determining  
20 the amount of time that may be billed for such services  
21 under this section.”.

22 **SEC. 5007. SEPARATE PAYMENT FOR INTERPRETATION OF**  
23 **ELECTROCARDIOGRAMS.**

24 (a) IN GENERAL.—Paragraph (3) of section 1848(b)  
25 (42 U.S.C. 1395w-4(b)) is amended to read as follows:

1           “(3) TREATMENT OF INTERPRETATION OF  
2 ELECTROCARDIOGRAMS.—The Secretary—

3           “(A) shall make separate payment under  
4 this section for the interpretation of electro-  
5 cardiograms performed or ordered to be per-  
6 formed as part of or in conjunction with a visit  
7 to or a consultation with a physician, and

8           “(B) shall adjust the relative values estab-  
9 lished for visits and consultations under sub-  
10 section (c) so as not to include relative value  
11 units for interpretations of electrocardiograms  
12 in the relative value for visits and consulta-  
13 tions.”.

14       (b) ASSURING BUDGET NEUTRALITY.—Section  
15 1848(c)(2) (42 U.S.C. 1395w-4(c)(2)) is amended by add-  
16 ing at the end the following new subparagraph:

17           “(E) BUDGET NEUTRALITY ADJUST-  
18 MENTS.—The Secretary—

19           “(i) shall reduce the relative values  
20 for all services (other than anesthesia serv-  
21 ices) established under this paragraph  
22 (and, in the case of anesthesia services, the  
23 conversion factor established by the Sec-  
24 retary for such services) by such percent-  
25 age as the Secretary determines to be nec-

1           essary so that, beginning in 1996, the  
2           amendment made by section 5007(a) of  
3           the Omnibus Budget Reconciliation Act of  
4           1993 would not result in expenditures  
5           under this section that exceed the amount  
6           of such expenditures that would have been  
7           made if such amendment had not been  
8           made, and

9           “(ii) shall reduce the amounts deter-  
10          mined under subsection (a)(2)(B)(ii)(I) by  
11          such percentage as the Secretary deter-  
12          mines to be required to assure that, taking  
13          into account the reductions made under  
14          clause (i), the amendment made by section  
15          5007(a) of the Omnibus Budget Reconcili-  
16          ation Act of 1993 would not result in ex-  
17          penditures under this section in 1994 that  
18          exceed the amount of such expenditures  
19          that would have been made if such amend-  
20          ment had not been made.”.

21          (c) CONFORMING AMENDMENTS.—Section 1848 (42  
22 U.S.C. 1395w-4) is amended—

23           (1) in subsection (a)(2)(B)(ii)(I), by inserting  
24           “and as adjusted under subsection (c)(2)(E)(ii)”  
25           after “for 1994”;



1 tures that would have been made if such amendments had  
2 not been made:

3 (1) The relative values established under section  
4 1848(c) of such Act for services (other than anesthe-  
5 sia services) and, in the case of anesthesia services,  
6 the conversion factor established under section 1848  
7 of such Act for such services.

8 (2) The amounts determined under section  
9 1848(a)(2)(B)(ii)(I) of such Act.

10 (3) The prevailing charges or fee schedule  
11 amounts to be applied under such part for services  
12 of a health care practitioner (as defined in section  
13 1842(b)(4)(F)(ii)(I) of such Act, as in effect before  
14 the date of the enactment of this Act).

15 (c) CONFORMING AMENDMENTS.—Section 1848 (42  
16 U.S.C. 1395w-4), as amended by section 5007(c), is  
17 amended—

18 (1) in subsection (a)(2)(B)(ii)(I), by inserting  
19 “and section 5008(b) of the Omnibus Budget Rec-  
20 onciliation Act of 1993” after “for 1994”;

21 (2) in subsection (c)(2)(A)(i), by inserting “and  
22 section 5008(b) of the Omnibus Budget Reconcili-  
23 ation Act of 1993” after “under subparagraph  
24 (E)(i)”; and



1 (c) DEADLINE FOR INITIAL REVIEW AND REVI-  
2 SION.—The Secretary of Health and Human Services  
3 shall first review and revise geographic adjustment factors  
4 under section 1848(e)(1)(C) of the Social Security Act by  
5 not later than January 1, 1995.

6 (d) REPORT ON REVIEW PROCESS.—Not later than  
7 1 year after the date of the enactment of this Act, the  
8 Secretary of Health and Human Services shall study and  
9 report to the Committee on Finance of the Senate and  
10 the Committee on Ways and Means and the Committee  
11 on Energy and Commerce of the House of Representatives  
12 on—

13 (1) the data necessary to review and revise the  
14 indices established under section 1848(e)(1)(A) of  
15 the Social Security Act, including—

16 (A) the shares allocated to physicians'  
17 work effort, practice expenses (other than mal-  
18 practice expenses), and malpractice expenses;

19 (B) the weights assigned to the input com-  
20 ponents of such shares; and

21 (C) the index values assigned to such com-  
22 ponents;

23 (2) any limitations on the availability of data  
24 necessary to review and revise such indices at least  
25 every three years;

1           (3) ways of addressing such limitations, with  
2           particular attention to the development of alternative  
3           data sources for input components for which current  
4           index values are based on data collected less fre-  
5           quently than every three years; and

6           (4) the costs of developing more accurate and  
7           timely data.

8 **SEC. 5010. EXTRA-BILLING LIMITS.**

9           (a) ENFORCEMENT AND UNIFORM APPLICATION.—

10           (1) ENFORCEMENT.—Paragraph (1) of section  
11           1848(g) (42 U.S.C. 1395w-4(g)) is amended to read  
12           as follows:

13           “(1) LIMITATION ON ACTUAL CHARGES.—

14           “(A) IN GENERAL.—In the case of a  
15           nonparticipating physician or nonparticipating  
16           supplier or other person (as defined in section  
17           1842(i)(2)) who does not accept payment on an  
18           assignment-related basis for a physician’s serv-  
19           ice furnished with respect to an individual en-  
20           rolled under this part, the following rules apply:

21           “(i) APPLICATION OF LIMITING  
22           CHARGE.—No person may bill or collect an  
23           actual charge for the service in excess of  
24           the limiting charge described in paragraph  
25           (2) for such service.

1           “(ii) NO LIABILITY FOR EXCESS  
2 CHARGES.—No person is liable for pay-  
3 ment of any amounts billed for the service  
4 in excess of such limiting charge.

5           “(iii) CORRECTION OF EXCESS  
6 CHARGES.—If such a physician, supplier,  
7 or other person bills, but does not collect,  
8 an actual charge for a service in violation  
9 of clause (i), the physician, supplier, or  
10 other person shall reduce on a timely basis  
11 the actual charge billed for the service to  
12 an amount not to exceed the limiting  
13 charge for the service.

14           “(iv) REFUND OF EXCESS COLLEC-  
15 TIONS.—If such a physician, supplier, or  
16 other person collects an actual charge for  
17 a service in violation of clause (i), the phy-  
18 sician, supplier, or other person shall pro-  
19 vide on a timely basis a refund to the indi-  
20 vidual charged in the amount by which the  
21 amount collected exceeded the limiting  
22 charge for the service. The amount of such  
23 a refund shall be reduced to the extent the  
24 individual has an outstanding balance owed  
25 by the individual to the physician.

1           “(B) SANCTIONS.—If a physician, supplier,  
2           or other person—

3                   “(i) knowingly and willfully bills or  
4                   collects for services in violation of subpara-  
5                   graph (A)(i) on a repeated basis, or

6                   “(ii) fails to comply with clause (iii)  
7                   or (iv) of subparagraph (A) on a timely  
8                   basis,

9           the Secretary may apply sanctions against the  
10           physician, supplier, or other person in accord-  
11           ance with paragraph (2) of section 1842(j). In  
12           applying this subparagraph, paragraph (4) of  
13           such section applies in the same manner as  
14           such paragraph applies to such section and any  
15           reference in such section to a physician is  
16           deemed also to include a reference to a supplier  
17           or other person under this subparagraph.

18           “(C) TIMELY BASIS.—For purposes of this  
19           paragraph, a correction of a bill for an excess  
20           charge or refund of an amount with respect to  
21           a violation of subparagraph (A)(i) in the case of  
22           a service is considered to be provided ‘on a  
23           timely basis’, if the reduction or refund is made  
24           not later than 30 days after the date the physi-  
25           cian, supplier, or other person is notified by the

1 carrier under this part of such violation and of  
2 the requirements of subparagraph (A).”.

3 (2) UNIFORM APPLICATION OF EXTRA-BILLING  
4 LIMITS TO PHYSICIANS’ SERVICES.—

5 (A) IN GENERAL.—Section 1848(g)(2)(C)  
6 (42 U.S.C. 1395w-4(g)(2)(C)) is amended by  
7 inserting “or for nonparticipating suppliers or  
8 other persons” after “nonparticipating physi-  
9 cians”.

10 (B) CONFORMING DEFINITION.—Section  
11 1842(i)(2) (42 U.S.C. 1395u(i)(2)) is amend-  
12 ed—

13 (i) by striking “, and the term” and  
14 inserting “; the term”, and

15 (ii) by inserting before the period at  
16 the end the following: “; and the term  
17 ‘nonparticipating supplier or other person’  
18 means a supplier or other person (exclud-  
19 ing a provider of services) that is not a  
20 participating physician or supplier (as de-  
21 fined in subsection (h)(1))”.

22 (3) ADDITIONAL CONFORMING AMENDMENTS.—  
23 Section 1848 (42 U.S.C. 1395w-4) is amended—

24 (A) in subsection (a)(3)—

1 (i) by inserting “AND SUPPLIERS”  
2 after “PHYSICIANS”,

3 (ii) by inserting “or a  
4 nonparticipating supplier or other person”  
5 after “nonparticipating physician”, and

6 (iii) by adding at the end the follow-  
7 ing: “In the case of physicians’ services  
8 (including services which the Secretary ex-  
9 cludes pursuant to subsection (j)(3)) of a  
10 nonparticipating physician, supplier, or  
11 other person for which payment is made  
12 under this part on a basis other than the  
13 fee schedule amount, the payment shall be  
14 based on 95 percent of the payment basis  
15 for such services furnished by a participat-  
16 ing physician, supplier, or other person.”;

17 (B) in subsection (g)(1)(A), as amended by  
18 subsection (a), in the matter before clause (i),  
19 by inserting “(including services which the Sec-  
20 retary excludes pursuant to subsection (j)(3))”  
21 after “a physician’s service”;

22 (C) in subsection (g)(2)(D), by inserting  
23 “(or, if payment under this part is made on a  
24 basis other than the fee schedule under this sec-

1           tion, 95 percent of the other payment basis)”  
2           after “subsection (a)”;

3           (D) in subsection (g)(3)(B)—

4                 (i) by inserting after the first sentence  
5                 the following: “ No person is liable for pay-  
6                 ment of any amounts billed for such a  
7                 service in violation of the previous sen-  
8                 tence.”, and

9                 (ii) in the last sentence, by striking  
10                 “previous sentence” and inserting “first  
11                 sentence”;

12           (E) in subsection (h)—

13                 (i) by inserting “or nonparticipating  
14                 supplier or other person furnishing physi-  
15                 cians’ services (as defined in section  
16                 1848(j)(3))” after “physician” the first  
17                 place it appears,

18                 (ii) by inserting “, supplier, or other  
19                 person” after “physician” the second place  
20                 it appears, and

21                 (iii) by inserting “, suppliers, and  
22                 other persons” after “physicians” the sec-  
23                 ond place it appears; and

1 (F) in subsection (j)(3), by inserting “, ex-  
2 cept for purposes of subsections (a)(3), (g), and  
3 (h)” after “tests and”.

4 (b) CLARIFICATION OF MANDATORY ASSIGNMENT  
5 RULES FOR CERTAIN PRACTITIONERS.—

6 (1) IN GENERAL.—Section 1842(b) (42 U.S.C.  
7 1395u(b)) is amended by adding at the end the fol-  
8 lowing new paragraph:

9 “(19)(A) Payment for any service furnished by a  
10 practitioner described in subparagraph (C) and for which  
11 payment may be made under this part on a reasonable  
12 charge or fee schedule basis may only be made under this  
13 part on an assignment-related basis.

14 “(B) A practitioner described in subparagraph (C) or  
15 other person may not bill (or collect any amount from)  
16 the individual or another person for any service described  
17 in subparagraph (A), except for deductible and coinsur-  
18 ance amounts applicable under this part. No person is lia-  
19 ble for payment of any amounts billed for such a service  
20 in violation of the previous sentence. If a practitioner or  
21 other person knowingly and willfully bills (or collects an  
22 amount) for such a service in violation of such sentence,  
23 the Secretary may apply sanctions against the practitioner  
24 or other person in the same manner as the Secretary may  
25 apply sanctions against a physician in accordance with

1 section 1842(j)(2) in the same manner as such section ap-  
2 plies with respect to a physician. Paragraph (4) of section  
3 1842(j) shall apply in this subparagraph in the same man-  
4 ner as such paragraph applies to such section.

5 “(C) A practitioner described in this subparagraph  
6 is any of the following:

7 “(i) A physician assistant, nurse practitioner, or  
8 clinical nurse specialist (as defined in section  
9 1861(aa)(5)).

10 “(ii) A certified registered nurse anesthetist (as  
11 defined in section 1861(bb)(2)).

12 “(iii) A certified nurse-midwife (as defined in  
13 section 1861(gg)(2)).

14 “(iv) A clinical social worker (as defined in sec-  
15 tion 1861(hh)(1)).

16 “(v) A clinical psychologist (as defined by the  
17 Secretary for purposes of section 1861(ii)).

18 “(D) For purposes of this paragraph, a service fur-  
19 nished by a practitioner described in subparagraph (C) in-  
20 cludes any services and supplies furnished as incident to  
21 the service as would otherwise be covered under this part  
22 if furnished by a physician or as incident to a physician’s  
23 service.”.

24 (2) CONFORMING AMENDMENTS.—

1 (A) Section 1833 (42 U.S.C. 1395l) is  
2 amended—

3 (i) in subsection (l)(5), by striking  
4 subparagraph (B) and redesignating sub-  
5 paragraph (C) as subparagraph (B);

6 (ii) by striking subsection (p); and

7 (iii) in subsection (r), by striking  
8 paragraph (3) and redesignating para-  
9 graph (4) as paragraph (3).

10 (B) Section 1842(b)(12) (42 U.S.C.  
11 1395u(b)(12)) is amended by striking subpara-  
12 graph (C).

13 (c) INFORMATION ON EXTRA-BILLING LIMITS.—

14 (1) PART OF EXPLANATION OF MEDICARE BEN-  
15 EFITS.—Section 1842(h)(7) (42 U.S.C.  
16 1395u(h)(7)) is amended—

17 (A) by striking “and” at the end of sub-  
18 paragraph (B),

19 (B) in subparagraph (C), by striking “shall  
20 include”,

21 (C) in subparagraph (C), by striking the  
22 period at the end and inserting “, and”, and

23 (D) by adding at the end the following new  
24 subparagraph:

1           “(D) in the case of services for which the billed  
2 amount exceeds the limiting charge imposed under  
3 section 1848(g), information regarding such applica-  
4 ble limiting charge (including information concern-  
5 ing the right to a refund under section  
6 1848(g)(1)(A)(iv)).”.

7           (2) DETERMINATIONS BY CARRIERS.—Subpara-  
8 graph (G) of section 1842(b)(3) (42 U.S.C.  
9 1395u(b)(3)) is amended to read as follows:

10           “(G) will, for a service that is furnished with  
11 respect to an individual enrolled under this part,  
12 that is not paid on an assignment-related basis, and  
13 that is subject to a limiting charge under section  
14 1848(g)—

15           “(i) determine, prior to making payment,  
16 whether the amount billed for such service ex-  
17 ceeds the limiting charge applicable under sec-  
18 tion 1848(g)(2);

19           “(ii) notify the physician, supplier, or other  
20 person periodically (but not less often than once  
21 every 30 days) of determinations that amounts  
22 billed exceeded such applicable limiting charges;  
23 and

24           “(iii) provide for prompt response to in-  
25 quiries of physicians, suppliers, and other per-

1           sons concerning the accuracy of such limiting  
2           charges for their services;”.

3           (d) REPORT ON CHARGES IN EXCESS OF LIMITING  
4 CHARGE.—Section 1848(g)(6)(B) (42 U.S.C. 1395w-  
5 4(g)(6)(B)) is amended by inserting “the extent to which  
6 actual charges exceed limiting charges, the number and  
7 types of services involved, and the average amount of ex-  
8 cess charges and” after “report to the Congress”.

9           (e) MISCELLANEOUS AND TECHNICAL AMEND-  
10 MENTS.—Section 1833 (42 U.S.C. 1395l) is amended—

11           (1) in subsection (a)(1), as amended by section  
12           5070(e)(2)—

13                   (A) by striking “and” before “(O)”, and

14                   (B) by inserting before the semicolon at  
15           the end the following: “, and (P) with respect  
16           to services described in clauses (i), (ii) and (iv)  
17           of section 1861(s)(2)(K), the amounts paid are  
18           subject to the provisions of section  
19           1842(b)(12)”; and

20           (2) in subsection (h)(5)(D)—

21                   (A) by striking “paragraphs (2) and (3)”  
22           and by inserting “paragraph (2)”, and

23                   (B) by adding at the end the following:  
24           “Paragraph (4) of such section shall apply in

1           this subparagraph in the same manner as such  
2           paragraph applies to such section.”.

3           (f) EFFECTIVE DATES.—

4           (1) ENFORCEMENT AND UNIFORM APPLICA-  
5           TION; MISCELLANEOUS AND TECHNICAL AMEND-  
6           MENTS.—The amendments made by subsections (a)  
7           and (e) shall apply to services furnished on or after  
8           the date of the enactment of this Act; except that  
9           the amendments made by subsection (a) shall not  
10          apply to services of a nonparticipating supplier or  
11          other person furnished before January 1, 1994.

12          (2) PRACTITIONERS.—The amendments made  
13          by subsection (b) shall apply to services furnished on  
14          or after January 1, 1994.

15          (3) EOMBs.—The amendments made by sub-  
16          section (c)(1) shall apply to explanations of benefits  
17          provided on or after January 1, 1994.

18          (4) CARRIER DETERMINATIONS.—The amend-  
19          ments made by subsection (c)(2) shall apply to con-  
20          tracts as of January 1, 1994.

21          (5) REPORT.—The amendment made by sub-  
22          section (d) shall apply to reports for years beginning  
23          with 1994.

1 **SEC. 5011. RELATIVE VALUES FOR PEDIATRIC SERVICES.**

2 (a) IN GENERAL.—The Secretary of Health and  
3 Human Services shall fully develop, by not later than July  
4 1, 1994, relative values for the full range of pediatric phy-  
5 sicians' services which are consistent with the relative val-  
6 ues developed for other physicians' services under section  
7 1848(c) of the Social Security Act. In developing such val-  
8 ues, the Secretary shall conduct such refinements as may  
9 be necessary to produce appropriate estimates for such rel-  
10 ative values.

11 (b) STUDY.—

12 (1) IN GENERAL.—The Secretary shall conduct  
13 a study of the relative values for pediatric and other  
14 services to determine whether there are significant  
15 variations in the resources used in providing similar  
16 services to different populations. In conducting such  
17 study, the Secretary shall consult with appropriate  
18 organizations representing pediatricians and other  
19 physicians and physical and occupational therapists.

20 (2) REPORT.—Not later than July 1, 1994, the  
21 Secretary shall submit to Congress a report on the  
22 study conducted under paragraph (1). Such report  
23 shall include any appropriate recommendations re-  
24 garding needed changes in coding or other payment  
25 policies to ensure that payments for pediatric serv-



1           “(E) for responding to inquiries respecting phy-  
2           sicians’ services or for providing information with re-  
3           spect to medical review of such services.”.

4           (b) CLARIFICATION OF PERMISSIBLE SUBSTITUTE  
5 BILLING ARRANGEMENTS.—

6           (1) IN GENERAL.—Clause (D) of section  
7           1842(b)(6) (42 U.S.C. 1395u(b)(6)) is amended to  
8           read as follows: “(D) payment may be made to a  
9           physician for physicians’ services (and services fur-  
10          nished incident to such services) furnished by a sec-  
11          ond physician to patients of the first physician if (i)  
12          the first physician is unavailable to provide the serv-  
13          ices; (ii) the services are furnished pursuant to an  
14          arrangement between the two physicians that (I) is  
15          informal and reciprocal, or (II) involves per diem or  
16          other fee-for-time compensation for such services;  
17          (iii) the services are not provided by the second phy-  
18          sician over a continuous period of more than 60  
19          days; and (iv) the claim form submitted to the car-  
20          rier for such services includes the second physician’s  
21          unique identifier (provided under the system estab-  
22          lished under subsection (r)) and indicates that the  
23          claim meets the requirements of this clause for pay-  
24          ment to the first physician”.



1 (B) in subparagraph (B)—

2 (i) by striking “, simple and subcutane-  
3 ous”,

4 (ii) by striking “(HCPCS codes 19160 and  
5 19162)” and inserting “(HCPCS code 19160)”,  
6 and

7 (iii) by striking all that follows “(HCPCS  
8 codes 92250” and inserting “and 92260).”.

9 (b) RADIOLOGY SERVICES (SECTION 4102 OF  
10 OBRA-1990).—(1) Section 1834(b)(4) (42 U.S.C.  
11 1395m(b)(4)) is amended by redesignating subparagraphs  
12 (E) and (F) as subparagraphs (F) and (G), respectively.

13 (2) Section 1834(b)(4)(D) (42 U.S.C.  
14 1395m(b)(4)(D)) is amended—

15 (A) in the matter before clause (i), by striking  
16 “shall be determined as follows:” and inserting  
17 “shall, subject to clause (vii), be reduced to the ad-  
18 justed conversion factor for the locality determined  
19 as follows:”,

20 (B) in clause (iv), by striking “LOCAL ADJUST-  
21 MENT.—Subject to clause (vii), the conversion factor  
22 to be applied to” and inserting “ADJUSTED CONVER-  
23 SION FACTOR.—The adjusted conversion factor for”,

24 (C) in clause (vii), by striking “under this sub-  
25 paragraph”, and

1 (D) in clause (vii), by inserting “reduced under  
2 this subparagraph by” after “shall not be”.

3 (3) Section 4102(c)(2) of OBRA-1990 is amended  
4 by striking “radiology services” and all that follows and  
5 inserting “nuclear medicine services”.

6 (4) Section 4102(d) of OBRA-1990 is amended by  
7 striking “new paragraph” and inserting “new subpara-  
8 graph”.

9 (5) Section 1834(b)(4)(E) (42 U.S.C.  
10 1395m(b)(4)(E)) is amended by inserting “RULE FOR  
11 CERTAIN SCANNING SERVICES.—” after “(E)”.

12 (6) Section 1848(a)(2)(D)(iii) (42 U.S.C. 1395w-  
13 4(a)(2)(D)(iii)) is amended by striking “that are subject  
14 to section 6105(b) of the Omnibus Budget Reconciliation  
15 Act of 1989” and by striking “provided under such sec-  
16 tion” and inserting “provided under section 6105(b) of the  
17 Omnibus Budget Reconciliation Act of 1989”.

18 (c) ANESTHESIA SERVICES (SECTION 4103 OF  
19 OBRA-1990).—(1) Section 4103(a) of OBRA-1990 is  
20 amended by striking “REDUCTION IN FEE SCHEDULE”  
21 and inserting “REDUCTION IN PREVAILING CHARGES”.

22 (2) Section 1842(q)(1)(B) (42 U.S.C.  
23 1395u(q)(1)(B)) is amended—

24 (A) in the matter before clause (i), by striking  
25 “shall be determined as follows:” and inserting

1 “shall, subject to clause (iv), be reduced to the ad-  
2 justed prevailing charge conversion factor for the lo-  
3 cality determined as follows:”, and

4 (B) in clause (iii), by striking “Subject to  
5 clause (iv), the prevailing charge conversion factor to  
6 be applied in” and inserting “The adjusted prevail-  
7 ing charge conversion factor for”.

8 (d) ASSISTANTS AT SURGERY (SECTION 4107 OF  
9 OBRA-1990).—(1) Section 4107(c) of OBRA-1990 is  
10 amended by inserting “(a)(1)” after “subsection”.

11 (2) Section 4107(a)(2) of OBRA-1990 is amended  
12 by adding at the end the following: “In applying section  
13 1848(g)(2)(D) of the Social Security Act for services of  
14 an assistant-at-surgery furnished during 1991, the recog-  
15 nized payment amount shall not exceed the maximum  
16 amount specified under section 1848(i)(2)(A) of such Act  
17 (as applied under this paragraph in such year).”.

18 (e) TECHNICAL COMPONENTS OF DIAGNOSTIC SERV-  
19 ICES (SECTION 4108 OF OBRA-1990).—Section 1842(b)  
20 (42 U.S.C. 1395u(b)) is amended by redesignating para-  
21 graph (18), as added by section 4108(a) of OBRA-1990,  
22 as paragraph (17) and, in such paragraph, by inserting  
23 “, tests specified in paragraph (14)(C)(i),” after “diag-  
24 nostic laboratory tests”.

1 (f) STATEWIDE FEE SCHEDULES (SECTION 4117 OF  
2 OBRA-1990).—Section 4117 of OBRA-1990 is amend-  
3 ed—

4 (1) in subsection (a)—

5 (A) by striking “IN GENERAL.—”, and

6 (B) by striking “, if the” and all that fol-  
7 lows through “1991, ”; and

8 (2) by striking subsections (b), (c), and (d).

9 (g) STUDY OF AGGREGATION RULE FOR CLAIMS OF  
10 SIMILAR PHYSICIAN SERVICES (SECTION 4113 OF  
11 OBRA-1990).—Section 4113 of OBRA-1990 is amend-  
12 ed—

13 (1) by inserting “of the Social Security Act”  
14 after “1869(b)(2)”; and

15 (2) by striking “December 31, 1992” and in-  
16 serting “December 31, 1993”.

17 (h) OTHER MISCELLANEOUS AND TECHNICAL  
18 AMENDMENTS.—(1) The heading of section 1834(f) (42  
19 U.S.C. 1395m(f)) is amended by striking “FISCAL YEAR”.

20 (2)(A) Section 4105(b) of OBRA-1990 is amended—

21 (i) in paragraph (2), by striking “amendments”  
22 and inserting “amendment”, and

23 (ii) in paragraph (3), by striking “amendments  
24 made by paragraphs (1) and (2)” and inserting  
25 “amendment made by paragraph (1)”.

1 (B) Section 1848(f)(2)(C) (42 U.S.C. 1395w-  
2 4(f)(2)(C)) is amended by inserting “PERFORMANCE  
3 STANDARD RATES OF INCREASE FOR FISCAL YEAR  
4 1991.—” after “(C)”.

5 (C) Section 4105(d) of OBRA-1990 is amended by  
6 inserting “PUBLICATION OF PERFORMANCE STANDARD  
7 RATES.—” after “(d)”.

8 (3) Section 1842(b)(4)(F) (42 U.S.C.  
9 1395u(b)(4)(F)) is amended—

10 (A) in clause (i), by striking “prevailing  
11 charge” the first place it appears and inserting  
12 “customary charge”; and

13 (B) in clause (ii)(III), by striking “second,  
14 third, and fourth” and inserting “first, second, and  
15 third”.

16 (4) Section 1842(b)(4)(F)(ii)(I) (42 U.S.C.  
17 1395u(b)(4)(F)(ii)(I)) is amended by striking “respiratory  
18 therapist,”.

19 (5) Section 4106(c) of OBRA-1990 is amended by  
20 inserting “of the Social Security Act” after  
21 “1848(d)(1)(B)”.

22 (6) Section 4114 of OBRA-1990 is amended by  
23 striking “patients” the second place it appears.

1       (7) Section 1848(e)(1)(C) (42 U.S.C. 1395w-  
2 4(e)(1)(C)) is amended by inserting “date of the” after  
3 “since the”.

4       (8) Section 4118(f)(1)(D) of OBRA-1990 is amend-  
5 ed by striking “is amended”.

6       (9) Section 4118(f)(1)(N)(ii) of OBRA-1990 is  
7 amended by striking “subsection (f)(5)(A)” and inserting  
8 “subsection (f)(5)(A)”.

9       (10) Section 1845(e) (42 U.S.C. 1395w-1(e)) is  
10 amended—

11           (A) by striking paragraph (2); and

12           (B) by redesignating paragraphs (3), (4), and  
13 (5) as paragraphs (2), (3), and (4).

14       (11) Section 4118(j)(2) of OBRA-1990 is amended  
15 by striking “In section” and inserting “Section”.

16       (12)(A) Section 1848(i)(3) (42 U.S.C. 1395w-  
17 4(i)(3)) is amended by striking the space before the period  
18 at the end.

19       (B) Section 1834(a)(10)(B) (42 U.S.C.  
20 1395m(a)(10)(B)) is amended by striking “as such provi-  
21 sions apply to physicians’ services and physicians and a  
22 reasonable charge under section 1842(b)”.

23       (i) OTHER CORRECTIONS.—(1) Effective on the date  
24 of the enactment of this Act, section 6102(d)(4) of

1 OBRA-1989 is amended by striking all that follows the  
2 first sentence.

3 (2) Effective for payments for fiscal years beginning  
4 with fiscal year 1994, section 1842(c)(1) (42 U.S.C.  
5 1395u(c)(1)) is amended—

6 (A) in subparagraph (A), by striking “(A) Any  
7 contract” and inserting “Any contract”; and

8 (B) by striking subparagraph (B).

9 (j) EFFECTIVE DATE.—Except as provided in sub-  
10 section (i), the amendments made by this section and the  
11 provisions of this section shall take effect as if included  
12 in the enactment of OBRA-1990.

13 **Subchapter B—Outpatient Hospital Services**  
14 **and Ambulatory Surgical Services**

15 **SEC. 5021. EXTENSION OF 10 PERCENT REDUCTION IN PAY-**  
16 **MENTS FOR CAPITAL-RELATED COSTS OF**  
17 **OUTPATIENT HOSPITAL SERVICES.**

18 Section 1861(v)(1)(S)(ii)(I) (42 U.S.C.  
19 1395x(v)(1)(S)(ii)(I)) is amended by striking “fiscal year  
20 1992, 1993, 1994, or 1995” and inserting “fiscal years  
21 1992 through 1998”.

1 **SEC. 5022. EXTENSION OF CURRENT REDUCTION IN PAY-**  
2 **MENTS FOR OTHER COSTS OF OUTPATIENT**  
3 **HOSPITAL SERVICES.**

4 Section 1861(v)(1)(S)(ii)(II) (42 U.S.C.  
5 1395x(v)(1)(S)(ii)(II)) is amended by striking “1991” and  
6 all that follows and inserting “1991 through 1998”.

7 **SEC. 5023. 1-YEAR FREEZE IN AMBULATORY SURGERY**  
8 **RATES.**

9 The Secretary of Health and Human Services shall  
10 not provide for any update in the amounts of payment  
11 described in paragraphs (2)(A) and (2)(B) of section  
12 1833(i)(2) of the Social Security Act that otherwise would  
13 occur in fiscal year 1994.

14 **SEC. 5024. EYE OR EYE AND EAR HOSPITALS.**

15 (a) IN GENERAL.—Section 1833(i) (42 U.S.C.  
16 1395l(i)) is amended—

17 (1) in paragraph (3)(B)(ii)—

18 (A) by striking “the last sentence of this  
19 clause” and inserting “paragraph (4)”, and

20 (B) by striking the last sentence; and

21 (2) by inserting after paragraph (3) the follow-  
22 ing new paragraph:

23 “(4)(A) In the case of a hospital that—

24 “(i) makes application to the Secretary and  
25 demonstrates that it specializes in eye services or eye  
26 and ear services (as determined by the Secretary),

1           “(ii) receives more than 30 percent of its total  
2 revenues from outpatient services, and

3           “(iii) on October 1, 1987—

4           “(I) was an eye specialty hospital or an eye  
5 and ear specialty hospital, or

6           “(II) was operated as an eye or eye and  
7 ear unit (as defined in subparagraph (B)) of a  
8 general acute care hospital which, on the date  
9 of the application described in clause (i), oper-  
10 ates less than 20 percent of the beds that the  
11 hospital operated on October 1, 1987, and has  
12 sold or otherwise disposed of a substantial por-  
13 tion of the hospital’s other acute care oper-  
14 ations,

15 the cost proportion and ASC proportion in effect under  
16 subclauses (I) and (II) of paragraph (3)(B)(ii) for cost  
17 reporting periods beginning in fiscal year 1988 shall re-  
18 main in effect for cost reporting periods beginning on or  
19 after October 1, 1988, and before January 1, 1995.

20           “(B) For purposes of this subparagraph (A)(iii)(II),  
21 the term ‘eye or eye and ear unit’ means a physically sepa-  
22 rate or distinct unit containing separate surgical suites de-  
23 voted solely to eye or eye and ear services.”.

1 (b) EFFECTIVE DATE.—The amendments made by  
2 subsection (a) shall apply to portions of cost reporting pe-  
3 riods beginning on or after January 1, 1994.

4 **SEC. 5025. EXTENSION OF CAP ON PAYMENTS FOR INTRA-**  
5 **OCULAR LENSES.**

6 (a) IN GENERAL.—Section 4151(c)(3) of OBRA-  
7 1990 is amended by striking “December 31, 1992” and  
8 inserting “December 31, 1994”.

9 (b) EFFECTIVE DATE.—The amendment made by  
10 subsection (a) shall be effective as if included in the enact-  
11 ment of OBRA-1990.

12 **SEC. 5026. MISCELLANEOUS AND TECHNICAL CORREC-**  
13 **TIONS.**

14 (a) PAYMENT AMOUNTS FOR SERVICES FURNISHED  
15 IN AMBULATORY SURGICAL CENTERS.—(1)(A) Section  
16 1833(i)(2)(A)(i) (42 U.S.C. 1395l(i)(2)(A)(i)) is amended  
17 by striking the comma at the end and inserting the follow-  
18 ing: “, as determined in accordance with a survey (based  
19 upon a representative sample of procedures and facilities)  
20 taken not later than January 1, 1995, and every 5 years  
21 thereafter, of the actual audited costs incurred by such  
22 centers in providing such services,”.

23 (B) Section 1833(i)(2) (42 U.S.C. 1395l(i)(2)) is  
24 amended—

1 (i) in the second sentence of subparagraph (A)  
2 and the second sentence of subparagraph (B), by  
3 striking “and may be adjusted by the Secretary,  
4 when appropriate,”; and

5 (ii) by adding at the end the following new sub-  
6 paragraph:

7 “(C) Notwithstanding the second sentence of sub-  
8 paragraph (A) or the second sentence of subparagraph  
9 (B), if the Secretary has not updated amounts established  
10 under such subparagraphs with respect to facility services  
11 furnished during a fiscal year (beginning with fiscal year  
12 1996), such amounts shall be increased by the percentage  
13 increase in the consumer price index for all urban consum-  
14 ers (U.S. city average) as estimated by the Secretary for  
15 the 12-month period ending with the midpoint of the fiscal  
16 year involved.”.

17 (C) The second sentence of section 1833(i)(1) (42  
18 U.S.C. 1395l(i)(1)) is amended by striking the period and  
19 inserting the following: “, in consultation with appropriate  
20 trade and professional organizations.”.

21 (2) Section 4151(c)(3) of OBRA-1990 is amended  
22 by striking “for the insertion of an intraocular lens” and  
23 inserting “for an intraocular lens inserted”.

24 (b) ADJUSTMENTS TO PAYMENT AMOUNTS FOR NEW  
25 TECHNOLOGY INTRAOCULAR LENSES.—(1) Not later

1 than 1 year after the date of the enactment of this Act,  
2 the Secretary of Health and Human Services (in this sub-  
3 section referred to as the “Secretary”) shall develop and  
4 implement a process under which interested parties may  
5 request review by the Secretary of the appropriateness of  
6 the reimbursement amount provided under section  
7 1833(i)(2)(A)(iii) of the Social Security Act with respect  
8 to a class of new technology intraocular lenses. For pur-  
9 poses of the preceding sentence, an intraocular lens may  
10 not be treated as a new technology lens unless it has been  
11 approved by the Food and Drug Administration.

12 (2) In determining whether to provide an adjustment  
13 of payment with respect to a particular lens under para-  
14 graph (1), the Secretary shall take into account whether  
15 use of the lens is likely to result in reduced risk of  
16 intraoperative or postoperative complication or trauma,  
17 accelerated postoperative recovery, reduced induced astig-  
18 matism, improved postoperative visual acuity, more stable  
19 postoperative vision, or other comparable clinical advan-  
20 tages.

21 (3) The Secretary shall publish notice in the Federal  
22 Register from time to time (but no less often than once  
23 each year) of a list of the requests that the Secretary has  
24 received for review under this subsection, and shall provide  
25 for a 30-day comment period on the lenses that are the

1 subjects of the requests contained in such notice. The Sec-  
2 retary shall publish a notice of his determinations with  
3 respect to intraocular lenses listed in the notice within 90  
4 days after the close of the comment period.

5 (4) Any adjustment of a payment amount (or pay-  
6 ment limit) made under this subsection shall become effec-  
7 tive not later than 30 days after the date on which the  
8 notice with respect to the adjustment is published under  
9 paragraph (3).

10 (c) BLEND AMOUNTS FOR AMBULATORY SURGICAL  
11 CENTER PAYMENTS.—

12 (1) IN GENERAL.—Subclauses (I) and (II) of  
13 section 1833(i)(3)(B)(ii) (42 U.S.C.  
14 13951(i)(3)(B)(ii)) are each amended—

15 (A) by striking “for reporting” and insert-  
16 ing “for portions of cost reporting”; and

17 (B) by striking “and on or before” and in-  
18 serting “and ending on or before”.

19 (2) EFFECTIVE DATE.—The amendments made  
20 by paragraph (1) shall take effect as if included in  
21 the enactment of OBRA-1990.

1 **Subchapter C—Durable Medical Equipment**

2 **SEC. 5031. REVISIONS TO PAYMENT RULES FOR DURABLE**  
3 **MEDICAL EQUIPMENT.**

4 (a) BASING NATIONAL PAYMENT LIMITS ON MEDIAN  
5 OF LOCAL PAYMENT AMOUNTS.—

6 (1) INEXPENSIVE AND ROUTINELY PURCHASED  
7 ITEMS; ITEMS REQUIRING FREQUENT AND SUBSTAN-  
8 TIAL SERVICING.—(A) Paragraphs (2)(C)(i)(II) and  
9 (3)(C)(i)(II) of section 1834(a) (42 U.S.C.  
10 1395m(a)) are each amended—

11 (i) by striking “1992” the first place it ap-  
12 pears and inserting “1992, 1993, and 1994”;  
13 and

14 (ii) by striking “1992” the second place it  
15 appears and inserting “the year”.

16 (B) Paragraphs (2)(C)(ii) and (3)(C)(ii) of sec-  
17 tion 1834(a) (42 U.S.C. 1395m(a)) are each amend-  
18 ed—

19 (i) by striking “and” at the end of  
20 subclause (I);

21 (ii) by redesignating subclause (II) as (IV);  
22 and

23 (iii) by inserting after subclause (I) the fol-  
24 lowing new subclauses:

1           “(II) for 1992 and 1993, the  
2           amount determined under this clause  
3           for the preceding year increased by  
4           the covered item update for such sub-  
5           sequent year,

6           “(III) for 1994, the local pay-  
7           ment amount determined under clause  
8           (i) for such item or device for that  
9           year, except that the national limited  
10          payment amount may not exceed 100  
11          percent of the median of all local pay-  
12          ment amounts determined under such  
13          clause for such item for that year and  
14          may not be less than 85 percent of  
15          the median of all local payment  
16          amounts determined under such  
17          clause for such item or device for that  
18          year, and”.

19           (2) MISCELLANEOUS DEVICES AND ITEMS.—  
20          Section 1834(a)(8) (42 U.S.C. 1395m(a)(8)) is  
21          amended—

22                  (A) in subparagraph (A)(ii)(III), by strik-  
23                  ing “1992” and inserting “1992, 1993, and  
24                  1994”; and

25                  (B) in subparagraph (B)—

1 (i) by striking “and” at the end of  
2 clause (i),

3 (ii) by redesignating clause (ii) as (iv),  
4 and

5 (iii) by inserting after clause (i) the  
6 following new clauses:

7 “(ii) for 1992 and 1993, the amount  
8 determined under this subparagraph for  
9 the preceding year increased by the cov-  
10 ered item update for such subsequent year;

11 “(iii) for 1994, the local purchase  
12 price computed under subparagraph (A)(ii)  
13 for the item for the year, except that such  
14 national limited purchase price may not ex-  
15 ceed 100 percent of the median of all local  
16 purchase prices computed for the item  
17 under such subparagraph for the year and  
18 may not be less than 85 percent of the me-  
19 dian of all local purchase prices computed  
20 under such subparagraph for the item for  
21 the year; and”.

22 (3) OXYGEN AND OXYGEN EQUIPMENT.—Sec-  
23 tion 1834(a)(9) (42 U.S.C. 1395m(a)(9)) is amend-  
24 ed—

1 (A) in subparagraph (A)(ii)(II), by striking  
2 “1991 and 1992” and inserting “1991, 1992,  
3 1993, and 1994”; and

4 (B) in subparagraph (B)—

5 (i) by striking “and” at the end of  
6 clause (i),

7 (ii) by redesignating clause (ii) as (iv),  
8 and

9 (iii) by inserting after clause (i) the  
10 following new clauses:

11 “(ii) for 1992 and 1993, the amount  
12 determined under this subparagraph for  
13 the preceding year increased by the cov-  
14 ered item update for such subsequent year;

15 “(iii) for 1994, the local monthly pay-  
16 ment rate computed under subparagraph  
17 (A)(ii) for the item for the year, except  
18 that such national limited monthly pay-  
19 ment rate may not exceed 100 percent of  
20 the median of all local monthly payment  
21 rates computed for the item under such  
22 subparagraph for the year and may not be  
23 less than 85 percent of the median of all  
24 local monthly payment rates computed for

1           the item under such subparagraph for the  
2           year; and”.

3           (b) PAYMENT FOR PROSTHETIC DEVICES AND  
4 ORTHOTICS AND PROSTHETICS.—

5           (1) IN GENERAL.—Section 1834(h)(2) (42  
6 U.S.C. 1395m(h)(2)) is amended—

7           (A) in subparagraph (A)(ii)(II), by striking  
8           “1992 or 1993” and inserting “1992, 1993, or  
9           1994”;

10           (B) in subparagraph (B)(ii), by striking  
11           “each subsequent year” and inserting “1993”;

12           (C) in subparagraph (C)(iv), by striking  
13           “regional purchase price computed under sub-  
14           paragraph (B)” and inserting “national limited  
15           purchase price computed under subparagraph  
16           (E)”;

17           (D) in subparagraph (D)(ii), by striking “a  
18           subsequent year” and inserting “1993”; and

19           (E) by adding at the end the following new  
20           subparagraph:

21           “(E) COMPUTATION OF NATIONAL LIM-  
22           ITED PURCHASE PRICE.—With respect to the  
23           furnishing of a particular item in a year, the  
24           Secretary shall compute a national limited pur-  
25           chase price—

1           “(i) for 1994, equal to the local pur-  
2           chase price computed under subparagraph  
3           (A)(ii)(II) for the item for the year, except  
4           that such national limited purchase price  
5           may not exceed 100 percent of the median  
6           of all local purchase prices for the item  
7           computed under such subparagraph for the  
8           year, and may not be less than 85 percent  
9           of the median of all local purchase prices  
10          for the item computed under such subpara-  
11          graph for the year; and

12           “(ii) for each subsequent year, equal  
13          to the amount determined under this sub-  
14          paragraph for the preceding year increased  
15          by the applicable percentage increase for  
16          such subsequent year.”.

17           (2) EXCEPTION FOR CERTAIN ITEMS.—Section  
18          1834(h) (42 U.S.C. 1395m(h)), as amended by  
19          paragraph (1), is further amended—

20           (A) in paragraph (1)(B), by striking “sub-  
21          paragraph (C),” and inserting “subparagraphs  
22          (C) and (F),”; and

23           (B) by adding at the end of paragraph (2)  
24          the following new subparagraph:

1           “(F) EXCEPTION FOR CERTAIN ITEMS.—  
2           Payment for ostomy supplies, tracheostomy  
3           supplies, and urologicals shall be made in ac-  
4           cordance with subparagraphs (B) and (C) of  
5           section 1834(a)(2).”.

6           (c) EFFECTIVE DATE.—The amendments made by  
7           this section shall apply to items furnished on or after Jan-  
8           uary 1, 1994.

9           **SEC. 5032. PAYMENT FOR PARENTERAL AND ENTERAL NU-**  
10                           **TRIENTS, SUPPLIES, AND EQUIPMENT DUR-**  
11                           **ING 1994.**

12           In determining the amount of payment under part  
13           B of title XVIII of the Social Security Act during 1994,  
14           the charges determined to be reasonable with respect to  
15           parenteral and enteral nutrients, supplies, and equipment  
16           may not exceed the charges determined to be reasonable  
17           with respect to such nutrients, supplies, and equipment  
18           during 1993.

19           **SEC. 5033. TREATMENT OF NEBULIZERS AND ASPIRATORS.**

20           (a) IN GENERAL.—Section 1834(a)(3)(A) (42 U.S.C.  
21           1395m(a)(3)(A)) is amended by striking “ventilators, as-  
22           pirators, IPPB machines, and nebulizers” and inserting  
23           “ventilators and IPPB machines”.

1 (b) PAYMENT FOR ACCESSORIES RELATING TO  
2 NEBULIZERS AND ASPIRATORS.—Section 1834(a)(2)(A)  
3 (42 U.S.C. 1395m(a)) is amended—

4 (1) by striking “or” at the end of clause (i),  
5 (2) by adding “or” at the end of clause (ii), and  
6 (3) by inserting after clause (ii) the following  
7 new clause:

8 “(iii) which is an accessory used in  
9 conjunction with a nebulizer or aspirator,”.

10 (c) EFFECTIVE DATE.—The amendments made by  
11 this section shall apply to items furnished on or after Jan-  
12 uary 1, 1994.

13 **SEC. 5034. CERTIFICATION OF SUPPLIERS.**

14 (a) REQUIREMENTS.—

15 (1) IN GENERAL.—Section 1834 (42 U.S.C.  
16 1395m) is amended by adding at the end the follow-  
17 ing new subsection:

18 “(i) REQUIREMENTS FOR SUPPLIERS OF MEDICAL  
19 EQUIPMENT AND SUPPLIES.—

20 “(1) ISSUANCE AND RENEWAL OF SUPPLIER  
21 NUMBER.—

22 “(A) PAYMENT.—Except as provided in  
23 subparagraph (C), no payment may be made  
24 under this part after October 1, 1994, for items  
25 furnished by a supplier of medical equipment

1 and supplies unless such supplier obtains (and  
2 renews at such intervals as the Secretary may  
3 require) a supplier number.

4 “(B) STANDARDS FOR POSSESSING A SUP-  
5 PLIER NUMBER.—A supplier may not obtain a  
6 supplier number unless—

7 “(i) for medical equipment and sup-  
8 plies furnished on or after October 1,  
9 1994, and before January 1, 1996, the  
10 supplier meets standards prescribed by the  
11 Secretary; and

12 “(ii) for medical equipment and sup-  
13 plies furnished on or after January 1,  
14 1996, the supplier meets revised standards  
15 prescribed by the Secretary (in consulta-  
16 tion with representatives of suppliers of  
17 medical equipment and supplies, carriers,  
18 and consumers) that shall include require-  
19 ments that the supplier—

20 “(I) comply with all applicable  
21 State and Federal licensure and regu-  
22 latory requirements;

23 “(II) maintain a physical facility  
24 on an appropriate site;

1                   “(III) have proof of appropriate  
2                   liability insurance; and

3                   “(IV) meet such other require-  
4                   ments as the Secretary may specify.

5                   “(C) EXCEPTION FOR ITEMS FURNISHED  
6                   AS INCIDENT TO A PHYSICIAN’S SERVICE.—  
7                   Subparagraph (A) shall not apply with respect  
8                   to medical equipment and supplies furnished as  
9                   an incident to a physician’s service.

10                  “(D) PROHIBITION AGAINST MULTIPLE  
11                  SUPPLIER NUMBERS.—The Secretary may not  
12                  issue more than one supplier number to any  
13                  supplier of medical equipment and supplies un-  
14                  less the issuance of more than one number is  
15                  appropriate to identify subsidiary or regional  
16                  entities under the supplier’s ownership or con-  
17                  trol.

18                  “(E) PROHIBITION AGAINST DELEGATION  
19                  OF SUPPLIER DETERMINATIONS.—The Sec-  
20                  retary may not delegate (other than by contract  
21                  under section 1842) the responsibility to deter-  
22                  mine whether suppliers meet the standards nec-  
23                  essary to obtain a supplier number.

24                  “(2) CERTIFICATES OF MEDICAL NECESSITY.—

1           “(A) STANDARDIZED CERTIFICATES.—Not  
2 later than October 1, 1994, the Secretary shall,  
3 in consultation with carriers under this part,  
4 develop one or more standardized certificates of  
5 medical necessity (as defined in subparagraph  
6 (C)) for medical equipment and supplies for  
7 which the Secretary determines that such a cer-  
8 tificate is necessary.

9           “(B) PROHIBITION AGAINST DISTRIBUTION  
10 BY SUPPLIERS OF CERTIFICATES OF MEDICAL  
11 NECESSITY.—

12           “(i) IN GENERAL.—Except as pro-  
13 vided in clause (ii), a supplier of medical  
14 equipment and supplies may not distribute  
15 to physicians or to individuals entitled to  
16 benefits under this part for commercial  
17 purposes any completed or partially com-  
18 pleted certificates of medical necessity on  
19 or after October 1, 1994.

20           “(ii) EXCEPTION FOR CERTAIN BILL-  
21 ING INFORMATION.—Clause (i) shall not  
22 apply with respect to a certificate of medi-  
23 cal necessity for any item that is not con-  
24 tained on the list of potentially overused  
25 items developed by the Secretary under

1 subsection (a)(15)(A) to the extent that  
2 such certificate contains only information  
3 completed by the supplier of medical equip-  
4 ment and supplies identifying such supplier  
5 and the beneficiary to whom such medical  
6 equipment and supplies are furnished, a  
7 description of such medical equipment and  
8 supplies, any product code identifying such  
9 medical equipment and supplies, and any  
10 other administrative information (other  
11 than information relating to the bene-  
12 ficiary's medical condition) identified by  
13 the Secretary. In the event a supplier pro-  
14 vides a certificate of medical necessity con-  
15 taining information permitted under this  
16 clause, such certificate shall also contain  
17 the fee schedule amount and the supplier's  
18 charge for the medical equipment or sup-  
19 plies being furnished prior to distribution  
20 of such certificate to the physician.

21 “(iii) PENALTY.—Any supplier of  
22 medical equipment and supplies who know-  
23 ingly and willfully distributes a certificate  
24 of medical necessity in violation of clause  
25 (i) is subject to a civil money penalty in an

1 amount not to exceed \$1,000 for each such  
2 certificate of medical necessity so distrib-  
3 uted. The provisions of section 1128A  
4 (other than subsections (a) and (b)) shall  
5 apply to civil money penalties under this  
6 subparagraph in the same manner as they  
7 apply to a penalty or proceeding under sec-  
8 tion 1128A(a).

9 “(C) DEFINITION.—For purposes of this  
10 paragraph, the term ‘certificate of medical ne-  
11 cessity’ means a form or other document con-  
12 taining information required by the Secretary to  
13 be submitted to show that a covered item is  
14 reasonable and necessary for the diagnosis or  
15 treatment of illness or injury or to improve the  
16 functioning of a malformed body member.

17 “(3) COVERAGE AND REVIEW CRITERIA.—

18 “(A) DEVELOPMENT AND ESTABLISH-  
19 MENT.—Not later than January 1, 1996, the  
20 Secretary, in consultation with representatives  
21 of suppliers of medical equipment and supplies,  
22 individuals enrolled under this part, and appro-  
23 priate medical specialty societies, shall develop  
24 and establish uniform national coverage and  
25 utilization review criteria for 200 items of medi-

1 cal equipment and supplies selected in accord-  
2 ance with the standards described in subpara-  
3 graph (B). The Secretary shall publish the cri-  
4 teria as part of the instructions provided to fis-  
5 cal intermediaries and carriers under this part  
6 and no further publication, including publica-  
7 tion in the Federal Register, shall be required.

8 “(B) STANDARDS FOR SELECTING ITEMS  
9 SUBJECT TO CRITERIA.—The Secretary may se-  
10 lect an item for coverage under the criteria de-  
11 veloped and established under subparagraph  
12 (A) if the Secretary finds that—

13 “(i) the item is frequently purchased  
14 or rented by beneficiaries;

15 “(ii) the item is frequently subject to  
16 a determination that such item is not  
17 medically necessary; or

18 “(iii) the coverage or utilization cri-  
19 teria applied to the item (as of the date of  
20 the enactment of this subsection) is not  
21 consistent among carriers.

22 “(C) ANNUAL REVIEW AND EXPANSION OF  
23 ITEMS SUBJECT TO CRITERIA.—The Secretary  
24 shall annually review the coverage and utiliza-  
25 tion of items of medical equipment and supplies

1 to determine whether items not included among  
2 the items selected under subparagraph (A)  
3 should be made subject to uniform national cov-  
4 erage and utilization review criteria, and, if ap-  
5 propriate, shall develop and apply such criteria  
6 to such additional items.

7 “(4) DEFINITION.—The term ‘medical equip-  
8 ment and supplies’ means—

9 “(A) durable medical equipment (as de-  
10 fined in section 1861(n));

11 “(B) prosthetic devices (as described in  
12 section 1861(s)(8));

13 “(C) orthotics and prosthetics (as de-  
14 scribed in section 1861(s)(9));

15 “(D) surgical dressings (as described in  
16 section 1861(s)(5));

17 “(E) such other items as the Secretary  
18 may determine; and

19 “(F) for purposes of paragraphs (1) and  
20 (3)—

21 “(i) home dialysis supplies and equip-  
22 ment (as described in section  
23 1861(s)(2)(F)), and

24 “(ii) immunosuppressive drugs (as de-  
25 scribed in section 1861(s)(2)(J)).”.

1           (2) CONFORMING AMENDMENT.—Effective Oc-  
2           tober 1, 1994, paragraph (16) of section 1834(a)  
3           (42 U.S.C. 1395m(a)) is repealed.

4           (b) REPORT ON EFFECT OF UNIFORM CRITERIA ON  
5           UTILIZATION OF ITEMS.—Not later than July 1, 1996, the  
6           Secretary shall submit a report to the Committee on Ways  
7           and Means and the Committee on Energy and Commerce  
8           of the House of Representatives and the Committee on  
9           Finance of the Senate analyzing the impact of the uniform  
10          criteria established under section 1834(i)(3)(A) of the So-  
11          cial Security Act (as added by subsection (a)) on the utili-  
12          zation of items of medical equipment and supplies by indi-  
13          viduals enrolled under part B of the medicare program.

14          (c) USE OF COVERED ITEMS BY DISABLED BENE-  
15          FICIARIES.—

16                 (1) IN GENERAL.—The Secretary of Health and  
17                 Human Services, in consultation with representa-  
18                 tives of suppliers of durable medical equipment  
19                 under part B of the medicare program and individ-  
20                 uals entitled to benefits under such program on the  
21                 basis of disability, shall conduct a study of the ef-  
22                 fects of the methodology for determining payments  
23                 for items of such equipment under such part on the  
24                 ability of such individuals to obtain items of such  
25                 equipment, including customized items.

1           (2) REPORT.—Not later than one year after the  
2           date of the enactment of this Act, the Secretary  
3           shall submit a report to Congress on the study con-  
4           ducted under paragraph (1), and shall include in the  
5           report such recommendations as the Secretary con-  
6           siders appropriate to assure that disabled medicare  
7           beneficiaries have access to items of durable medical  
8           equipment.

9           (d) CRITERIA FOR TREATMENT OF ITEMS AS PROS-  
10          THETICS DEVICES OR ORTHOTICS AND PROSTHETICS.—  
11          Not later than one year after the date of the enactment  
12          of this Act, the Secretary of Health and Human Services  
13          shall submit a report to the Committees on Ways and  
14          Means and Energy and Commerce of the House of Rep-  
15          resentatives and the Committee on Finance of the Senate  
16          describing prosthetic devices or orthotics and prosthetics  
17          covered under part B of the medicare program that do  
18          not require individualized or custom fitting and adjust-  
19          ment to be used by a patient. Such report shall include  
20          recommendations for an appropriate methodology for de-  
21          termining the amount of payment for such items under  
22          such program.

1 **SEC. 5035. PROHIBITION AGAINST CARRIER FORUM SHOP-**  
2 **PING.**

3 (a) IN GENERAL.—Section 1834(a)(12) (42 U.S.C.  
4 1395m(a)(12)) is amended to read as follows:

5 “(12) USE OF CARRIERS TO PROCESS  
6 CLAIMS.—

7 “(A) DESIGNATION OF REGIONAL CAR-  
8 RRIERS.—The Secretary may designate, by regu-  
9 lation under section 1842, one carrier for one  
10 or more entire regions to process all claims  
11 within the region for covered items under this  
12 section.

13 “(B) PROHIBITION AGAINST CARRIER  
14 SHOPPING.—(i) No supplier of a covered item  
15 may present or cause to be presented a claim  
16 for payment under this part unless such claim  
17 is presented to the appropriate regional carrier  
18 (as designated by the Secretary).

19 “(ii) For purposes of clause (i), the term  
20 ‘appropriate regional carrier’ means the carrier  
21 having jurisdiction over the geographic area  
22 that includes the permanent residence of the  
23 patient to whom the item is furnished.”.

24 (b) EFFECTIVE DATE.—The amendment made by  
25 subsection (a) shall apply to items furnished on or after  
26 October 1, 1993.

1 (c) CLARIFICATION OF AUTHORITY TO DESIGNATE  
2 CARRIERS FOR OTHER ITEMS AND SERVICES.—Nothing  
3 in this subsection or the amendment made by this sub-  
4 section may be construed to restrict the authority of the  
5 Secretary of Health and Human Services to designate re-  
6 gional carriers or modify claims jurisdiction rules with re-  
7 spect to items or services under part B of the medicare  
8 program that are not covered items under section 1834(a)  
9 of the Social Security Act or prosthetic devices or orthotics  
10 and prosthetics under section 1834(h) of such Act.

11 **SEC. 5036. RESTRICTIONS ON CERTAIN MARKETING AND**  
12 **SALES ACTIVITIES.**

13 (a) PROHIBITING UNSOLICITED TELEPHONE CON-  
14 TACTS FROM SUPPLIERS OF DURABLE MEDICAL EQUIP-  
15 MENT TO MEDICARE BENEFICIARIES.—

16 (1) IN GENERAL.—Section 1834(a) (42 U.S.C.  
17 1395m(a)) is amended by adding at the end the fol-  
18 lowing new paragraph:

19 “(17) PROHIBITION AGAINST UNSOLICITED  
20 TELEPHONE CONTACTS BY SUPPLIERS.—

21 “(A) IN GENERAL.—A supplier of a cov-  
22 ered item under this subsection may not contact  
23 an individual enrolled under this part by tele-  
24 phone regarding the furnishing of a covered  
25 item to the individual (other than a covered

1 item the supplier has already furnished to the  
2 individual) unless—

3 “(i) the individual gives permission to  
4 the supplier to make contact by telephone  
5 for such purpose; or

6 “(ii) the supplier has furnished a cov-  
7 ered item under this subsection to the indi-  
8 vidual during the 15-month period preced-  
9 ing the date on which the supplier contacts  
10 the individual for such purpose.

11 “(B) PROHIBITING PAYMENT FOR ITEMS  
12 FURNISHED SUBSEQUENT TO UNSOLICITED  
13 CONTACTS.—If a supplier knowingly contacts  
14 an individual in violation of subparagraph (A),  
15 no payment may be made under this part for  
16 any item subsequently furnished to the individ-  
17 ual by the supplier.

18 “(C) EXCLUSION FROM PROGRAM FOR  
19 SUPPLIERS ENGAGING IN PATTERN OF UNSO-  
20 LICITED CONTACTS.—If a supplier knowingly  
21 contacts individuals in violation of subpara-  
22 graph (A) to such an extent that the supplier’s  
23 conduct establishes a pattern of contacts in vio-  
24 lation of such subparagraph, the Secretary shall  
25 exclude the supplier from participation in the

1 programs under this Act, in accordance with  
2 the procedures set forth in subsections (c), (f),  
3 and (g) of section 1128.”.

4 (2) REQUIRING REFUND OF AMOUNTS COL-  
5 LECTED FOR DISALLOWED ITEMS.—Section 1834(a)  
6 (42 U.S.C. 1395m(a)), as amended by paragraph  
7 (1), is amended by adding at the end the following  
8 new paragraph:

9 “(18) REFUND OF AMOUNTS COLLECTED FOR  
10 CERTAIN DISALLOWED ITEMS.—

11 “(A) IN GENERAL.—If a nonparticipating  
12 supplier furnishes to an individual enrolled  
13 under this part a covered item for which no  
14 payment may be made under this part by rea-  
15 son of paragraph (17)(B), the supplier shall re-  
16 fund on a timely basis to the patient (and shall  
17 be liable to the patient for) any amounts col-  
18 lected from the patient for the item, unless—

19 “(i) the supplier establishes that the  
20 supplier did not know and could not rea-  
21 sonably have been expected to know that  
22 payment may not be made for the item by  
23 reason of paragraph (17)(B), or

24 “(ii) before the item was furnished,  
25 the patient was informed that payment

1 under this part may not be made for that  
2 item and the patient has agreed to pay for  
3 that item.

4 “(B) SANCTIONS.—If a supplier knowingly  
5 and willfully fails to make refunds in violation  
6 of subparagraph (A), the Secretary may apply  
7 sanctions against the supplier in accordance  
8 with section 1842(j)(2).

9 “(C) NOTICE.—Each carrier with a con-  
10 tract in effect under this part with respect to  
11 suppliers of covered items shall send any notice  
12 of denial of payment for covered items by rea-  
13 son of paragraph (17)(B) and for which pay-  
14 ment is not requested on an assignment-related  
15 basis to the supplier and the patient involved.

16 “(D) TIMELY BASIS DEFINED.—A refund  
17 under subparagraph (A) is considered to be on  
18 a timely basis only if—

19 “(i) in the case of a supplier who does  
20 not request reconsideration or seek appeal  
21 on a timely basis, the refund is made with-  
22 in 30 days after the date the supplier re-  
23 ceives a denial notice under subparagraph  
24 (C), or

1           “(ii) in the case in which such a re-  
2           consideration or appeal is taken, the re-  
3           fund is made within 15 days after the date  
4           the supplier receives notice of an adverse  
5           determination on reconsideration or ap-  
6           peal.”.

7           (b) CONFORMING AMENDMENT.—Section 1834(h)(3)  
8           (42 U.S.C. 1395m(h)(3)) is amended by striking “Para-  
9           graph (12)” and inserting “Paragraphs (12) and (17)”.

10          (c) EFFECTIVE DATE.—The amendments made by  
11          subsections (a) and (b) shall apply to items furnished after  
12          the expiration of the 60-day period that begins on the date  
13          of the enactment of this Act.

14          **SEC. 5037. KICKBACK CLARIFICATION.**

15          (a) IN GENERAL.—Section 1128B(b)(3)(B) (42  
16          U.S.C. 1320a–7b(b)(3)(B)) is amended by inserting be-  
17          fore the semicolon the following: “(except that in the case  
18          of a contract supply arrangement between any entity and  
19          a supplier of medical supplies and equipment (as defined  
20          in section 1834(i)(4), but not including items described  
21          in subparagraph (F) of such section), such employment  
22          shall not be considered bona fide to the extent that it in-  
23          cludes tasks of a clerical and cataloging nature in trans-  
24          mitting to suppliers assignment rights of individuals eligi-

1 ble for benefits under part B of title XVIII, or perform-  
2 ance of warehousing or stock inventory functions)”.

3 (b) EFFECTIVE DATE.—The amendment made by  
4 subsection (a) shall apply with respect to services fur-  
5 nished on or after the first day of the first month that  
6 begins after the expiration of the 60-day period beginning  
7 on the date of the enactment of this Act.

8 **SEC. 5038. BENEFICIARY LIABILITY FOR NONCOVERED**  
9 **SERVICES.**

10 (a) UNASSIGNED CLAIMS.—

11 (1) IN GENERAL.—Section 1834(i) (42 U.S.C.  
12 1395m(i)), as added by section 5034(a)(1), is  
13 amended—

14 (A) by redesignating paragraph (4) as  
15 paragraph (5), and

16 (B) by inserting after paragraph (3) the  
17 following new paragraph:

18 “(4) LIMITATION ON PATIENT LIABILITY.—If a  
19 supplier of medical equipment and supplies (as de-  
20 fined in paragraph (5))—

21 “(A) furnishes an item or service to a ben-  
22 eficiary for which no payment may be made by  
23 reason of paragraph (1);

1           “(B) furnishes an item or service to a ben-  
2           eficiary for which payment is denied in advance  
3           under subsection (a)(15); or

4           “(C) furnishes an item or service to a ben-  
5           eficiary for which payment is denied under sec-  
6           tion 1862(a)(1);

7           any expenses incurred for items and services fur-  
8           nished to an individual by such a supplier not on an  
9           assigned basis shall be the responsibility of such  
10          supplier. The individual shall have no financial re-  
11          sponsibility for such expenses and the supplier shall  
12          refund on a timely basis to the individual (and shall  
13          be liable to the individual for) any amounts collected  
14          from the individual for such items or services. The  
15          provisions of subsection (a)(18) shall apply to re-  
16          funds required under the previous sentence in the  
17          same manner as such provisions apply to refunds  
18          under such subsection.”.

19           (2) CONFORMING AMENDMENT.—Section  
20          1128B(b)(3)(B) (42 U.S.C. 1320a-7b(b)(3)(B)), as  
21          amended by section 5037(a), is amended by striking  
22          “1834(i)(4)” and inserting “1834(i)(5)”.

23           (b) ASSIGNED CLAIMS.—Section 1879 (42 U.S.C.  
24          1395pp) is amended by adding at the end the following  
25          new subsection:

1       “(h) If a supplier of medical equipment and supplies  
2 (as defined in section 1834(i)(4))—

3           “(1) furnishes an item or service to a bene-  
4 ficiary for which no payment may be made by reason  
5 of section 1834(i)(1); or

6           “(2) furnishes an item or service to a bene-  
7 ficiary for which payment is denied in advance under  
8 section 1834(a)(15);

9 any expenses incurred for items and services furnished to  
10 an individual by such a supplier on an assignment-related  
11 basis shall be the responsibility of such supplier. The indi-  
12 vidual shall have no financial responsibility for such ex-  
13 penses and the supplier shall refund on a timely basis to  
14 the individual (and shall be liable to the individual for)  
15 any amounts collected from the individual for such items  
16 or services. The provisions of section 1834(a)(18) shall  
17 apply to refunds required under the previous sentence in  
18 the same manner as such provisions apply to refunds  
19 under such section.”.

20       (c) EFFECTIVE DATE.—The amendments made by  
21 this section shall apply to items or services furnished on  
22 or after October 1, 1994.

1 **SEC. 5039. ADJUSTMENTS FOR INHERENT REASONABLE-**  
2 **NESS.**

3 (a) ADJUSTMENTS MADE TO FINAL PAYMENT  
4 AMOUNTS.—

5 (1) IN GENERAL.—Section 1834(a)(10)(B) (42  
6 U.S.C. 1395m(a)(10)(B)) is amended by adding at  
7 the end the following: “In applying such provisions  
8 to payments for an item under this subsection, the  
9 Secretary shall make adjustments to the payment  
10 basis for the item described in paragraph (1)(B) if  
11 the Secretary determines (in accordance with such  
12 provisions and on the basis of prices and costs appli-  
13 cable at the time the item is furnished) that such  
14 payment basis is not inherently reasonable.”.

15 (2) EFFECTIVE DATE.—The amendment made  
16 by paragraph (1) shall take effect on the date of the  
17 enactment of this Act.

18 (b) ADJUSTMENT REQUIRED FOR CERTAIN ITEMS.—

19 (1) IN GENERAL.—In accordance with section  
20 1834(a)(10)(B) of the Social Security Act (as  
21 amended by subsection (a)), the Secretary of Health  
22 and Human Services shall determine whether the  
23 payment amounts for the items described in para-  
24 graph (2) are not inherently reasonable, and shall  
25 adjust such amounts in accordance with such section  
26 if the amounts are not inherently reasonable.

1           (2) ITEMS DESCRIBED.—The items referred to  
2           in paragraph (1) are decubitus care equipment,  
3           transcutaneous electrical nerve stimulators, and any  
4           other items considered appropriate by the Secretary.

5 **SEC. 5040. PAYMENT FOR SURGICAL DRESSINGS.**

6           (a) IN GENERAL.—Section 1834 (42 U.S.C. 1395m),  
7           as amended by section 5034(a)(1), is amended by adding  
8           at the end the following new subsection:

9           “(j) PAYMENT FOR SURGICAL DRESSINGS.—

10           “(1) IN GENERAL.—Payment under this sub-  
11           section for surgical dressings (described in section  
12           1861(s)(5)) shall be made in a lump sum amount  
13           for the purchase of the item in an amount equal to  
14           80 percent of the lesser of—

15                   “(A) the actual charge for the item; or

16                   “(B) a payment amount determined in ac-  
17           cordance with the methodology described in  
18           subparagraphs (B) and (C) of subsection (a)(2)  
19           (except that in applying such methodology, the  
20           national limited payment amount referred to in  
21           such subparagraphs shall be initially computed  
22           based on local payment amounts using average  
23           reasonable charges for the 12-month period  
24           ending December 31, 1992, increased by the

1 covered item updates described in such sub-  
2 section for 1993 and 1994)

3 “(2) EXCEPTIONS.—Paragraph (1) shall not  
4 apply to surgical dressings that are—

5 “(A) furnished as an incident to a physi-  
6 cian’s professional service; or

7 “(B) furnished by a home health agency.”.

8 (b) CONFORMING AMENDMENT.—Section 1833(a)(1)  
9 (42 U.S.C. 1395l(a)(1)), as amended by sections  
10 5070(e)(2) and 5010(e)(1), is amended—

11 (1) by striking “and” before “(P)”, and

12 (2) by inserting before the semicolon at the end  
13 the following: “, and (Q) with respect to surgical  
14 dressings, the amounts paid shall be the amounts  
15 determined under section 1834(j);”.

16 (c) EFFECTIVE DATE.—The amendments made by  
17 this section shall apply to items furnished on or after Jan-  
18 uary 1, 1994.

19 **SEC. 5041. PAYMENTS FOR TENS DEVICES.**

20 (a) IN GENERAL.—Section 1834(a)(1)(D) (42 U.S.C.  
21 1395m(a)(1)(D)) is amended by striking “15 percent” the  
22 second place it appears and inserting “45 percent”.

23 (b) EFFECTIVE DATE.—The amendment made by  
24 subsection (a) shall apply to items furnished on or after  
25 January 1, 1994.

1 **SEC. 5042. MISCELLANEOUS AND TECHNICAL CORREC-**  
2 **TIONS.**

3 (a) UPDATES TO PAYMENT AMOUNTS.—Subpara-  
4 graph (A) of section 1834(a)(14) (42 U.S.C.  
5 1395m(a)(14)) is amended to read as follows:

6 “(A) for 1991 and 1992, the percentage  
7 increase in the consumer price index for all  
8 urban consumers (U.S. city average) for the 12-  
9 month period ending with June of the previous  
10 year reduced by 1 percentage point; and”.

11 (b) TREATMENT OF POTENTIALLY OVERUSED ITEMS  
12 AND ADVANCED DETERMINATIONS OF COVERAGE.—(1)  
13 Effective on the date of the enactment of this Act, section  
14 1834(a)(15) (42 U.S.C. 1395m(a)(15)) is amended to  
15 read as follows:

16 “(15) SPECIAL TREATMENT FOR POTENTIALLY  
17 OVERUSED ITEMS.—

18 “(A) DEVELOPMENT OF LIST OF ITEMS BY  
19 SECRETARY.—The Secretary shall develop and  
20 periodically update a list of items for which  
21 payment may be made under this subsection  
22 that are potentially overused, and shall include  
23 in such list seat-lift mechanisms, transcutane-  
24 ous electrical nerve stimulators, motorized  
25 scooters, decubitus care mattresses, and any  
26 such other item determined by the Secretary to

1 be potentially overused on the basis of any of  
2 the following criteria—

3 “(i) the item is marketed directly to  
4 potential patients;

5 “(ii) the item is marketed with an  
6 offer to potential patients to waive the  
7 costs of coinsurance associated with the  
8 item or is marketed as being available at  
9 no cost to policyholders of a medicare sup-  
10 plemental policy (as defined in section  
11 1882(g)(1));

12 “(iii) the item has been subject to a  
13 consistent pattern of overutilization; or

14 “(iv) a high proportion of claims for  
15 payment for such item under this part may  
16 not be made because of the application of  
17 section 1862(a)(1).

18 “(B) ITEMS SUBJECT TO SPECIAL CARRIER  
19 SCRUTINY.—Payment may not be made under  
20 this part for any item contained in the list de-  
21 veloped by the Secretary under subparagraph  
22 (A) unless the carrier has subjected the claim  
23 for payment for the item to special scrutiny or  
24 has followed the procedures described in para-  
25 graph (11)(C) with respect to the item.”.

1           (2) Effective January 1, 1994, section 1834(a)(11)  
2 (42 U.S.C. 1395m(a)) is amended by adding at the end  
3 the following new subparagraph:

4                   “(C) CARRIER DETERMINATIONS FOR CER-  
5 TAIN ITEMS IN ADVANCE.—A carrier shall de-  
6 termine in advance whether payment for an  
7 item may not be made under this subsection be-  
8 cause of the application of section 1862(a)(1)  
9 if—

10                   “(i) the item is a customized item  
11 (other than inexpensive items specified by  
12 the Secretary); or

13                   “(ii) the item is a specified covered  
14 item under subparagraph (B).”.

15           (3) Effective for standards applied for contract years  
16 beginning after the date of the enactment of this Act, sec-  
17 tion 1842(c) (42 U.S.C. 1395u(c)), as amended by section  
18 5013(a), is amended by adding at the end the following  
19 new paragraph:

20           “(5) Each contract under this section which provides  
21 for the disbursement of funds, as described in subsection  
22 (a)(1)(B), shall require the carrier to meet criteria devel-  
23 oped by the Secretary to measure the timeliness of carrier  
24 responses to requests for payment of items described in  
25 section 1834(a)(11)(C).”.

1       (4) Section 1834(h)(3) (42 U.S.C. 1395m(h)(3)) is  
2 amended by striking “paragraph (10) and paragraph  
3 (11)” and inserting “paragraphs (10) and (11)”.

4       (c) STUDY OF VARIATIONS IN DURABLE MEDICAL  
5 EQUIPMENT SUPPLIER COSTS.—

6           (1) COLLECTION AND ANALYSIS OF SUPPLIER  
7 COST DATA.—The Administrator of the Health Care  
8 Financing Administration shall, in consultation with  
9 appropriate organizations, collect data on supplier  
10 costs of durable medical equipment for which pay-  
11 ment may be made under part B of the medicare  
12 program, and shall analyze such data to determine  
13 the proportions of such costs attributable to the  
14 service and product components of furnishing such  
15 equipment and the extent to which such proportions  
16 vary by type of equipment and by the geographic re-  
17 gion in which the supplier is located.

18           (2) DEVELOPMENT OF GEOGRAPHIC ADJUST-  
19 MENT INDEX; REPORTS.—Not later than January 1,  
20 1995—

21           (A) the Administrator shall submit a re-  
22 port to the Committees on Energy and Com-  
23 merce and Ways and Means of the House of  
24 Representatives and the Committee on Finance  
25 of the Senate on the data collected and the

1 analysis conducted under paragraph (1), and  
2 shall include in such report the Administrator’s  
3 recommendations for a geographic cost adjust-  
4 ment index for suppliers of durable medical  
5 equipment under the medicare program and an  
6 analysis of the impact of such proposed index  
7 on payments under the medicare program; and

8 (B) the Comptroller General shall submit a  
9 report to the Committees on Energy and Com-  
10 merce and Ways and Means of the House of  
11 Representatives and the Committee on Finance  
12 of the Senate analyzing on a geographic basis  
13 the supplier costs of durable medical equipment  
14 under the medicare program.

15 (d) OXYGEN RETESTING.—Section 1834(a)(5)(E)  
16 (42 U.S.C. 1395m(a)(5)(E)) is amended by striking “55”  
17 and inserting “56”.

18 (e) OTHER MISCELLANEOUS AND TECHNICAL  
19 AMENDMENTS.—(1) Section 4152(a)(3) of OBRA–1990  
20 is amended by striking “amendment made by subsection  
21 (a)” and inserting “amendments made by this sub-  
22 section”.

23 (2) Section 4152(c)(2) of OBRA–1990 is amended  
24 by striking “1395m(a)(7)(A)” and inserting  
25 “1395m(a)(7)”.

1       (3) Section 1834(a)(7)(A)(iii)(II) (42 U.S.C.  
2 1395m(a)(7)(A)(iii)(II)) is amended by striking “clause  
3 (v)” and inserting “clause (vi)”.

4       (4) Section 1834(a)(7)(C)(i) (42 U.S.C.  
5 1395m(a)(7)(C)(i)) is amended by striking “or paragraph  
6 (3)”.

7       (5) Section 1834(a)(3) (42 U.S.C. 1395m(a)(3)) is  
8 amended by striking subparagraph (D).

9       (6) Section 4153(c)(1) of OBRA-1990 is amended  
10 by striking “1834(a)” and inserting “1834(h)”.

11       (7) Section 4153(d)(2) of OBRA-1990 is amended  
12 by striking “Reconciliation” and inserting “Reconcili-  
13 ation”.

14       (8)(A) Section 1834(a) (42 U.S.C. 1395m(a)) is  
15 amended by striking paragraph (6).

16       (B) Section 1834(a) (42 U.S.C. 1395m(a)) is amend-  
17 ed—

18           (i) in subparagraphs (A) and (B) of paragraph  
19 (1), by striking “(2) through (7)” each place it ap-  
20 pears and inserting “(2) through (5) and (7)”;

21           (ii) in paragraph (7), by striking “(2) through  
22 (6)” and inserting “(2) through (5)”;

23           (iii) in paragraph (8), by striking “paragraphs  
24 (6) and (7)” each place it appears in the matter pre-

1 ceding subparagraph (A) and in subparagraph (C)  
2 and inserting “paragraph (7)”; and

3 (iv) in paragraph (8)(A)(i), by striking “de-  
4 scribed—” and all that follows and inserting “de-  
5 scribed in paragraph (7) equal to the average of the  
6 purchase prices on the claims submitted on an as-  
7 signment-related basis for the unused item supplied  
8 during the 6-month period ending with December  
9 1986.”.

10 (9) The amendments made by this subsection shall  
11 take effect as if included in the enactment of OBRA-1990.

## 12 **Subchapter D—Part B Premium**

### 13 **SEC. 5051. PART B PREMIUM.**

14 Section 1839(e) (42 U.S.C. 1395r(e)) is amended—

15 (1) in paragraph (1)(A), by inserting “and for  
16 each month in 1996 and 1997” after “January  
17 1991”, and

18 (2) in paragraph (2), by striking “1991” and  
19 inserting “1998”.

## 20 **Subchapter E—Other Provisions**

### 21 **SEC. 5061. PAYMENTS FOR CLINICAL DIAGNOSTIC LABORA-** 22 **TORY TESTS.**

23 (a) LOWER CAP.—Section 1833(h)(4)(B) (42 U.S.C.  
24 1395l(h)(4)(B)) is amended—

25 (1) by striking “and” at the end of clause (iii),



1           (3) in paragraph (3), in the matter following  
2           subparagraph (B), by striking “as an outpatient”  
3           and inserting “as a patient”.

4           (b) TREATMENT OF DIAGNOSTIC AND THERAPEUTIC  
5 X-RAY SERVICES.—Section 1861(aa) (42 U.S.C.  
6 1395x(aa)) is further amended—

7           (1) in paragraph (1)(A), by inserting “(i)” after  
8           “(A)” and by adding at the end the following: “and  
9           (ii) diagnostic and therapeutic x-ray services,” and  
10           (2) in paragraph (2)(A), by striking “(A)” and  
11           inserting “(A)(i)”.

12           (c) CONFORMING AMENDMENT.—Section  
13 1862(a)(14) (42 U.S.C. 1395y(a)(14)) is amended by  
14 striking “and services of a certified registered nurse anes-  
15 thetist” and inserting “services of a certified registered  
16 nurse anesthetist, rural health clinic services, and Feder-  
17 ally-qualified health center services”.

18           (d) EFFECTIVE DATE.—The amendments made by  
19 this section shall take effect on January 1, 1994, and shall  
20 apply to services furnished on or after such date.

21 **SEC. 5063. APPLICATION OF MAMMOGRAPHY CERTIFI-**  
22 **CATION REQUIREMENTS.**

23           (a) SCREENING MAMMOGRAPHY.—Section 1834(c)  
24 (42 U.S.C. 1395m(c)) is amended—

1 (1) in paragraph (1)(B), by striking “meets the  
2 quality standards established under paragraph (3)”  
3 and inserting “is conducted by a facility that has a  
4 certificate (or provisional certificate) issued under  
5 section 354 of the Public Health Service Act”;

6 (2) in paragraph (1)(C)(iii), by striking “para-  
7 graph (4)” and inserting “paragraph (3)”;

8 (3) by striking paragraph (3); and

9 (4) by redesignating paragraphs (4) and (5) as  
10 paragraphs (3) and (4).

11 (b) DIAGNOSTIC MAMMOGRAPHY.—Section  
12 1861(s)(3) (42 U.S.C. 1395x(s)(3)) is amended by insert-  
13 ing “and including diagnostic mammography if conducted  
14 by a facility that has a certificate (or provisional certifi-  
15 cate) issued under section 354 of the Public Health Serv-  
16 ice Act” after “necessary”.

17 (c) CONFORMING AMENDMENTS.—(1) Section  
18 1862(a)(1)(F) (42 U.S.C. 1395y(a)(1)(F)) is amended by  
19 striking “or which does not meet the standards established  
20 under section 1834(c)(3)” and inserting “or which is not  
21 conducted by a facility described in section  
22 1834(c)(1)(B)”.

23 (2) Section 1863 (42 U.S.C. 1395z) is amended by  
24 striking “or whether screening mammography meets the  
25 standards established under section 1834(c)(3),”.

1           (3) The first sentence of section 1864(a) (42 U.S.C.  
2 1395aa(a)) is amended by striking “, or whether screening  
3 mammography meets the standards established under sec-  
4 tion 1834(c)(3)”.

5           (4) The third sentence of section 1865(a) (42 U.S.C.  
6 1395bb(a)) is amended by striking “1834(c)(3),”.

7           (d) EFFECTIVE DATE.—The amendments made by  
8 this section shall apply to mammography furnished by a  
9 facility on and after the first date that the certificate re-  
10 quirements of section 354(b) of the Public Health Service  
11 Act apply to such mammography conducted by such facil-  
12 ity.

13 **SEC. 5064. EXTENSION OF ALZHEIMER’S DISEASE DEM-**  
14 **ONSTRATION.**

15           Section 9342 of OBRA–1986, as amended by section  
16 4164(a)(2) of OBRA–1990, is amended—

17           (1) in subsection (c)(1), by striking “4 years”  
18 and inserting “5 years”; and

19           (2) in subsection (f)—

20                   (A) by striking “\$55,000,000” and insert-  
21 ing “\$60,000,000”, and

22                   (B) by striking “\$3,000,000” and insert-  
23 ing “\$5,000,000”.

1 **SEC. 5065. ORAL CANCER DRUGS.**

2 (a) COVERAGE OF CERTAIN SELF-ADMINISTERED  
3 ANTICANCER DRUGS.—Section 1861(s)(2) (42 U.S.C.  
4 1395(s)(2)), as amended by section 5070(f)(7)(B), is  
5 amended—

6 (1) by striking “and” at the end of subpara-  
7 graph (N);

8 (2) by adding “and” at the end of subpara-  
9 graph (O); and

10 (3) by adding at the end the following new sub-  
11 paragraph:

12 “(P) an oral drug (which is approved by the  
13 Federal Food and Drug Administration) prescribed  
14 for use as an anticancer chemotherapeutic agent for  
15 a given indication, and containing an active ingredi-  
16 ent (or ingredients), which is the same indication  
17 and active ingredient (or ingredients) as a drug  
18 which the carrier determines would be covered pur-  
19 suant to subparagraph (A) or (B) if the drug could  
20 not be self-administered;”.

21 (b) EFFECTIVE DATE.—The amendments made by  
22 this section shall apply to items furnished on or after Jan-  
23 uary 1, 1994.

1 **SEC. 5066. EXTENSION OF MUNICIPAL HEALTH SERVICE**  
2 **DEMONSTRATION PROJECTS.**

3 Section 9215 of the Consolidated Omnibus Budget  
4 Reconciliation Act of 1985, as amended by section 6135  
5 of OBRA-1989, is amended—

6 (1) by striking “December 31, 1993” and in-  
7 serting “December 31, 1997”, and

8 (2) in the second sentence, by inserting after  
9 “beneficiary costs,” the following: “costs to the med-  
10 icaid program and other payors, access to care, out-  
11 comes, beneficiary satisfaction, utilization differences  
12 among the different populations served by the  
13 projects,”.

14 **SEC. 5067. TREATMENT OF CERTAIN INDIAN HEALTH PRO-**  
15 **GRAMS AND FACILITIES AS FEDERALLY-**  
16 **QUALIFIED HEALTH CENTERS.**

17 (a) IN GENERAL.—Section 1861(aa)(4) (42 U.S.C.  
18 1395x(aa)(4)) is amended—

19 (1) by striking “or” at the end of subparagraph  
20 (B);

21 (2) by striking the period at the end of sub-  
22 paragraph (C) and inserting “; or”; and

23 (3) by adding at the end the following new sub-  
24 paragraph:

25 “(D) is an outpatient health program or facility  
26 operated by a tribe or tribal organization under the

1 Indian Self-Determination Act or by an urban In-  
2 dian organization receiving funds under title V of  
3 the Indian Health Care Improvement Act.”.

4 (b) EFFECTIVE DATE.—The amendment made by  
5 subsection (a) shall take effect as if included in the enact-  
6 ment of section 4161(a)(2)(C) of OBRA–1990.

7 **SEC. 5068. INTEREST PAYMENTS.**

8 (a) IN GENERAL.—Section 1842(c)(2)(B)(ii)(IV) of  
9 the Social Security Act shall be applied with respect to  
10 paper claims received in the 9-month period beginning  
11 January 1, 1993, by substituting “27 calendar days” for  
12 “24 calendar days” and “17 calendar days”.

13 (b) PROHIBITING PAYMENT OF INTEREST DURING  
14 MANDATORY PAYMENT DELAY PERIOD.—Section  
15 1842(c)(2)(C) (42 U.S.C. 1395u(c)(2)(C)) is amended by  
16 adding at the end the following: “Notwithstanding any  
17 other provision of law, no interest may be paid with re-  
18 spect to a claim pursuant to the preceding sentence within  
19 any period following the submission of the claim during  
20 which no payment may be issued, mailed, or otherwise  
21 transmitted with respect to the claim.”.

1 **SEC. 5069. CLARIFICATION OF COVERAGE OF CERTIFIED**  
2 **NURSE-MIDWIFE SERVICES PERFORMED**  
3 **OUTSIDE THE MATERNITY CYCLE.**

4 (a) IN GENERAL.—Section 1861(gg)(2) (42 U.S.C.  
5 1395x(gg)(2)) is amended by striking “, and performs  
6 services” and all that follows and inserting a period.

7 (b) EFFECTIVE DATE.—The amendment made by  
8 subsection (a) shall apply to services furnished on or after  
9 January 1, 1994.

10 **SEC. 5069A. INCREASE IN, AND STUDY OF, ANNUAL CAP ON**  
11 **AMOUNT OF MEDICARE PAYMENT FOR OUT-**  
12 **PATIENT PHYSICAL THERAPY AND OCCUPA-**  
13 **TIONAL THERAPY SERVICES.**

14 (a) INCREASE IN ANNUAL LIMITATION.—Section  
15 1833(g) (42 U.S.C. 1395l(g)) is amended by striking  
16 “\$750” and inserting “\$900” each place it appears.

17 (b) STUDY.—(1) The Physician Payment Review  
18 Commission shall conduct a study of the appropriateness  
19 of continuing an annual limitation on the amount of pay-  
20 ment for outpatient services of independently practicing  
21 physical and occupational therapists under the medicare  
22 program.

23 (2) By not later than January 1, 1995, the Commis-  
24 sion shall submit to the Committees on Energy and Com-  
25 merce and Ways and Means of the House of Representa-  
26 tives and the Committee on Finance of the Senate a report

1 on the study conducted under paragraph (1). Such report  
2 shall include such recommendations for changes in such  
3 annual limitation as the Commission finds appropriate.

4 (c) EFFECTIVE DATE.—The amendment made by  
5 subsection (a) shall apply to services furnished on or after  
6 January 1, 1994.

7 **SEC. 5070. MISCELLANEOUS AND TECHNICAL CORREC-**  
8 **TIONS.**

9 (a) REVISION OF INFORMATION ON PART B CLAIMS  
10 FORMS.—Section 1833(q)(1) (42 U.S.C. 1395l(q)(1)) is  
11 amended—

12 (1) by striking “provider number” and inserting  
13 “unique physician identification number”; and

14 (2) by striking “and indicate whether or not the  
15 referring physician is an interested investor (within  
16 the meaning of section 1877(h)(5))”.

17 (b) CONSULTATION FOR SOCIAL WORKERS.—Effec-  
18 tive with respect to services furnished on or after January  
19 1, 1991, section 6113(c) of OBRA-1989 is amended—

20 (1) by inserting “and clinical social worker  
21 services” after “psychologist services”; and

22 (2) by striking “psychologist” the second and  
23 third place it appears and inserting “psychologist or  
24 clinical social worker”.

1 (c) REPORTS ON HOSPITAL OUTPATIENT PAY-  
2 MENT.—(1) OBRA–1989 is amended by striking section  
3 6137.

4 (2) Section 1135(d) (42 U.S.C. 1320b–5(d)) is  
5 amended—

6 (A) by striking paragraph (6); and

7 (B) in paragraph (7)—

8 (i) by striking “systems” each place it ap-  
9 pears and inserting “system”; and

10 (ii) by striking “paragraphs (1) and (6)”  
11 and inserting “paragraph (1)”.

12 (d) RADIOLOGY AND DIAGNOSTIC SERVICES PRO-  
13 VIDED IN HOSPITAL OUTPATIENT DEPARTMENTS.—(1)  
14 Effective as if included in the enactment of OBRA–1989,  
15 section 1833(n)(1)(B)(i)(II) (42 U.S.C.  
16 1395l(n)(1)(B)(i)(II)) is amended—

17 (A) by striking “1989” and inserting “1989  
18 and for services described in subsection (a)(2)(E)(ii)  
19 furnished on or after January 1, 1992”; and

20 (B) by striking “1842(b)” and inserting  
21 “1842(b) (or, in the case of services furnished on or  
22 after January 1, 1992, under section 1848)”.

23 (2) Effective as if included in the enactment of  
24 OBRA–1989, section 1833(n)(1)(B)(i)(II) (42 U.S.C.

1 1395l(n)(1)(B)(i)(II)) is amended by striking “January 1,  
2 1989” and inserting “April 1, 1989”.

3 (e) PAYMENTS TO NURSE PRACTITIONERS IN RURAL  
4 AREAS (SECTION 4155 OF OBRA-1990).—(1) Section  
5 1861(s)(2)(K)(iii) (42 U.S.C. 1395x(s)(2)(K)(iii)) is  
6 amended—

7 (A) by striking “subsection (aa)(3)” and insert-  
8 ing “subsection (aa)(5)”; and

9 (B) by striking “subsection (aa)(4)” and insert-  
10 ing “subsection (aa)(6)”.

11 (2) Section 1833(a)(1) (42 U.S.C. 1395l(a)(1)) is  
12 amended—

13 (A) by striking “and” before “(N)”; and

14 (B) with respect to the matter inserted by sec-  
15 tion 4155(b)(2)(B) of OBRA-1990—

16 (i) by striking “(M)” and inserting “, and  
17 (O)”, and

18 (ii) by transferring and inserting it (as  
19 amended) immediately before the semicolon at  
20 the end.

21 (3) Section 1833(r)(1) (42 U.S.C. 1395l(r)(1)) is  
22 amended—

23 (A) by striking “ambulatory” each place it ap-  
24 pears and inserting “or ambulatory”; and

1 (B) by striking “center,” and inserting “cen-  
2 ter”.

3 (4) Section 1833(r)(2)(A) (42 U.S.C. 1395l(r)(2)(A))  
4 is amended by striking “subsection (a)(1)(M)” and insert-  
5 ing “subsection (a)(1)(O)”.

6 (5) Section 1861(b)(4) (42 U.S.C. 1395x(b)(4)) is  
7 amended by striking “subsection (s)(2)(K)(i)” and insert-  
8 ing “clauses (i) or (iii) of subsection (s)(2)(K)”.

9 (6) Section 1861(aa)(5) (42 U.S.C. 1395x(aa)(5)) is  
10 amended by striking “this Act” and inserting “this title”.

11 (7) Section 1862(a)(14) (42 U.S.C. 1395y(a)(14)) is  
12 amended by striking “1861(s)(2)(K)(i)” and inserting  
13 “1861(s)(2)(K)(i) or 1861(s)(2)(K)(iii)”.

14 (8) Section 1866(a)(1)(H) (42 U.S.C.  
15 1395cc(a)(1)(H)) is amended by striking  
16 “1861(s)(2)(K)(i)” and inserting “1861(s)(2)(K)(i) or  
17 1861(s)(2)(K)(iii)”.

18 (f) OTHER MISCELLANEOUS AND TECHNICAL  
19 AMENDMENTS.—

20 (1) IMMEDIATE ENROLLMENT IN PART B BY IN-  
21 DIVIDUALS COVERED BY AN EMPLOYMENT-BASED  
22 PLAN.—(A) Subparagraphs (A) and (B) of section  
23 1837(i)(3) (42 U.S.C. 1395p(i)(3)) are each amend-  
24 ed—

1           (i) by striking “beginning with the first  
2           day of the first month in which the individual  
3           is no longer enrolled” and inserting “including  
4           each month during any part of which the indi-  
5           vidual is enrolled”; and

6           (ii) by striking “and ending seven months  
7           later” and inserting “ending with the last day  
8           of the eighth consecutive month in which the in-  
9           dividual is at no time so enrolled”.

10           (B) Paragraphs (1) and (2) of section 1838(e)  
11           (42 U.S.C. 1395q(e)) are amended to read as fol-  
12           lows:

13           “(1) in any month of the special enrollment pe-  
14           riod in which the individual is at any time enrolled  
15           in a plan (specified in subparagraph (A) or (B), as  
16           applicable, of section 1837(i)(3)) or in the first  
17           month following such a month, the coverage period  
18           shall begin on the first day of the month in which  
19           the individual so enrolls (or, at the option of the in-  
20           dividual, on the first day of any of the following  
21           three months), or

22           “(2) in any other month of the special enroll-  
23           ment period, the coverage period shall begin on the  
24           first day of the month following the month in which  
25           the individual so enrolls.”.

1           (C) The amendments made by subparagraphs  
2           (A) and (B) shall take effect on the first day of the  
3           first month that begins after the expiration of the  
4           120-day period that begins on the date of the enact-  
5           ment of this Act.

6           (2) BLEND AMOUNTS FOR AMBULATORY SUR-  
7           GICAL CENTER PAYMENTS.—Subclauses (I) and (II)  
8           of section 1833(i)(3)(B)(ii) (42 U.S.C.  
9           1395l(i)(3)(B)(ii)) are each amended—

10                   (A) by striking “for reporting” and insert-  
11                   ing “for portions of cost reporting”; and

12                   (B) by striking “and on or before” and in-  
13                   serting “and ending on or before”.

14           (3) CLINICAL DIAGNOSTIC LABORATORY TESTS  
15           (SECTION 4154 OF OBRA–1990).—Section 4154(e)(5)  
16           of OBRA–1990 is amended by striking “(1)(A)” and  
17           inserting “(1)(A),”.

18           (4) SEPARATE PAYMENT UNDER PART B FOR  
19           CERTAIN SERVICES (SECTION 4157 OF OBRA–1990).—  
20           Section 4157(a) of OBRA–1990 is amended by  
21           striking “(a) SERVICES OF” and all that follows  
22           through “Section” and inserting “(a) TREATMENT  
23           OF SERVICES OF CERTAIN HEALTH PRACTITION-  
24           ERS.—Section”.

1           (5) COMMUNITY HEALTH CENTERS AND RURAL  
2 HEALTH CLINICS (SECTION 4161 OF OBRA-1990).—

3           (A) The fourth sentence of section 1861(aa)(2) (42  
4 U.S.C. 1395x(aa)(2)) is amended—

5                   (i) by striking “certification” the first  
6 place it appears and inserting “approval”; and

7                   (ii) by striking “the Secretary’s approval  
8 or disapproval of the certification” and insert-  
9 ing “Secretary’s approval or disapproval”.

10           (B) Section 4161(a)(7)(B) of OBRA-1990 is  
11 amended by inserting “and to the Committee on Fi-  
12 nance of the Senate” after “Representatives”.

13           (6) SCREENING MAMMOGRAPHY (SECTION 4163  
14 OF OBRA-1990).—Section 4163 of OBRA-1990 is  
15 amended—

16           (A) by adding at the end of subsection (d)  
17 the following new paragraph:

18                   “(3) The amendment made by paragraph  
19 (2)(A)(iv) shall apply to screening pap smears per-  
20 formed on or after July 1, 1990.”; and

21           (B) in subsection (e), by striking “The  
22 amendments” and inserting “Except as pro-  
23 vided in subsection (d)(3), the amendments.”.

24           (7) INJECTABLE DRUGS FOR TREATMENT OF  
25 OSTEOPOROSIS.—

1 (A) CLARIFICATION OF DRUGS COV-  
2 ERED.—The section 1861(jj) (42 U.S.C.  
3 1395x(jj)) inserted by section 4156(a)(2) of  
4 OBRA-1990 is amended—

5 (i) in the matter preceding paragraph  
6 (1), by striking “a bone fracture related  
7 to”; and

8 (ii) in paragraph (1), by striking “pa-  
9 tient” and inserting “individual has suf-  
10 fered a bone fracture related to post-meno-  
11 pausal osteoporosis and that the individ-  
12 ual”.

13 (B) LIMITING COVERAGE TO DRUGS PRO-  
14 VIDED BY HOME HEALTH AGENCIES.—(i) The  
15 section 1861(jj) (42 U.S.C. 1395x(jj)) inserted  
16 by section 4156(a)(2) of OBRA-1990 is  
17 amended by striking “if” and inserting “by a  
18 home health agency if”.

19 (ii) Section 1861(m)(5) (42 U.S.C.  
20 1395x(m)(5)) is amended by striking “but ex-  
21 cluding” and inserting “and a covered  
22 osteoporosis drug (as defined in subsection  
23 (kk), but excluding other”.

24 (iii) Section 1861(s)(2) (42 U.S.C.  
25 1395x(s)(2)) is amended—

1 (I) by adding “and” at the end of  
2 subparagraph (N), and

3 (II) by striking subparagraph (O) and  
4 redesignating subparagraph (P) as sub-  
5 paragraph (O).

6 (C) PAYMENT BASED ON REASONABLE  
7 COST.—Section 1833(a)(2) (42 U.S.C.  
8 1395l(a)(2)) is amended—

9 (i) in subparagraph (A), by striking  
10 “health services” and inserting “health  
11 services (other than covered osteoporosis  
12 drug (as defined in section 1861(kk)))”;

13 (ii) by striking “and” at the end of  
14 subparagraph (D);

15 (iii) by striking the semicolon at the  
16 end and inserting “; and”; and

17 (iv) by adding at the end the following  
18 new subparagraph:

19 “(F) with respect to covered osteoporosis  
20 drug (as defined in section 1861(kk)) furnished  
21 by a home health agency, 80 percent of the rea-  
22 sonable cost of such service, as determined  
23 under section 1861(v);”.

24 (D) APPLICATION OF PART B DEDUCT-  
25 IBLE.—Section 1833(b)(2) (42 U.S.C.

1 1395l(b)(2)) is amended by striking “services”  
2 and inserting “services (other than covered  
3 osteoporosis drug (as defined in section  
4 1861(kk)))”.

5 (E) COVERED OSTEOPOROSIS DRUG (SEC-  
6 TION 4156 OF OBRA-1990).—Section 1861 (42  
7 U.S.C. 1395x) is amended, in the subsection  
8 (jj) inserted by section 4156(a)(2) of OBRA-  
9 1990, by striking “(jj) The term” and inserting  
10 “(kk) The term”.

11 (8) OTHER MISCELLANEOUS AND TECHNICAL  
12 CORRECTIONS (SECTION 4164 OF OBRA-1990).—

13 (A) OWNERSHIP DISCLOSURE REQUIRE-  
14 MENTS.—(i) Section 1124A(a)(2)(A) (42  
15 U.S.C. 1320a-3a(a)(2)(A)) is amended by  
16 striking “of the Social Security Act”.

17 (ii) Section 4164(b)(4) of OBRA-1990 is  
18 amended by striking “paragraph” and inserting  
19 “paragraphs”.

20 (B) DIRECTORY OF UNIQUE PHYSICIAN  
21 IDENTIFIER NUMBERS.—Section 4164(c) of  
22 OBRA-1990 is amended by striking “publish”  
23 and inserting “publish, and shall periodically  
24 update,”.

1 (g) EFFECTIVE DATE.—Except as otherwise provided  
2 in this section, the amendments made by this section shall  
3 take effect as if included in the enactment of OBRA–1990.

4 **CHAPTER 2—PROVISIONS RELATING TO**  
5 **PARTS A AND B**

6 **SEC. 5071. ELIMINATION OF ADD-ON FOR OVERHEAD OF**  
7 **HOSPITAL-BASED HOME HEALTH AGENCIES.**

8 (a) GENERAL RULE.—The first sentence of section  
9 1861(v)(1)(L)(ii) (42 U.S.C. 1395x(v)(1)(L)(ii)) is  
10 amended by striking “, with appropriate adjustment for  
11 administrative and general costs of hospital-based agen-  
12 cies”.

13 (b) EFFECTIVE DATE.—The amendment made by  
14 subsection (a) applies to cost reporting periods beginning  
15 after fiscal year 1993.

16 **SEC. 5072. STUDY AND REPORT ON MEDICARE GME PAY-**  
17 **MENTS.**

18 (a) STUDY.—The Secretary of Health and Human  
19 Services shall conduct a study of the methodology used  
20 to determine payments to hospitals under the medicare  
21 program for the costs of medical residency training pro-  
22 grams and shall include in the study an analysis of the  
23 causes of variation among such programs in the per resi-  
24 dent costs of direct graduate medical education, including

1 the extent of support for such programs from non-hospital  
2 sources.

3 (b) REPORT.—Not later than 1 year after the date  
4 of the enactment of this Act, the Secretary shall submit  
5 a report to Congress on the study conducted under sub-  
6 section (a), and shall include in the report any rec-  
7 ommendations considered appropriate by the Secretary for  
8 modifications to the methodology used to determine pay-  
9 ments to hospitals under the medicare program for the  
10 costs of medical residency training programs that will en-  
11 courage greater uniformity among medical residency train-  
12 ing programs in the per resident costs of direct graduate  
13 medical education.

14 **SEC. 5073. MEDICARE AS SECONDARY PAYER.**

15 (a) EXTENSION OF DATA MATCH PROGRAM.—Sec-  
16 tion 1862(b)(5)(C)(iii) (42 U.S.C. 1395y(b)(5)(C)(iii)) is  
17 amended by striking “1995” and inserting “1998”.

18 (b) PERMANENT APPLICATION TO DISABLED INDI-  
19 VIDUALS.—Section 1862(b)(1)(B) (42 U.S.C.  
20 1395y(b)(1)(B)) is amended by striking clause (iii).

21 (c) APPLICATION OF ESRD RULES TO CERTAIN  
22 AGED AND DISABLED BENEFICIARIES AND EXTENSION  
23 OF APPLICATION OF 18-MONTH RULE.—

1           (1) Subparagraphs (A)(iv) and (B)(ii) of section  
2 1862(b)(1) (42 U.S.C. 1395y(b)(1)) are each  
3 amended—

4           (A) by striking “Clause (i) shall not apply”  
5 and inserting “Subparagraph (C) shall apply  
6 instead of clause (i)”, and

7           (B) by inserting “(without regard to enti-  
8 tlement under section 226)” after “or” the sec-  
9 ond place it appears.

10          (2) The second sentence of section  
11 1862(b)(1)(C) is amended by striking “on or before  
12 January 1, 1996” and inserting “before October 1,  
13 1998”.

14 (d) UNIFORM RULES FOR SIZE OF EMPLOYER.—

15          (1) IN GENERAL.—Section 1862(b)(1) (42  
16 U.S.C. 1395y(b)(1)) is amended by adding at the  
17 end the following:

18           “(E) GENERAL PROVISIONS.—

19           “(i) EXCLUSION OF GROUP HEALTH  
20 PLAN OF A SMALL EMPLOYER.—Subpara-  
21 graphs (A) through (C) do not apply to a  
22 group health plan unless the plan is a plan  
23 of, or contributed to by, an employer or  
24 employee organization that has 20 or more  
25 individuals in current employment status

1 for each working day in each of 20 or more  
2 calendar weeks in the current calendar  
3 year or the preceding calendar year.

4 “(ii) EXCEPTION FOR SMALL EMPLOY-  
5 ERS IN MULTIEMPLOYER OR MULTIPLE  
6 EMPLOYER GROUP HEALTH PLANS.—Sub-  
7 paragraphs (A) through (C) also do not  
8 apply with respect to individuals enrolled  
9 in a multiemployer or multiple employer  
10 group health plan if the coverage of the in-  
11 dividuals under the plan is by virtue of  
12 current employment status with an em-  
13 ployer that does not have 20 or more indi-  
14 viduals in current employment status for  
15 each working day in each of 20 or more  
16 calendar weeks in the current calendar  
17 year and the preceding calendar year; but  
18 the exception provided in this clause ap-  
19 plies only if the plan elects treatment  
20 under this clause.

21 “(iii) APPLICATION OF CONTROLLED  
22 GROUP RULES.—For purposes of clauses  
23 (i) and (ii)—

24 “(I) all employees of corporations  
25 which are members of a controlled

1 group of corporations (within the  
2 meaning of section 1563(a) of the In-  
3 ternal Revenue Code of 1986, deter-  
4 mined without regard to subsection  
5 (a)(4) or (e)(3)(C)), shall be treated  
6 as employed by a single employer,

7 “(II) all employees of trades or  
8 businesses (whether or not incor-  
9 porated) which are under common  
10 control (under regulations prescribed  
11 by the Secretary of the Treasury  
12 under section 414(c) of that Code)  
13 shall be treated as employed by a sin-  
14 gle employer,

15 “(III) all employees of the mem-  
16 bers of an affiliated service group (as  
17 defined in section 414(m) of that  
18 Code) shall be treated as employed by  
19 a single employer, and

20 “(IV) leased employees (as de-  
21 fined in section 414(n)(2) of that  
22 Code) shall be treated as employees of  
23 the person for whom they perform  
24 services to the extent they are so

1 treated under section 414(n) of that  
2 Code.

3 In applying sections of the Internal Reve-  
4 nue Code of 1986 under this clause, the  
5 Secretary shall rely upon the regulations  
6 and decisions of the Secretary of the  
7 Treasury respecting such sections.

8 “(iv) GROUP HEALTH PLAN DE-  
9 FINED.—For purposes of this subsection,  
10 the term ‘group health plan’ has the mean-  
11 ing given such term in section 5000(b) of  
12 the Internal Revenue Code of 1986, with-  
13 out regard to section 5000(d) of such  
14 Code.

15 “(v) CURRENT EMPLOYMENT STATUS  
16 DEFINED.—For purposes of this sub-  
17 section, an individual has ‘current employ-  
18 ment status’ with an employer if the indi-  
19 vidual is an employee, is the employer, or  
20 is associated with the employer in a busi-  
21 ness relationship.

22 “(vi) TREATMENT OF SELF-EM-  
23 PLOYED PERSONS AS EMPLOYERS.—For  
24 purposes of this subsection, the term ‘em-  
25 ployer’ includes a self-employed person.”.

1           (2) CONFORMING AMENDMENTS FOR WORKING  
2           AGED.—Section 1862(b)(1)(A) (42 U.S.C.  
3           1395y(b)(1)(A)) is amended—

4                   (A) by amending subclauses (I) and (II) of  
5           clause (i) to read as follows:

6                           “(I) may not take into account  
7                           that an individual (or the individual’s  
8                           spouse) who is covered under the plan  
9                           by virtue of the individual’s current  
10                          employment status with an employer  
11                          is entitled to benefits under this title  
12                          under section 226(a), and

13                          “(II) shall provide that any indi-  
14                          vidual age 65 or over (and the individ-  
15                          ual’s spouse age 65 or older) who is  
16                          covered under the plan by virtue of  
17                          the individual’s current employment  
18                          status with an employer shall be enti-  
19                          tled to the same benefits under the  
20                          plan under the same conditions as any  
21                          such individual (or spouse) under age  
22                          65.”;

23                   (B) by striking clauses (ii), (iii), and (v),

24                   and

1 (C) by redesignating clause (iv) as clause  
2 (ii).

3 (3) AMENDMENTS FOR DISABLED INDIVID-  
4 UALS.—Section 1862(b) (42 U.S.C. 1395y(b)) is  
5 amended—

6 (A) by amending the heading and clause  
7 (i) of paragraph (1)(B) to read as follows:

8 “(B) DISABLED INDIVIDUALS UNDER  
9 GROUP HEALTH PLANS.—

10 “(i) IN GENERAL.—A group health  
11 plan may not take into account that an in-  
12 dividual (or a member of the individual’s  
13 family) who is covered under the plan by  
14 virtue of the individual’s current employ-  
15 ment status with an employer is entitled to  
16 benefits under this title under section  
17 226(b).”;

18 (B) by striking clause (iv) of paragraph  
19 (1)(B); and

20 (C) in the second sentence of paragraph  
21 (2)(A), by striking “or large group health  
22 plan”.

23 (4) AMENDMENTS FOR INDIVIDUALS WITH  
24 ESRD.—Section 1862(b)(1)(C) (42 U.S.C.  
25 1395y(b)(1)(C)) is amended—

1 (A) in the matter preceding clause (i), by  
2 striking “(as defined in paragraph (A)(v))”,

3 (B) by striking “solely” each place it ap-  
4 pears,

5 (C) by striking “by reason of” and insert-  
6 ing “under” each place it appears, and

7 (D) by inserting “or eligible for” after “en-  
8 titled to” each place it appears.

9 (e) SECONDARY PAYER EXEMPTION FOR MEMBERS  
10 OF RELIGIOUS ORDERS.—Effective as if included in the  
11 enactment of OBRA–1989, section 6202(e)(2) of such Act  
12 is amended by adding at the end the following: “Such  
13 amendment also shall apply to items and services fur-  
14 nished before such date with respect to secondary payor  
15 cases which the Secretary of Health and Human Services  
16 had not identified as of such date.”.

17 (f) IMPROVING IDENTIFICATION OF MEDICARE SEC-  
18 ONDARY PAYER SITUATIONS.—

19 (1) SURVEY OF BENEFICIARIES.—

20 (A) IN GENERAL.—Section 1862(b)(5) (42  
21 U.S.C. 1395y(b)(5)) is amended by adding at  
22 the end the following new subparagraph:

23 “(D) OBTAINING INFORMATION FROM  
24 BENEFICIARIES.—Before an individual applies  
25 for benefits under part A or enrolls under part

1 B, the Administrator shall mail the individual a  
2 questionnaire to obtain information on whether  
3 the individual is covered under a primary plan  
4 and the nature of the coverage provided under  
5 the plan, including the name, address, and iden-  
6 tifying number of the plan.”.

7 (B) DISTRIBUTION OF QUESTIONNAIRE BY  
8 CONTRACTOR.—The Secretary of Health and  
9 Human Services shall enter into an agreement  
10 with an entity not later than April 1, 1994, to  
11 distribute the questionnaire described in section  
12 1862(b)(5)(D) of the Social Security Act (as  
13 added by subparagraph (A)).

14 (C) NO MEDICARE SECONDARY PAYOR DE-  
15 NIAL BASED ON FAILURE TO COMPLETE QUES-  
16 TIONNAIRE.—Section 1862(b)(2) (42 U.S.C.  
17 1395y(b)(2)) is amended by adding at the end  
18 the following new subparagraph:

19 “(C) TREATMENT OF QUESTIONNAIRES.—  
20 The Secretary may not fail to make payment  
21 under subparagraph (A) solely on the ground  
22 that an individual failed to complete a question-  
23 naire concerning the existence of a primary  
24 plan.”.

1           (2) MANDATORY SCREENING BY PROVIDERS  
2           AND SUPPLIERS UNDER PART B.—

3           (A) IN GENERAL.—Section 1862(b) (42  
4           U.S.C. 1395y(b)) is amended by adding at the  
5           end the following new paragraph:

6           “(6) SCREENING REQUIREMENTS FOR PROVID-  
7           ERS AND SUPPLIERS.—

8           “(A) IN GENERAL.—Notwithstanding any  
9           other provision of this title, no payment may be  
10          made for any item or service furnished under  
11          part B unless the entity furnishing such item or  
12          service completes (to the best of its knowledge  
13          and on the basis of information obtained from  
14          the individual to whom the item or service is  
15          furnished) the portion of the claim form relat-  
16          ing to the availability of other health benefit  
17          plans.

18          “(B) PENALTIES.—An entity that know-  
19          ingly, willfully, and repeatedly fails to complete  
20          a claim form in accordance with subparagraph  
21          (A) or provides inaccurate information relating  
22          to the availability of other health benefit plans  
23          on a claim form under such subparagraph shall  
24          be subject to a civil money penalty of not to ex-  
25          ceed \$2,000 for each such incident. The provi-

1           sions of section 1128A (other than subsections  
2           (a) and (b)) shall apply to a civil money penalty  
3           under the previous sentence in the same man-  
4           ner as such provisions apply to a penalty or  
5           proceeding under section 1128A(a).”.

6           (B) EFFECTIVE DATE.—The amendment  
7           made by subparagraph (A) shall apply with re-  
8           spect to items and services furnished on or  
9           after January 1, 1994.

10          (g) IMPROVEMENTS IN RECOVERY OF PAYMENTS  
11 FROM PRIMARY PAYERS.—

12           (1) SUBMISSION OF REPORTS ON EFFORTS TO  
13 RECOVER ERRONEOUS PAYMENTS.—Section  
14 1842(b)(3) (42 U.S.C. 1395u(b)(3)) is amended—

15           (A) by striking “and” at the end of sub-  
16           paragraphs (G) and (H); and

17           (B) by inserting after subparagraph (H)  
18           the following new subparagraph:

19           “(I) will submit annual reports to the Secretary  
20           describing the steps taken to recover payments made  
21           under this part for items or services for which pay-  
22           ment has been or could be made under a primary  
23           plan (as defined in section 1862(b)(2)(A)).”.

24           (2) REQUIREMENTS UNDER CARRIER PERFORM-  
25 ANCE EVALUATION PROGRAM.—Section 1842(b)(2)

1 (42 U.S.C. 1395u(b)(2)) is amended by adding at  
2 the end the following new subparagraph:

3 “(D) In addition to any other standards and criteria  
4 established by the Secretary for evaluating carrier per-  
5 formance under this paragraph relating to avoiding erro-  
6 neous payments, the Secretary shall establish standards  
7 and criteria relating to the carrier’s success in recovering  
8 payments made under this part for items or services for  
9 which payment has been or could be made under a pri-  
10 mary plan (as defined in section 1862(b)(2)(A)).”.

11 (3) DEADLINE FOR REIMBURSEMENT BY PRI-  
12 MARY PLANS.—

13 (A) IN GENERAL.—Section  
14 1862(b)(2)(B)(i) (42 U.S.C. 1395y(b)(2)(B)(i))  
15 is amended by adding at the end the following  
16 sentence: “If reimbursement is not made to the  
17 appropriate Trust Fund before the expiration of  
18 the 60-day period that begins on the date such  
19 notice or other information is received, the Sec-  
20 retary may charge interest (beginning with the  
21 date on which the notice or other information  
22 is received) on the amount of the reimburse-  
23 ment until reimbursement is made (at a rate  
24 determined by the Secretary in accordance with

1 regulations of the Secretary of the Treasury ap-  
2 plicable to charges for late payments).”.

3 (B) CONFORMING AMENDMENT.—The  
4 heading of clause (i) of section 1862(b)(2)(B) is  
5 amended to read as follows: “REPAYMENT RE-  
6 QUIRED.—”.

7 (C) EFFECTIVE DATE.—The amendments  
8 made by this paragraph shall apply to payments  
9 for items and services furnished on or after the  
10 date of the enactment of this Act.

11 (4) EFFECTIVE DATE.—The amendments made  
12 by paragraphs (1) and (2) shall apply to contracts  
13 with fiscal intermediaries and carriers under title  
14 XVIII of the Social Security Act for years beginning  
15 with 1994.

16 (h) MISCELLANEOUS AND TECHNICAL CORREC-  
17 TIONS.—

18 (1) The sentence in section 1862(b)(1)(C)  
19 added by section 4203(c)(1)(B) of OBRA-1990 is  
20 amended by striking “clauses (i) and (ii)” and in-  
21 sserting “this subparagraph”.

22 (2) Effective as if included in the enactment of  
23 OBRA-1989, section 1862(b)(1) is amended—

24 (A) in subparagraphs (A)(v) and  
25 (B)(iv)(II), by inserting “, without regard to

1 section 5000(d) of such Code” before the period  
2 at the end of each subparagraph;

3 (B) in subparagraph (A)(iii), by striking  
4 “current calendar year or the preceding cal-  
5 endar year” and inserting “current calendar  
6 year and the preceding calendar year”; and

7 (C) in the matter in subparagraph (C)  
8 after clause (ii), by striking “taking into ac-  
9 count that” and inserting “paying benefits sec-  
10 ondary to this title when”.

11 (3) Section 1862(b)(5)(C)(i) (42 U.S.C.  
12 1395y(b)(5)(C)(i)) is amended by striking  
13 “6103(l)(12)(D)(iii)” and inserting  
14 “6103(l)(12)(E)(iii)”.

15 (4) Section 4203(c)(2) of OBRA-1990 is  
16 amended—

17 (A) by striking “the application of clause  
18 (iii)” and inserting “the second sentence”;

19 (B) by striking “on individuals” and all  
20 that follows through “section 226A of such  
21 Act”;

22 (C) in clause (ii), by striking “clause” and  
23 inserting “sentence”;

24 (D) in clause (v), by adding “and” at the  
25 end; and

1 (E) in clause (vi)—

2 (i) by inserting “of such Act” after  
3 “1862(b)(1)(C)”, and

4 (ii) by striking the period at the end  
5 and inserting the following: “, without re-  
6 gard to the number of employees covered  
7 by such plans.”.

8 (5) Section 4203(d) of OBRA–1990 is amended  
9 by striking “this subsection” and inserting “this sec-  
10 tion”.

11 (6) Except as provided in paragraph (2), the  
12 amendments made by this subsection shall be effec-  
13 tive as if included in the enactment of OBRA–1990  
14 and shall be executed before the amendments made  
15 by subsections (a) through (d) of this section.

16 (i) EFFECTIVE DATE.—

17 (1) IN GENERAL.—Except as otherwise pro-  
18 vided in this section, the amendments made by this  
19 section shall take effect on the date of the enactment  
20 of this Act.

21 (2) ESRD AND UNIFORM SIZE RULES.—The  
22 amendments made by subsections (c) and (d) apply  
23 to items and services furnished on or after January  
24 1, 1994.

1 **SEC. 5074. EXTENSION OF SELF-REFERRAL BAN TO ADDI-**  
2 **TIONAL SPECIFIED SERVICES.**

3 (a) EXTENSION TO DESIGNATED HEALTH SERV-  
4 ICES.—

5 (1) IN GENERAL.—Section 1877 (42 U.S.C.  
6 1395nn) is amended—

7 (A) by striking “clinical laboratory serv-  
8 ices” and “CLINICAL LABORATORY SERVICES”  
9 and inserting “designated health services” and  
10 “DESIGNATED HEALTH SERVICES”, respectively,  
11 each place either appears in subsections (a)(1),  
12 (b)(2)(A)(ii), (b)(4), (d)(1), (d)(2), and (d)(3);  
13 and

14 (B) by adding at the end the following new  
15 subsection:

16 “(i) DESIGNATED HEALTH SERVICES DEFINED.—In  
17 this section, the term ‘designated health services’ means—

18 “(1) clinical laboratory services;

19 “(2) physical or occupational therapy services;

20 “(3) radiology or other diagnostic services;

21 “(4) radiation therapy services;

22 “(5) the furnishing of durable medical equip-  
23 ment;

24 “(6) the furnishing of parenteral and enteral  
25 nutrition nutrients, supplies, and equipment;

26 “(7) home health services; and

1 “(8) home infusion therapy services.”.

2 (2) CONFORMING AMENDMENTS.—Section 1877  
3 is further amended—

4 (A) in subsection (g)(1), by striking “clini-  
5 cal laboratory service” and inserting “des-  
6 ignated health service”, and

7 (B) in subsection (h)(7)(B), by striking  
8 “clinical laboratory service” and inserting “des-  
9 ignated health service”.

10 (b) MULTIPLE LOCATIONS FOR GROUP PRAC-  
11 TICES.—Section 1877(b)(2)(A)(ii)(II) (42 U.S.C.  
12 1395nn(b)(2)(A)(ii)(II)) is amended by striking “central-  
13 ized provision” and inserting “provision of some or all”.

14 (c) TREATMENT OF COMPENSATION ARRANGE-  
15 MENTS.—

16 (1) RENTAL OF OFFICE SPACE AND EQUIP-  
17 MENT.—Paragraph (1) of section 1877(e) (42  
18 U.S.C. 1395nn(e)) is amended to read as follows:

19 “(1) RENTAL OF OFFICE SPACE; RENTAL OF  
20 EQUIPMENT.—

21 “(A) OFFICE SPACE.—Payments made by  
22 a lessee to a lessor for the use of premises if—

23 “(i) the lease is set out in writing,  
24 signed by the parties, and specifies the  
25 premises covered by the lease,

1           “(ii) the aggregate space rented or  
2 leased is reasonable and necessary for the  
3 legitimate business purposes of the lease or  
4 rental and is used exclusively by the lessee  
5 when being used by the lessee,

6           “(iii) the lease provides for a term of  
7 rental or lease for at least one year,

8           “(iv) the rental charges over the term  
9 of the lease are set in advance, are consist-  
10 ent with fair market value, and are not de-  
11 termined in a manner that takes into ac-  
12 count the volume or value of any referrals  
13 or other business generated between the  
14 parties,

15           “(v) the lease would be commercially  
16 reasonable even if no referrals were made  
17 between the parties,

18           “(vi) the lease covers all of the prem-  
19 ises leased between the parties for the pe-  
20 riod of the lease, and

21           “(vii) the compensation arrangement  
22 meets such other requirements as the Sec-  
23 retary may impose by regulation as needed  
24 to protect against program or patient  
25 abuse.

1           “(B) EQUIPMENT.—Payments made by a  
2 lessee of equipment to the lessor of the equip-  
3 ment for the use of the equipment if—

4           “(i) the lease is set out in writing,  
5 signed by the parties, and specifies the  
6 equipment covered by the lease,

7           “(ii) the equipment rented or leased is  
8 reasonable and necessary for the legitimate  
9 business purposes of the lease or rental  
10 and is used exclusively by the lessee when  
11 being used by the lessee,

12           “(iii) the lease provides for a term of  
13 rental or lease of at least one year,

14           “(iv) the rental charges over the term  
15 of the lease are set in advance, are consist-  
16 ent with fair market value, and are not de-  
17 termined in a manner that takes into ac-  
18 count the volume or value of any referrals  
19 or other business generated between the  
20 parties,

21           “(v) the lease would be commercially  
22 reasonable even if no referrals were made  
23 between the parties,

1           “(vi) the lease covers all of the equip-  
2           ment leased between the parties for the pe-  
3           riod of the lease, and

4           “(vii) the compensation arrangement  
5           meets such other requirements as the Sec-  
6           retary may impose by regulation as needed  
7           to protect against program or patient  
8           abuse.”.

9           (2) BONA FIDE EMPLOYMENT RELATION-  
10          SHIPS.—Section 1877(e)(2) (42 U.S.C.  
11          1395nn(e)(2)) is amended—

12           (A) by striking “AND SERVICE” and “WITH  
13          HOSPITALS”;

14           (B) by striking “An arrangement” and all  
15          that follows through “if” and inserting “Any  
16          amount paid by an employer to a physician (or  
17          immediate family member) who has a bona fide  
18          employment relationship with the employer for  
19          the provision of services if”;

20           (C) in subparagraphs (A), (B), and (D), by  
21          striking “arrangement” and inserting “employ-  
22          ment”;

23           (D) in subparagraph (C), by striking “to  
24          the hospital”; and

25           (E) by adding at the end the following:

1 “Subparagraph (B)(ii) shall not be construed as pro-  
2 hibiting the payment of remuneration in the form of  
3 shares of overall profits or in the form of a produc-  
4 tivity bonus based on services performed personally  
5 by the physician or member, if the amount of the re-  
6 muneration is not determined in a manner that  
7 takes into account directly the volume or value of  
8 any referrals by the referring physician.”.

9 (3) PERSONAL SERVICE ARRANGEMENTS.—Sec-  
10 tion 1877(e) is further amended by adding at the  
11 end the following new paragraph:

12 “(7) PERSONAL SERVICE ARRANGEMENTS.—Re-  
13 muneration from an entity under an arrangement  
14 if—

15 “(A) the arrangement is set out in writing,  
16 signed by the parties, and specifies the services  
17 covered by the arrangement,

18 “(B) the arrangement covers all of the  
19 services to be provided,

20 “(C) the aggregate services contracted for  
21 do not exceed those that are reasonable and  
22 necessary for the legitimate business purposes  
23 of the arrangement,

24 “(D) the term of the arrangement is for at  
25 least one year,

1           “(E) the compensation to be paid over the  
2 term of the arrangement is set in advance, does  
3 not exceed fair market value, and is not deter-  
4 mined in a manner that takes into account the  
5 volume or value of any referrals or other busi-  
6 ness generated between the parties,

7           “(F) the services to be performed under  
8 the arrangement do not involve the counseling  
9 or promotion of a business arrangement of  
10 other activity that violates any State or Federal  
11 law, and

12           “(G) the arrangement meets such other re-  
13 quirements as the Secretary may impose by reg-  
14 ulation as needed to protect against program or  
15 patient abuse.”.

16           (4)     ADDITIONAL     EXCEPTIONS.—Section  
17 1877(e) is further amended by adding at the end the  
18 following new paragraphs:

19           “(8) PAYMENTS BY A PHYSICIAN FOR ITEMS  
20 AND SERVICES.—Payments made by a physician—

21           “(A) to a laboratory in exchange for the  
22 provision of clinical laboratory services, or

23           “(B) to an entity as compensation for  
24 other items or services if the items or services

1           are furnished at a price that is consistent with  
2           fair market value.

3           “(9) PAYMENTS FOR PATHOLOGY SERVICES OF  
4           A GROUP PRACTICE.—Payments made to a group  
5           practice for pathology services under an agreement  
6           if—

7                   “(A) the agreement is set out in writing  
8                   and specifies the services to be provided by the  
9                   parties and the compensation for services pro-  
10                  vided under the agreement,

11                   “(B) the compensation paid over the term  
12                   of the agreement is consistent with fair market  
13                   value and is not determined in a manner that  
14                   takes into account the volume or value of any  
15                   referrals or other business generated between  
16                   the parties,

17                   “(C) the compensation is provided pursu-  
18                   ant to an agreement which would be commer-  
19                   cially reasonable even if no referrals were made  
20                   to the entity, and

21                   “(D) the compensation arrangement be-  
22                   tween the parties meets such other require-  
23                   ments as the Secretary may impose by regula-  
24                   tion as needed to protect against program or  
25                   patient abuse.”.

1           (4) REFERRING PHYSICIANS.—Section  
2 1877(h)(7)(C) (42 U.S.C. 1395nn(h)(7)(C)) is  
3 amended—

4           (A) by inserting “a request by a radiologist  
5 for diagnostic radiology services, and a request  
6 by a radiation oncologist for radiation therapy,”  
7 after “examination services,” and

8           (B) by inserting “, radiologist, or radiation  
9 oncologist” after “pathologist” the second place  
10 it appears.

11 (d) TREATMENT OF GROUP PRACTICES.—

12           (1) USE OF BILLING NUMBERS, ETC.—Section  
13 1877 is amended—

14           (A) in subsection (b)(2)(B), by inserting  
15 “under a billing number assigned to the group  
16 practice” after “member”,

17           (B) in subsection (h)(4)(B), by inserting  
18 “and under a billing number assigned to the  
19 group” after “in the name of the group”, and

20           (C) in subsection (h)(4)(C), by striking  
21 “by members of the group”.

22           (2) TREATMENT OF SERVICES UNDER AR-  
23 RANGEMENTS BETWEEN HOSPITALS AND GROUP  
24 PRACTICES.—

1 (A) IN GENERAL.—Section 1877(h)(4) (42  
2 U.S.C. 1395nn(h)(4)) is amended—

3 (i) in subparagraph (B) (as amended  
4 by paragraph (1)(B)), by inserting “(or  
5 are billed in the name of a hospital for  
6 which the group provides designated health  
7 services pursuant to an arrangement that  
8 meets the requirements of subparagraph  
9 (B))” after “assigned to the group”;

10 (ii) by redesignating subparagraphs  
11 (A) through (D) as clauses (i) through  
12 (iv), respectively;

13 (iii) by inserting “(A)” after “.—”;  
14 and

15 (iv) by adding at the end the following  
16 new subparagraph:

17 “(B) The requirements of this subparagraph,  
18 with respect to an arrangement for designated  
19 health services provided by the group and billed in  
20 the name of a hospital, are that—

21 “(i) with respect to services provided to an  
22 inpatient of the hospital, the arrangement is  
23 pursuant to the provision of inpatient hospital  
24 services under section 1861(b)(3);

1           “(ii) the arrangement began before Decem-  
2 ber 19, 1989, and has continued in effect with-  
3 out interruption since such date;

4           “(iii) the group provides substantially all of  
5 the designated health services to the hospital’s  
6 patients;

7           “(iv) the arrangement is pursuant to an  
8 agreement that is set out in writing and that  
9 specifies the services to be provided by the par-  
10 ties and the compensation for services provided  
11 under the agreement;

12           “(v) the compensation paid over the term  
13 of the agreement is consistent with fair market  
14 value and the compensation per unit of services  
15 is fixed in advance and is not determined in a  
16 manner that takes into account the volume or  
17 value of any referrals or other business gen-  
18 erated between the parties;

19           “(vi) the compensation is provided pursu-  
20 ant to an agreement which would be commer-  
21 cially reasonable even if no referrals were made  
22 to the entity; and

23           “(vii) the arrangement between the parties  
24 meets such other requirements as the Secretary

1           may impose by regulation as needed to protect  
2           against program or patient abuse.”.

3           (B) CONFORMING AMENDMENT.—Section  
4           1877(b)(2)(B) (42 U.S.C. 1395nn(b)(2)(B)) is  
5           amended by inserting “(or by a hospital for  
6           which such a group practice provides designated  
7           health services pursuant to an arrangement  
8           that meets the requirements of subsection  
9           (h)(4)(B))” after “by a group practice of which  
10          such physician is a member”.

11          (3) TREATMENT OF CERTAIN FACULTY PRAC-  
12          TICE PLANS.—The last sentence of section  
13          1877(h)(4)(A) (42 U.S.C. 1395nn(h)(4)(A)), as re-  
14          designated by paragraph (1)(A), is amended by in-  
15          serting “, institution of higher education, or medical  
16          school” after “hospital”.

17          (e) EXPANDING RURAL PROVIDER EXCEPTION TO  
18          COVER COMPENSATION ARRANGEMENTS.—

19               (1) IN GENERAL.—Section 1877(b) (42 U.S.C.  
20               1395nn(b)) is amended—

21                       (A) by redesignating paragraph (5) as  
22                       paragraph (7), and

23                       (B) by inserting after paragraph (4) the  
24                       following new paragraph:

1           “(5) RURAL PROVIDERS.—In the case of des-  
2           ignated services if—

3                   “(A) the entity furnishing the services is in  
4                   a rural area (as defined in section  
5                   1886(d)(2)(D)), and

6                   “(B) substantially all of the services fur-  
7                   nished by the entity to individuals entitled to  
8                   benefits under this title are furnished to such  
9                   individuals who reside in such a rural area.”.

10           (2) CONFORMING AMENDMENTS.—Section  
11           1877(d) (42 U.S.C. 1395nn(d)) is amended—

12                   (A) by striking paragraph (2), and

13                   (B) by redesignating paragraph (3) as  
14                   paragraph (2).

15           (f) EXCEPTION FOR SHARED FACILITY LABORATORY  
16           SERVICES.—

17                   (1) IN GENERAL.—Section 1877 is amended—

18                   (A) in subsection (b), as amended by sub-  
19                   section (e)(1), by inserting after paragraph (5)  
20                   the following new paragraph:

21                   “(6) SHARED FACILITY LABORATORY SERV-  
22                   ICES.—

23                   “(A) IN GENERAL.—In the case of shared  
24                   facility laboratory services of a shared facility—

25                   “(i) that are furnished—

1           “(I) personally by the referring  
2           physician who is a shared facility phy-  
3           sician or personally by an individual  
4           supervised by such a physician or by  
5           another shared facility physician and  
6           employed under the shared facility ar-  
7           rangement,

8           “(II) by a shared facility in a  
9           building in which the referring physi-  
10          cian furnishes physician’s services un-  
11          related to the furnishing of shared fa-  
12          cility laboratory services, and

13          “(III) to a patient of a shared fa-  
14          cility physician; and

15          “(ii) that are billed by the referring  
16          physician or by an entity that is wholly  
17          owned by such physician.

18          “(B) LIMITATION.—The exception under  
19          this paragraph shall only apply to a shared fa-  
20          cility only if the facility and the shared facility  
21          arrangement were established as of June 26,  
22          1992.”; and

23          (B) in subsection (h), by adding at the end  
24          the following new paragraph:

1           “(8) SHARED FACILITY RELATED DEFINI-  
2 TIONS.—

3           “(A) SHARED FACILITY LABORATORY  
4 SERVICES.—The term ‘shared facility laboratory  
5 services’ means, with respect to a shared facil-  
6 ity, clinical laboratory services furnished by the  
7 facility to patients of shared facility physicians.

8           “(B) SHARED FACILITY.—The term  
9 ‘shared facility’ means an entity that furnishes  
10 shared facility laboratory services under a  
11 shared facility arrangement.

12           “(C) SHARED FACILITY PHYSICIAN.—The  
13 term ‘shared facility physician’ means, with re-  
14 spect to a shared facility, a physician who has  
15 a financial relationship under a shared facility  
16 arrangement with the facility.

17           “(D) SHARED FACILITY ARRANGEMENT.—  
18 The term ‘shared facility arrangement’ means,  
19 with respect to the provision of shared facility  
20 laboratory services in a building, a financial ar-  
21 rangement—

22           “(i) which is only between physicians  
23 who are providing services (unrelated to  
24 shared facility laboratory services) in the  
25 same building,

1           “(ii) in which the overhead expenses  
2           of the facility are shared, in accordance  
3           with methods previously determined by the  
4           physicians in the arrangement, among the  
5           physicians in the arrangement, and

6           “(iii) which, in the case of a corpora-  
7           tion, is wholly owned and controlled by  
8           shared facility physicians.”.

9           (2) GAO STUDY OF SHARED FACILITY AR-  
10          RANGEMENTS.—

11           (A) IN GENERAL.—The Comptroller Gen-  
12          eral shall analyze the effect on the utilization of  
13          health services of shared facility arrangements  
14          for which an exception is provided under the  
15          amendments made by paragraph (1). The anal-  
16          ysis shall include a review of the effect of the  
17          limitation, described in section 1877(b)(6)(B) of  
18          the Social Security Act (as added by paragraph  
19          (1)), with respect to such exception and on the  
20          availability of services (including hematology  
21          services).

22           (B) REPORT.—Not later than January 1,  
23          1995, the Comptroller General shall submit a  
24          report to Congress on the analysis conducted  
25          under subparagraph (A). The report shall in-

1           clude recommendations with respect to chang-  
2           ing the limitation.

3           (g) EXEMPTION OF COMPENSATION ARRANGEMENTS  
4 INVOLVING CERTAIN TYPES OF REMUNERATION.—Sec-  
5 tion 1877(h)(1) (42 U.S.C. 1395nn(h)(1)) is amended—

6           (1) by striking subparagraph (B);

7           (2) in subparagraph (A), by inserting before the  
8 period the following: “(other than an arrangement  
9 involving only remuneration described in subpara-  
10 graph (B))”; and

11           (3) by adding at the end the following new sub-  
12 paragraph:

13           “(B) Remuneration described in this subpara-  
14 graph is any remuneration consisting of any of the  
15 following:

16           “(i) The forgiveness of amounts owed for  
17 inaccurate tests or procedures, mistakenly per-  
18 formed tests or procedures, or the correction of  
19 minor billing errors.

20           “(ii) The provision of items, devices, or  
21 supplies that are used solely to—

22           “(I) collect, transport, process, or  
23 store specimens for the entity providing  
24 the item, device, or supply, or

1                   “(II) communicate the results of tests  
2                   or procedures for such entity.”.

3           (h) EXCEPTION FOR PUBLICLY-TRADED SECURI-  
4 TIES.—Section 1877(c)(2) (42 U.S.C. 1395nn(d)(2)) is  
5 amended by striking “total assets exceeding  
6 \$100,000,000” and inserting “stockholder exceed-  
7 ing \$75,000,000”.

8           (i) MISCELLANEOUS AND TECHNICAL CORREC-  
9 TIONS.—Section 1877 (42 U.S.C. 1395nn) is amended—

10           (1) in subsection (b)(2)(A)(i), in subparagraph  
11           (A)(i), by striking “who are employed by such physi-  
12           cian or group practice and who are personally” and  
13           inserting “who are directly”;

14           (2) in the fourth sentence of subsection (f)—

15                   (A) by striking “provided” and inserting  
16                   “furnished”, and

17                   (B) by striking “provides” and inserting  
18                   “furnish”;

19           (3) in the fifth sentence of subsection (f)—

20                   (A) by striking “providing” each place it  
21                   appears and inserting “furnishing”,

22                   (B) by striking “with respect to the provid-  
23                   ers” and inserting “with respect to the enti-  
24                   ties”, and

1 (C) by striking “diagnostic imaging serv-  
2 ices of any type” and inserting “magnetic reso-  
3 nance imaging, computerized axial tomography  
4 scans, and ultrasound services”; and

5 (4) in subsection (a)(2)(B), by striking “sub-  
6 section (h)(1)(A)” and inserting “subsection (h)(1)”.

7 (j) EFFECTIVE DATES.—

8 (1) The amendments made by subsection (a)  
9 apply with respect to a referral by a physician for  
10 designated health services (as described in section  
11 1877(i) of the Social Security Act) made after De-  
12 cember 31, 1994.

13 (2) The amendments made by this section  
14 (other than subsection (a)) shall apply to referrals  
15 made on or after January 1, 1992.

16 **SEC. 5075. REDUCTION IN PAYMENT FOR ERYTHRO-**  
17 **POIETIN.**

18 (a) IN GENERAL.—Section 1881(b)(11)(B)(ii)(I) (42  
19 U.S.C. 1395rr(b)(11)(B)(ii)(I)) is amended—

20 (1) by striking “1991” and inserting “1994”,  
21 and

22 (2) by striking “\$11” and inserting “\$10”.

23 (b) EFFECTIVE DATE.—The amendments made by  
24 subsection (a) apply to erythropoietin furnished after  
25 1993.

1 **SEC. 5076. MEDICARE HOSPITAL AGREEMENTS WITH**  
2 **ORGAN PROCUREMENT ORGANIZATIONS.**

3 (a) IN GENERAL.—Section 1138(a)(1) (42 U.S.C.  
4 1320b–8(a)(1)) is amended—

5 (1) by striking “and” at the end of subpara-  
6 graph (A),

7 (2) by striking the period at the end of sub-  
8 paragraph (B) and inserting “; and”, and

9 (3) by adding at the end the following new sub-  
10 paragraph:

11 “(C) in the case of a hospital or rural primary  
12 care hospital that has in effect an agreement (de-  
13 scribed in section 371(b)(3)(A) of the Public Health  
14 Service Act) with an organ procurement organiza-  
15 tion, the agreement is with such organization for the  
16 service area in which the hospital is located (as es-  
17 tablished under such section).”.

18 (b) EFFECTIVE DATE.—The amendments made by  
19 subsection (a) shall apply to hospitals participating in the  
20 programs under titles XVIII and XIX of the Social Secu-  
21 rity Act as of January 1, 1994.

22 **SEC. 5077. EXTENSION OF WAIVER FOR WATTS HEALTH**  
23 **FOUNDATION.**

24 Section 9312(c)(3)(D) of OBRA–1986, as added by  
25 section 4018(d) of OBRA–1987 and as amended by sec-

1 tion 6212(a)(1) of OBRA–1989, is amended by striking  
2 “1994” and inserting “1996”.

3 **SEC. 5078. IMPROVED OUTREACH FOR QUALIFIED MEDI-**  
4 **CARE BENEFICIARIES.**

5 The Secretary of Health and Human Services shall  
6 establish and implement a method for obtaining informa-  
7 tion from newly eligible medicare beneficiaries that may  
8 be used to determine whether such beneficiaries may be  
9 eligible for medical assistance for medicare cost-sharing  
10 under State medicaid plans as qualified medicare bene-  
11 ficiaries, and for transmitting such information to the  
12 State in which such a beneficiary resides.

13 **SEC. 5079. SOCIAL HEALTH MAINTENANCE ORGANIZA-**  
14 **TIONS.**

15 (a) EXTENSION OF CURRENT WAIVERS.—Section  
16 4018(b) of OBRA–1987, as amended by section  
17 4207(b)(4) of OBRA–1990, is amended—

18 (1) in paragraph (1) by striking “December 31,  
19 1995” and inserting “December 31, 1997”; and

20 (2) in paragraph (4) by striking “March 31,  
21 1996” and inserting “March 31, 1998”.

22 (b) EXPANSION OF DEMONSTRATIONS.—Section  
23 2355 of the Deficit Reduction Act of 1984, as amended  
24 by section 4207(b)(4)(B) of OBRA–1990, is amended—

1 (1) in the last sentence of subsection (a) by  
2 striking “12 months” and inserting “36 months”;  
3 and

4 (2) in subsection (b)(1)(B)—

5 (A) by striking “or” at the end of clause  
6 (iii), and

7 (B) by redesignating clause (iv) as clause  
8 (v) and inserting after clause (iii) the following  
9 new clause:

10 “(iv) integrating acute and chronic  
11 care management for patients with end-  
12 stage renal disease through expanded com-  
13 munity care case management services  
14 (and for purposes of a demonstration  
15 project conducted under this clause, any  
16 requirement under a waiver granted under  
17 this section that a project disenroll individ-  
18 uals who develop end-stage renal disease  
19 shall not apply); or”.

20 (c) EXPANSION OF NUMBER OF MEMBERS PER  
21 SITE.—The Secretary of Health and Human Services may  
22 not impose a limit of less than 12,000 on the number of  
23 individuals that may participate in a project conducted  
24 under section 2355 of the Deficit Reduction Act of 1984.

1 (d) MISCELLANEOUS AND TECHNICAL CORREC-  
2 TIONS.—

3 (1) The section following section 4206 of  
4 OBRA–1990 is amended by striking “SEC. 4027.”  
5 and inserting “SEC. 4207.”, and in this subtitle is  
6 referred to as section 4207 of OBRA–1990.

7 (2) Section 2355(b)(1)(B) of the Deficit Reduc-  
8 tion Act of 1984, as amended by section  
9 4207(b)(4)(B)(ii) of OBRA–1990, is amended—

10 (A) by striking “12907(c)(4)(A)” and in-  
11 serting “4207(b)(4)(B)(i)”, and

12 (B) by striking “feasibilitly” and inserting  
13 “feasibility”.

14 (3) Section 4207(b)(4)(B)(iii)(III) of OBRA–  
15 1990 is amended by striking the period at the end  
16 and inserting a semicolon.

17 (4) Subsections (c)(3) and (e) of section 2355  
18 of the Deficit Reduction Act of 1984, as amended by  
19 section 4207(b)(4)(B) of OBRA–1990, are each  
20 amended by striking “12907(c)(4)(A)” each place it  
21 appears and inserting “4207(b)(4)(B)”.

22 (5) Section 4207(c)(2) of OBRA–1990 is  
23 amended by striking “the Committee on Ways and  
24 Means” each place it appears and inserting “the

1 Committees on Ways and Means and Energy and  
2 Commerce”.

3 (6) Section 4207(d) of OBRA–1990 is amended  
4 by redesignating the second paragraph (3) (relating  
5 to effective date) as paragraph (4).

6 (7) Section 4207(i)(2) of OBRA–1990 is  
7 amended—

8 (A) by striking the period at the end of  
9 clause (iii) and inserting a semicolon, and

10 (B) in clause (v), by striking “residents”  
11 and inserting “patients”.

12 (8) Section 4207(j) of OBRA–1990 is amended  
13 by striking “title” each place it appears and insert-  
14 ing “subtitle”.

15 (e) EFFECTIVE DATE.—The amendments made by  
16 this section shall take effect as if included in the enact-  
17 ment of OBRA–90.

18 **SEC. 5080. PEER REVIEW ORGANIZATIONS.**

19 (a) REPEAL OF PRO PRECERTIFICATION REQUIRE-  
20 MENT FOR CERTAIN SURGICAL PROCEDURES.—

21 (1) IN GENERAL.—Section 1164 (42 U.S.C.  
22 1320c–13) is repealed.

23 (2) CONFORMING AMENDMENTS.—

24 (A) Section 1154 (42 U.S.C. 1320c–3) is  
25 amended—

1 (i) in subsection (a), by striking para-  
2 graph (12), and

3 (ii) in subsection (d), by striking  
4 “(and except as provided in section  
5 1164)”.

6 (B) Section 1833 (42 U.S.C. 1395l) is  
7 amended—

8 (i) in subsection (a)(1)(D)(i), by strik-  
9 ing “, or for tests furnished in connection  
10 with obtaining a second opinion required  
11 under section 1164(c)(2) (or a third opin-  
12 ion, if the second opinion was in disagree-  
13 ment with the first opinion)”;

14 (ii) in subsection (a)(1), by striking  
15 clause (G);

16 (iii) in subsection (a)(2)(A), by strik-  
17 ing “to items and services (other than clin-  
18 ical diagnostic laboratory tests) furnished  
19 in connection with obtaining a second opin-  
20 ion required under section 1164(c)(2) (or a  
21 third opinion, if the second opinion was in  
22 disagreement with the first opinion),”;

23 (iv) in subsection (a)(2)(D)(i)—

24 (I) by striking “related basis,”  
25 and inserting “related basis or”, and

1 (II) by striking “, or for tests  
2 furnished in connection with obtaining  
3 a second opinion required under sec-  
4 tion 1164(c)(2) (or a third opinion, if  
5 the second opinion was in disagree-  
6 ment with the first opinion))”;

7 (v) in subsection (a)(3), by striking  
8 “and for items and services furnished in  
9 connection with obtaining a second opinion  
10 required under section 1164(c)(2), or a  
11 third opinion, if the second opinion was in  
12 disagreement with the first opinion)”;

13 (vi) in the first sentence of subsection  
14 (b), by striking “(4)” and all that follow  
15 through “and (5)” and inserting “and  
16 (4)”.

17 (C) Section 1834(g)(1)(B) (42 U.S.C.  
18 1395m(g)(1)(B)) is amended by striking “and  
19 for items and services furnished in connection  
20 with obtaining a second opinion required under  
21 section 1164(c)(2), or a third opinion, if the  
22 second opinion was in disagreement with the  
23 first opinion)”.

24 (D) Section 1862(a) (42 U.S.C. 1395y(a))  
25 is amended—

1 (i) by adding “or” at the end of para-  
2 graph (14),

3 (ii) by striking “; or” at the end of  
4 paragraph (15) and inserting a period, and

5 (iii) by striking paragraph (16).

6 (E) The third sentence of section  
7 1866(a)(2)(A) (42 U.S.C. 1395w(a)(2)(A)) is  
8 amended by striking “, with respect to items  
9 and services furnished in connection with ob-  
10 taining a second opinion required under section  
11 1164(c)(2) (or a third opinion, if the second  
12 opinion was in disagreement with the first opin-  
13 ion),”.

14 (3) EFFECTIVE DATE.—The amendments made  
15 by this subsection shall apply to services provided on  
16 or after the date of the enactment of this Act.

17 (b) MISCELLANEOUS AND TECHNICAL CORREC-  
18 TIONS.—(1) The third sentence of section 1156(b)(1) (42  
19 U.S.C. 1320c-5(b)(1)) is amended by striking “whehter”  
20 and inserting “whether”.

21 (2)(A) Subparagraph (B) of section 1154(a)(9) (42  
22 U.S.C. 1320c-3(a)(9)) is amended to read as follows:

23 “(B) If the organization finds, after reasonable  
24 notice and opportunity for discussion with the physi-  
25 cian or practitioner concerned, that the physician or

1 practitioner has furnished services in violation of  
2 section 1156(a), the organization shall notify the  
3 State board or boards responsible for the licensing  
4 or disciplining of the physician or practitioner of its  
5 finding and of any action taken as a result of the  
6 finding.”.

7 (B) Subparagraph (D) of section 1160(b)(1) (42  
8 U.S.C. 1320c-9(b)(1)) is amended to read as follows:

9 “(D) to provide notice in accordance with  
10 section 1154(a)(9)(B);”.

11 (3) Section 4205(d)(2)(B) of OBRA-1990 is amend-  
12 ed by striking “amendments” and inserting “amend-  
13 ment”.

14 (4) Section 1160(d) (42 U.S.C. 1320c-9(d)) is  
15 amended by striking “subpena” and inserting “subpoena”.

16 (5) Section 4205(e)(2) of OBRA-1990 is amended  
17 by striking “amendments” and inserting “amendment”  
18 and by striking “all”.

19 (6)(A) Except as provided in subparagraph (B), the  
20 amendments made by this subsection shall take effect as  
21 if included in the enactment of OBRA-1990.

22 (B) The amendments made by paragraph (2) (relat-  
23 ing to the requirement on reporting of information to  
24 State boards) shall take effect on the date of the enact-  
25 ment of this Act.

1 **SEC. 5081. HOSPICE INFORMATION TO HOME HEALTH**  
2 **BENEFICIARIES.**

3 (a) IN GENERAL.—Section 1891(a)(1) (42 U.S.C.  
4 1395bbb(a)(1)) is amended by adding at the end the fol-  
5 lowing new subparagraph:

6 “(H) The right, in the case of a resident  
7 who is entitled to benefits under this title, to be  
8 fully informed orally and in writing (at the time  
9 of coming under the care of the agency) of the  
10 entitlement of individuals to hospice care under  
11 section 1812(a)(4) (unless there is no hospice  
12 program providing hospice care for which pay-  
13 ment may be made under this title within the  
14 geographic area of the facility and it is not the  
15 common practice of the agency to refer patients  
16 to hospice programs located outside such geo-  
17 graphic area).”.

18 (b) EFFECTIVE DATE.—The amendment made by  
19 subsection (a) shall apply to services furnished on or after  
20 the first day of the first month beginning more than one  
21 year after the date of the enactment of this Act.

22 **SEC. 5082. HEALTH MAINTENANCE ORGANIZATIONS.**

23 (a) ADJUSTMENT IN MEDICARE CAPITATION PAY-  
24 MENTS TO ACCOUNT FOR REGIONAL VARIATIONS IN AP-  
25 PPLICATION OF SECONDARY PAYOR PROVISIONS.—

1           (1) IN GENERAL.—Section 1876(a)(4) (42  
2 U.S.C. 1395mm(a)(4)) is amended by adding at the  
3 end the following new sentence: “In establishing the  
4 adjusted average per capita cost for a geographic  
5 area, the Secretary shall take into account the dif-  
6 ferences between the proportion of individuals in the  
7 area with respect to whom there is a group health  
8 plan that is a primary payor (within the meaning of  
9 section 1862(b)(2)(A)) compared to the proportion  
10 of all such individuals with respect to whom there is  
11 such a group health plan.”.

12           (2) EFFECTIVE DATE.—The amendment made  
13 by paragraph (1) shall apply to contracts entered  
14 into for years beginning with 1994.

15           (b) REVISIONS IN THE PAYMENT METHODOLOGY  
16 FOR RISK CONTRACTORS.—Section 4204(b) of OBRA-  
17 1990 is amended to read as follows:

18           “(b) REVISIONS IN THE PAYMENT METHODOLOGY  
19 FOR RISK CONTRACTORS.—(1)(A) Not later than January  
20 1, 1995, the Secretary of Health and Human Services (in  
21 this subsection referred to as the “Secretary”) shall sub-  
22 mit a proposal to the Congress that provides for revisions  
23 to the payment method to be applied in years beginning  
24 with 1996 for organizations with a risk-sharing contract  
25 under section 1876(g) of the Social Security Act.

1 “(B) In proposing the revisions required under sub-  
2 paragraph (A) the Secretary shall consider—

3 “(i) the difference in costs associated with med-  
4 icare beneficiaries with differing health status and  
5 demographic characteristics; and

6 “(ii) the effects of using alternative geographic  
7 classifications on the determinations of costs associ-  
8 ated with beneficiaries residing in different areas.

9 “(2) Not later than 3 months after the date of sub-  
10 mittal of the proposal made pursuant to paragraph (1),  
11 the Comptroller General shall review the proposal and  
12 shall report to Congress on the appropriateness of the pro-  
13 posed modifications.”.

14 (c) MISCELLANEOUS AND TECHNICAL CORREC-  
15 TIONS.—(1) Section 1876(a)(3) (42 U.S.C.  
16 1395mm(a)(3)) is amended by striking “subsection  
17 (c)(7)” and inserting “subsections (c)(2)(B)(ii) and  
18 (c)(7)”.

19 (2) Section 4204(c)(3) of OBRA–1990 is amended  
20 by striking “for 1991” and inserting “for years beginning  
21 with 1991”.

22 (3) Section 4204(d)(2) of OBRA–1990 is amended  
23 by striking “amendment” and inserting “amendments”.

1       (4) Section 1876(a)(1)(E)(ii)(I) (42 U.S.C.  
2 1395mm(a)(1)(E)(ii)(I)) is amended by striking the  
3 comma after “contributed to”.

4       (5) Section 4204(e)(2) of OBRA–1990 is amended  
5 by striking “(which has a risk-sharing contract under sec-  
6 tion 1876 of the Social Security Act)”.

7       (6) Section 4204(f)(4) of OBRA–1990 is amended by  
8 striking “final”.

9       (7) Section 1862(b)(3)(C) (42 U.S.C.  
10 1395y(b)(3)(C)) is amended—

11           (A) in the heading, by striking “PLAN” and in-  
12 sserting “PLAN OR A LARGE GROUP HEALTH PLAN”;

13           (B) by striking “group health plan” and insert-  
14 ing “group health plan or a large group health  
15 plan”;

16           (C) by striking “, unless such incentive is also  
17 offered to all individuals who are eligible for cov-  
18 erage under the plan”; and

19           (D) by striking “the first sentence of subsection  
20 (a) and other than subsection (b)” and inserting  
21 “subsections (a) and (b)”.

22       (8) The amendments made by this subsection shall  
23 take effect as if included in the enactment of OBRA–1990.

1 **SEC. 5083. MISCELLANEOUS AND TECHNICAL CORREC-**  
2 **TIONS.**

3 (a) SURVEY AND CERTIFICATION REQUIREMENTS.—

4 (1) Section 1864 (42 U.S.C. 1395aa) is amended—

5 (A) in subsection (e), by striking “title” and in-  
6 sserting “title (other than any fee relating to section  
7 353 of the Public Health Service Act)”; and

8 (B) in the first sentence of subsection (a), by  
9 striking “1861(s) or” and all that follows through  
10 “Service Act,” and inserting “1861(s),”.

11 (2) An agreement made by the Secretary of Health  
12 and Human Services with a State under section 1864(a)  
13 of the Social Security Act may include an agreement that  
14 the services of the State health agency or other appro-  
15 priate State agency (or the appropriate local agencies) will  
16 be utilized by the Secretary for the purpose of determining  
17 whether a laboratory meets the requirements of section  
18 353 of the Public Health Service Act.

19 (b) OTHER MISCELLANEOUS AND TECHNICAL PRO-  
20 VISIONS.—(1) Section 1833 (42 U.S.C. 1395l) is amended  
21 by redesignating the subsection (r) added by section  
22 4206(b)(2) of OBRA–1990 as subsection (s).

23 (2) Section 1866(f)(1) (42 U.S.C. 1395cc(f)(1)) is  
24 amended by striking “1833(r)” and inserting “1833(s)”.

25 (3) Section 1861(s)(2) (42 U.S.C. 1395x(s)(2)) is  
26 amended by moving subparagraph (O), as redesignated by

1 section 5070(f)(7)(B)(iii)(II) of this subtitle, two ems to  
2 the left.

3 (4) Section 1881(b)(1)(C) (42 U.S.C.  
4 1395rr(b)(1)(C)) is amended by striking “1861(s)(2)(Q)”  
5 and inserting “1861(s)(2)(P)”.

6 (5) Section 4201(d)(2) of OBRA-1990 is amended  
7 by striking “(B) by striking”, “(C) by striking”, and “(3)  
8 by adding” and inserting “(i) by striking”, “(ii) by strik-  
9 ing”, and “(B) by adding”, respectively.

10 (6)(A) Section 4207(a)(1) of OBRA-1990 is amend-  
11 ed by adding closing quotation marks and a period after  
12 “such review.”.

13 (B) Section 4207(a)(4) of OBRA-1990 is amended  
14 by striking “this subsection” and inserting “paragraphs  
15 (2) and (3)”.

16 (C) Section 4207(b)(1) of OBRA-1990 is amended  
17 by striking “section 3(7)” and inserting “section  
18 601(a)(1)”.

19 (7) Section 4202 of OBRA-1990 is amended—

20 (A) in subsection (b)(1)(A), by striking “home  
21 hemodialysis staff assistant” and inserting “quali-  
22 fied home hemodialysis staff assistant (as described  
23 in subsection (d))”;

1 (B) in subsection (b)(2)(B)(ii)(I), by striking  
2 “(as adjusted to reflect differences in area wage lev-  
3 els)”;

4 (C) in subsection (c)(1)(A), by striking  
5 “skilled”; and

6 (D) in subsection (c)(1)(E), by striking  
7 “(b)(4)” and inserting “(b)(2)”.

8 (c) EFFECTIVE DATE.—The amendments made by  
9 this section shall take effect as if included in the enact-  
10 ment of OBRA–1990.

11 **CHAPTER 3—PROVISIONS RELATING TO**  
12 **MEDICARE SUPPLEMENTAL INSUR-**  
13 **ANCE POLICIES**

14 **SEC. 5091. STANDARDS FOR MEDICARE SUPPLEMENTAL IN-**  
15 **SURANCE POLICIES.**

16 (a) SIMPLIFICATION OF MEDICARE SUPPLEMENTAL  
17 POLICIES.—

18 (1) Section 4351 of OBRA–1990 is amended by  
19 striking “(a) IN GENERAL.—”.

20 (2) Section 1882(p) (42 U.S.C. 1395ss(p)) is  
21 amended—

22 (A) in paragraph (1)(A)—

23 (i) by striking “promulgates” and in-  
24 serting “changes the revised NAIC Model

1 Regulation (described in subsection (m)) to  
2 incorporate”,

3 (ii) by striking “(such limitations, lan-  
4 guage, definitions, format, and standards  
5 referred to collectively in this subsection as  
6 ‘NAIC standards’)”, and

7 (iii) by striking “included a reference  
8 to the NAIC standards” and inserting  
9 “were a reference to the revised NAIC  
10 Model Regulation as changed under this  
11 subparagraph (such changed regulation re-  
12 ferred to in this section as the ‘1991 NAIC  
13 Model Regulation)’”;

14 (B) in paragraph (1)(B)—

15 (i) by striking “promulgate NAIC  
16 standards” and inserting “make the  
17 changes in the revised NAIC Model Regu-  
18 lation”,

19 (ii) by striking “limitations, language,  
20 definitions, format, and standards de-  
21 scribed in clauses (i) through (iv) of such  
22 subparagraph (in this subsection referred  
23 to collectively as ‘Federal standards’)” and  
24 inserting “a regulation”, and

1 (iii) by striking “included a reference  
2 to the Federal standards” and inserting  
3 “were a reference to the revised NAIC  
4 Model Regulation as changed by the Sec-  
5 retary under this subparagraph (such  
6 changed regulation referred to in this sec-  
7 tion as the ‘1991 Federal Regulation’)”;

8 (C) in paragraph (1)(C)(i), by striking  
9 “NAIC standards or the Federal standards”  
10 and inserting “1991 NAIC Model Regulation or  
11 1991 Federal Regulation”;

12 (D) in paragraphs (1)(C)(ii)(I), (1)(E),  
13 (2), and (9)(B), by striking “NAIC or Federal  
14 standards” and inserting “1991 NAIC Model  
15 Regulation or 1991 Federal Regulation”;

16 (E) in paragraph (2)(C), by striking  
17 “(5)(B)” and inserting “(4)(B)”;

18 (F) in paragraph (4)(A)(i), by inserting  
19 “or paragraph (6)” after “(B)”;

20 (G) in paragraph (4), by striking “applica-  
21 ble standards” each place it appears and insert-  
22 ing “applicable 1991 NAIC Model Regulation  
23 or 1991 Federal Regulation”;

24 (H) in paragraph (6), by striking “in re-  
25 gard to the limitation of benefits described in

1 paragraph (4)” and inserting “described in  
2 clauses (i) through (iii) of paragraph (1)(A)”;

3 (I) in paragraph (7), by striking “policy-  
4 holder” and inserting “policyholders”;

5 (J) in paragraph (8), by striking “after the  
6 effective date of the NAIC or Federal standards  
7 with respect to the policy, in violation of the  
8 previous requirements of this subsection” and  
9 inserting “on and after the effective date speci-  
10 fied in paragraph (1)(C) (but subject to para-  
11 graph (10)), in violation of the applicable 1991  
12 NAIC Model Regulation or 1991 Federal Regu-  
13 lation insofar as such regulation relates to the  
14 requirements of subsection (o) or (q) or clause  
15 (i), (ii), or (iii) of paragraph (1)(A)”;

16 (K) in paragraph (9), by adding at the end  
17 the following new subparagraph:

18 “(D) Subject to paragraph (10), this paragraph shall  
19 apply to sales of policies occurring on or after the effective  
20 date specified in paragraph (1)(C).”; and

21 (L) in paragraph (10), by striking “this  
22 subsection” and inserting “paragraph  
23 (1)(A)(i)”.

24 (b) GUARANTEED RENEWABILITY.—Section 1882(q)  
25 (42 U.S.C. 1395ss(q)) is amended—

1 (1) in paragraph (2), by striking “paragraph  
2 (2)” and inserting “paragraph (4)”, and

3 (2) in paragraph (4), by striking “the succeed-  
4 ing issuer” and inserting “issuer of the replacement  
5 policy”.

6 (c) ENFORCEMENT OF STANDARDS.—

7 (1) Section 1882(a)(2) (42 U.S.C.  
8 1395ss(a)(2)) is amended—

9 (A) in subparagraph (A), by striking  
10 “NAIC standards or the Federal standards”  
11 and inserting “1991 NAIC Model Regulation or  
12 1991 Federal Regulation”, and

13 (B) by striking “after the effective date of  
14 the NAIC or Federal standards with respect to  
15 the policy” and inserting “on and after the ef-  
16 fective date specified in subsection (p)(1)(C)”.

17 (2) The sentence in section 1882(b)(1) added  
18 by section 4353(c)(5) of OBRA-1990 is amended—

19 (A) by striking “The report” and inserting  
20 “Each report”,

21 (B) by inserting “and requirements” after  
22 “standards”,

23 (C) by striking “and” after “compliance,”,  
24 and

1 (D) by striking the comma after “Commis-  
2 sioners”.

3 (3) Section 1882(g)(2)(B) (42 U.S.C.  
4 1395ss(g)(2)(B)) is amended by striking “Panel”  
5 and inserting “Secretary”.

6 (4) Section 1882(b)(1) (42 U.S.C.  
7 1395ss(b)(1)) is amended by striking “the the Sec-  
8 retary” and inserting “the Secretary”.

9 (d) PREVENTING DUPLICATION.—

10 (1) Section 1882(d)(3)(A) (42 U.S.C.  
11 1395ss(d)(3)(A)) is amended—

12 (A) by amending the first sentence to read  
13 as follows:

14 “(i) It is unlawful for a person to sell or issue to an  
15 individual entitled to benefits under part A or enrolled  
16 under part B of this title—

17 “(I) a health insurance policy with knowledge  
18 that the policy duplicates health benefits to which  
19 the individual is otherwise entitled under this title or  
20 title XIX,

21 “(II) a medicare supplemental policy with  
22 knowledge that the individual is entitled to benefits  
23 under another medicare supplemental policy, or

24 “(III) a health insurance policy (other than a  
25 medicare supplemental policy) with knowledge that

1 the policy duplicates health benefits to which the in-  
2 dividual is otherwise entitled, other than benefits to  
3 which the individual is entitled under a requirement  
4 of State or Federal law.”;

5 (B) by designating the second sentence as  
6 clause (ii) and, in such clause, by striking “the  
7 previous sentence” and inserting “clause (i)”;

8 (C) by designating the third sentence as  
9 clause (iii) and, in such clause—

10 (i) by striking “the previous sentence”  
11 and inserting “clause (i) with respect to  
12 the sale of a medicare supplemental pol-  
13 icy”, and

14 (ii) by striking “and the statement”  
15 and all that follows up to the period at the  
16 end; and

17 (D) by striking the last sentence.

18 (2) Section 1882(d)(3)(B) (42 U.S.C.  
19 1395ss(d)(3)(B)) is amended—

20 (A) in clause (ii)(II), by striking “65 years  
21 of age or older”,

22 (B) in clause (iii)(I), by striking “another  
23 medicare” and inserting “a medicare”,

1 (C) in clause (iii)(I), by striking “such a  
2 policy” and inserting “a medicare supplemental  
3 policy”,

4 (D) in clause (iii)(II), by striking “another  
5 policy” and inserting “a medicare supplemental  
6 policy”, and

7 (E) by amending subclause (III) of clause  
8 (iii) to read as follows:

9 “(III) If the statement required by clause (i) is ob-  
10 tained and indicates that the individual is entitled to any  
11 medical assistance under title XIX, the sale of the policy  
12 is not in violation of clause (i) (insofar as such clause re-  
13 lates to such medical assistance), if a State medicaid plan  
14 under such title pays the premiums for the policy, or, in  
15 the case of a qualified medicare beneficiary described in  
16 section 1905(p)(1), if the State pays less than the full  
17 amount of medicare cost-sharing as described in subpara-  
18 graphs (B), (C), and (D) of section 1905(p)(3) for such  
19 individual.”.

20 (3)(A) Section 1882(d)(3)(C) (42 U.S.C.  
21 1395ss(d)(3)(C)) is amended—

22 (i) by striking “the selling” and inserting  
23 “(i) the sale or issuance”, and

24 (ii) by inserting before the period at the  
25 end the following: “, (ii) the sale or issuance of

1 a policy or plan described in subparagraph  
2 (A)(i)(I) (other than a medicare supplemental  
3 policy to an individual entitled to any medical  
4 assistance under title XIX) under which all the  
5 benefits are fully payable directly to or on be-  
6 half of the individual without regard to other  
7 health benefit coverage of the individual but  
8 only if (for policies sold or issued more than 60  
9 days after the date the statements are pub-  
10 lished or promulgated under subparagraph (D))  
11 there is disclosed in a prominent manner as  
12 part of (or together with) the application the  
13 applicable statement (specified under subpara-  
14 graph (D)) of the extent to which benefits pay-  
15 able under the policy or plan duplicate benefits  
16 under this title, or (iii) the sale or issuance of  
17 a policy or plan described in subparagraph  
18 (A)(i)(III) under which all the benefits are fully  
19 payable directly to or on behalf of the individual  
20 without regard to other health benefit coverage  
21 of the individual”.

22 (B) Section 1882(d)(3) (42 U.S.C.  
23 1395ss(d)(3)) is amended by adding at the end the  
24 following:

25 “(D)(i) If—

1           “(I) within the 90-day period beginning on the  
2           date of the enactment of this subparagraph, the Na-  
3           tional Association of Insurance Commissioners devel-  
4           ops (after consultation with consumer and insurance  
5           industry representatives) and submits to the Sec-  
6           retary a statement for each of the types of health in-  
7           surance policies (other than medicare supplemental  
8           policies and including, as separate types of policies,  
9           policies paying directly to the beneficiary fixed, cash  
10          benefits) which are sold to persons entitled to health  
11          benefits under this title, of the extent to which bene-  
12          fits payable under the policy or plan duplicate bene-  
13          fits under this title, and

14           “(II) the Secretary approves all the statements  
15          submitted as meeting the requirements of subclause  
16          (I),

17          each such statement shall be (for purposes of subpara-  
18          graph (C)) the statement specified under this subpara-  
19          graph for the type of policy involved. The Secretary shall  
20          review and approve (or disapprove) all the statements sub-  
21          mitted under subclause (I) within 30 days after the date  
22          of their submittal. Upon approval of such statements, the  
23          Secretary shall publish such statements.

24           “(ii) If the Secretary does not approve the statements  
25          under clause (i) or the statements are not submitted with-

1 in the 90-day period specified in such clause, the Secretary  
2 shall promulgate (after consultation with consumer and  
3 insurance industry representatives and not later than 90  
4 days after the date of disapproval or the end of such 90-  
5 day period (as the case may be)) a statement for each  
6 of the types of health insurance policies (other than medi-  
7 care supplemental policies and including, as separate types  
8 of policies, policies paying directly to the beneficiary fixed,  
9 cash benefits) which are sold to persons entitled to health  
10 benefits under this title, of the extent to which benefits  
11 payable under the policy or plan duplicate benefits under  
12 this title, and each such statement shall be (for purposes  
13 of subparagraph (C)) the statement specified under this  
14 subparagraph for the type of policy involved.”.

15 (C) The requirement of a disclosure under sec-  
16 tion 1882(d)(3)(C)(ii) of the Social Security Act  
17 shall not apply to an application made for a policy  
18 or plan before 60 days after the date the Secretary  
19 of Health and Human Services publishes or promul-  
20 gates all the statements under section  
21 1882(d)(3)(D) of such Act.

22 (4) Subparagraphs (A) and (B) of section  
23 1882(q)(5)(A) (42 U.S.C. 1395ss(q)(5)(A)) are  
24 amended by striking “of the Social Security Act”.

1           (5) The second subsection (b) of section 4354  
2 of OBRA-1990 (relating to effective date) is amend-  
3 ed by redesignating such subsection as subsection  
4 (c).

5 (e) LOSS RATIOS AND REFUNDS OF PREMIUMS.—

6           (1) Section 1882(r) (42 U.S.C. 1395ss(r)) is  
7 amended—

8           (A) in paragraph (1), by striking “or sold”  
9 and inserting “or renewed (or otherwise provide  
10 coverage after the date described in subsection  
11 (p)(1)(C))”;

12           (B) in paragraph (1)(A), by inserting “for  
13 periods after the effective date of these provi-  
14 sions” after “the policy can be expected”;

15           (C) in paragraph (1)(A), by striking  
16 “Commissioners,” and inserting “Commis-  
17 sioners)”;

18           (D) in paragraph (1)(B), by inserting be-  
19 fore the period at the end the following: “,  
20 treating policies of the same type as a single  
21 policy for each standard package”;

22           (E) by adding at the end of paragraph (1)  
23 the following: “For the purpose of calculating  
24 the refund or credit required under paragraph  
25 (1)(B) for a policy issued before the date speci-

1           fied in subsection (p)(1)(C), the refund or cred-  
2           it calculation shall be based on the aggregate  
3           benefits provided and premiums collected under  
4           all such policies issued by an insurer in a State  
5           (separated as to individual and group policies)  
6           and shall be based only on aggregate benefits  
7           provided and premiums collected under such  
8           policies after the date specified in section  
9           5091(m)(4) of the Omnibus Budget Reconcili-  
10          ation Act of 1993.”;

11           (F) in the first sentence of paragraph  
12           (2)(A), by striking “by policy number” and in-  
13           serting “by standard package”;

14           (G) by striking the second sentence of  
15           paragraph (2)(A) and inserting the following:  
16           “Paragraph (1)(B) shall not apply to a policy  
17           until 12 months following issue.”;

18           (H) in the last sentence of paragraph  
19           (2)(A), by striking “in order” and all that fol-  
20           lows through “are effective”;

21           (I) by adding at the end of paragraph  
22           (2)(A), the following new sentence: “In the case  
23           of a policy issued before the date specified in  
24           subsection (p)(1)(C), paragraph (1)(B) shall  
25           not apply until 1 year after the date specified

1 in section 5091(m)(4) of the Omnibus Budget  
2 Reconciliation Act of 1993.”;

3 (J) in paragraph (2), by striking “policy  
4 year” each place it appears and inserting “cal-  
5 endar year”;

6 (K) in paragraph (4), by striking “Feb-  
7 ruary”, “disallowance”, “loss-ratios” each place  
8 it appears, and “loss-ratio” and inserting “Oc-  
9 tober”, “disallowance”, “loss ratios”, and “loss  
10 ratio”, respectively;

11 (L) in paragraph (6)(A), by striking “is-  
12 sues a policy in violation of the loss ratio re-  
13 quirements of this subsection” and “such viola-  
14 tion” and inserting “fails to provide refunds or  
15 credits as required in paragraph (1)(B)” and  
16 “policy issued for which such failure occurred”,  
17 respectively; and

18 (M) in paragraph (6)(B), by striking “to  
19 policyholders” and inserting “to the policy-  
20 holder or, in the case of a group policy, to the  
21 certificate holder”.

22 (2) Section 1882(b)(1) (42 U.S.C.  
23 1395ss(b)(1)) is amended, in the matter after sub-  
24 paragraph (H), by striking “subsection (F)” and in-  
25 serting “subparagraph (F)”.

1           (3) Section 4355(d) of OBRA-1990 is amended  
2           by striking “sold or issued” and all that follows and  
3           inserting “issued or renewed (or otherwise providing  
4           coverage after the date described in section  
5           1882(p)(1)(C) of the Social Security Act) on or after  
6           the date specified in section 1882(p)(1)(C) of such  
7           Act.”.

8           (f) TREATMENT OF HMO’S.—

9           (1) Section 1882(g)(1) (42 U.S.C.  
10          1395ss(g)(1)) is amended by striking “a health  
11          maintenance organization or other direct service or-  
12          ganization” and all that follows through “1833” and  
13          inserting “an eligible organization (as defined in sec-  
14          tion 1876(b)) if the policy or plan provides benefits  
15          pursuant to a contract under section 1876 or an ap-  
16          proved demonstration project described in section  
17          603(c) of the Social Security Amendments of 1983,  
18          section 2355 of the Deficit Reduction Act of 1984,  
19          or section 9412(b) of the Omnibus Budget Reconcili-  
20          ation Act of 1986 or, during the period beginning on  
21          the date specified in subsection (p)(1)(C) and ending  
22          on December 31, 1994, a policy or plan of an orga-  
23          nization if the policy or plan provides benefits pursu-  
24          ant to an agreement under section 1833(a)(1)(A)”.

1           (2) Section 4356(b) of OBRA-1990 is amended  
2           by striking “on the date of the enactment of this  
3           Act” and inserting “on the date specified in section  
4           1882(p)(1)(C) of the Social Security Act”.

5           (g) PRE-EXISTING CONDITION LIMITATIONS.—Sec-  
6           tion 1882(s) (42 U.S.C. 1395ss(s)) is amended—

7           (1) in paragraph (2)(A), by striking “for which  
8           an application is submitted” and inserting “in the  
9           case of an individual for whom an application is sub-  
10          mitted prior to or”,

11          (2) in paragraph (2)(A), by striking “in which  
12          the individual (who is 65 years of age or older) first  
13          is enrolled for benefits under part B” and inserting  
14          “as of the first day on which the individual is 65  
15          years of age or older and is enrolled for benefits  
16          under part B”, and

17          (3) in paragraph (2)(B), by striking “before it”  
18          and inserting “before the policy”.

19          (h) MEDICARE SELECT POLICIES.—

20          (1) Section 1882(t) (42 U.S.C. 1395ss(t)) is  
21          amended—

22                  (A) in paragraph (1), by inserting “medi-  
23                  care supplemental” after “If a”,

1 (B) in paragraph (1), by striking “NAIC  
2 Model Standards” and inserting “1991 NAIC  
3 Model Regulation or 1991 Federal Regulation”,

4 (C) in paragraph (1)(A), by inserting “or  
5 agreements” after “contracts”,

6 (D) in subparagraphs (E)(i) and (F) of  
7 paragraph (1), by striking “NAIC standards”  
8 and inserting “standards in the 1991 NAIC  
9 Model Regulation or 1991 Federal Regulation”,  
10 and

11 (E) in paragraph (2), by inserting “the is-  
12 suer” before “is subject to a civil money pen-  
13 alty”.

14 (2) Section 1154(a)(4)(B) (42 U.S.C. 1320c-  
15 3(a)(4)(B)) is amended—

16 (A) by inserting “that is” after “(or”, and

17 (B) by striking “1882(t)” and inserting  
18 “1882(t)(3)”.

19 (i) HEALTH INSURANCE COUNSELING.—Section  
20 4360 of OBRA–1990 is amended—

21 (1) in subsection (b)(2)(A)(ii), by striking  
22 “Act” and inserting “Act”);

23 (2) in subsection (b)(2)(D), by striking “serv-  
24 ices” and inserting “counseling”;

1           (3) in subsection (b)(2)(I), by striking “assist-  
2           ance” and inserting “referrals”;

3           (4) in subsection (c)(1), by striking “and that  
4           such activities will continue to be maintained at such  
5           level”;

6           (5) in subsection (d)(3), by striking “to the  
7           rural areas” and inserting “eligible individuals resid-  
8           ing in rural areas”;

9           (6) in subsection (e)—

10           (A) by striking “subsection (c) or (d)” and  
11           inserting “this section”,

12           (B) by striking “and annually thereafter,  
13           issue an annual report” and inserting “and an-  
14           nually thereafter during the period of the grant,  
15           issue a report”,

16           (C) in paragraph (1), by striking “State-  
17           wide”, and

18           (D) in subsection (f), by striking para-  
19           graph (2) and by redesignating paragraphs (3)  
20           through (5) as paragraphs (2) through (4), re-  
21           spectively; and

22           (7) by redesignating the second subsection (f)  
23           (relating to authorization of appropriations for  
24           grants) as subsection (g).

25           (j) TELEPHONE INFORMATION SYSTEM.—

1           (1) Section 1804 (42 U.S.C. 1395b-2) is  
2 amended—

3           (A) by adding at the end of the heading  
4 the following: “; MEDICARE AND MEDIGAP IN-  
5 FORMATION”,

6           (B) by inserting “(a)” after “1804.”, and

7           (C) by adding at the end the following new  
8 subsection:

9           “(b) The Secretary shall provide information via a  
10 toll-free telephone number on the programs under this  
11 title.”.

12           (2) Section 1882(f) (42 U.S.C. 1395ss(f)) is  
13 amended by adding at the end the following new  
14 paragraph:

15           “(3) The Secretary shall provide information via a  
16 toll-free telephone number on medicare supplemental poli-  
17 cies (including the relationship of State programs under  
18 title XIX to such policies).”.

19           (3) Section 1889 (42 U.S.C. 1395zz) is re-  
20 pealed.

21           (k) MAILING OF POLICIES.—Section 1882(d)(4) (42  
22 U.S.C. 1395ss(d)(4)) is amended—

23           (1) in subparagraph (D), by striking “, if such  
24 policy” and all that follows up to the period at the  
25 end, and

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

3           “(E) Subparagraph (A) shall not apply in the case  
4 of an issuer who mails or causes to be mailed a policy,  
5 certificate, or other matter solely to comply with the re-  
6 quirements of subsection (q).”.

7           (l) EFFECTIVE DATE.—The amendments made by  
8 this section shall be effective as if included in the enact-  
9 ment of OBRA–1990; except that—

10           (1) the amendments made by subsection (d)(1)  
11 shall take effect on the date of the enactment of this  
12 Act, but no penalty shall be imposed under section  
13 1882(d)(3)(A) of the Social Security Act (for an ac-  
14 tion occurring after the effective date of the amend-  
15 ments made by section 4354 of OBRA–1990 and be-  
16 fore the date of the enactment of this Act) with re-  
17 spect to the sale or issuance of a policy which is not  
18 unlawful under section 1882(d)(3)(A)(i)(II) of the  
19 Social Security Act (as amended by this section);

20           (2) the amendments made by subsection  
21 (d)(2)(A) and by subparagraphs (A), (B), and (E)  
22 of subsection (e)(1) shall be effective on the date  
23 specified in subsection (m)(4); and

24           (3) the amendment made by subsection (g)(2)  
25 shall take effect on January 1, 1994, and shall apply

1 to individuals who attain 65 years of age or older on  
2 or after the effective date of section 1882(s)(2) of  
3 the Social Security Act (and, in the case of individ-  
4 uals who attained 65 years of age after such effec-  
5 tive date and before January 1, 1994, and who were  
6 not covered under such section before January 1,  
7 1994, the 6-month period specified in that section  
8 shall begin January 1, 1994).

9 (m) TRANSITION PROVISIONS.—

10 (1) IN GENERAL.—If the Secretary of Health  
11 and Human Services identifies a State as requiring  
12 a change to its statutes or regulations to conform its  
13 regulatory program to the changes made by this sec-  
14 tion, the State regulatory program shall not be con-  
15 sidered to be out of compliance with the require-  
16 ments of section 1882 of the Social Security Act due  
17 solely to failure to make such change until the date  
18 specified in paragraph (4).

19 (2) NAIC STANDARDS.—If, within 6 months  
20 after the date of the enactment of this Act, the Na-  
21 tional Association of Insurance Commissioners (in  
22 this subsection referred to as the “NAIC”) modifies  
23 its 1991 NAIC Model Regulation (adopted in July  
24 1991) to conform to the amendments made by this  
25 section and to delete from section 15C the exception

1 which begins with “unless”, such modifications shall  
2 be considered to be part of that Regulation for the  
3 purposes of section 1882 of the Social Security Act.

4 (3) SECRETARY STANDARDS.—If the NAIC  
5 does not make the modifications described in para-  
6 graph (2) within the period specified in such para-  
7 graph, the Secretary of Health and Human Services  
8 shall make the modifications described in such para-  
9 graph and such modifications shall be considered to  
10 be part of that Regulation for the purposes of sec-  
11 tion 1882 of the Social Security Act.

12 (4) DATE SPECIFIED.—

13 (A) IN GENERAL.—Subject to subpara-  
14 graph (B), the date specified in this paragraph  
15 for a State is the earlier of—

16 (i) the date the State changes its stat-  
17 utes or regulations to conform its regu-  
18 latory program to the changes made by  
19 this section, or

20 (ii) 1 year after the date the NAIC or  
21 the Secretary first makes the modifications  
22 under paragraph (2) or (3), respectively.

23 (B) ADDITIONAL LEGISLATIVE ACTION RE-  
24 QUIRED.—In the case of a State which the Sec-  
25 retary identifies as—

1 (i) requiring State legislation (other  
2 than legislation appropriating funds) to  
3 conform its regulatory program to the  
4 changes made in this section, but

5 (ii) having a legislature which is not  
6 scheduled to meet in 1994 in a legislative  
7 session in which such legislation may be  
8 considered,

9 the date specified in this paragraph is the first  
10 day of the first calendar quarter beginning after  
11 the close of the first legislative session of the  
12 State legislature that begins on or after Janu-  
13 ary 1, 1994. For purposes of the previous sen-  
14 tence, in the case of a State that has a 2-year  
15 legislative session, each year of such session  
16 shall be deemed to be a separate regular session  
17 of the State legislature.

1 **Subtitle B—Medicaid Program and**  
2 **Other Health Care Provisions**

3 **CHAPTER 1—MEDICAID PROGRAM**

4 **Subchapter A—Program Savings Provisions**

5 **PART I—REPEAL OF MANDATE**

6 **SEC. 5101. PERSONAL CARE SERVICES FURNISHED OUT-**  
7 **SIDE THE HOME AS OPTIONAL BENEFIT.**

8 (a) IN GENERAL.—Section 1905(a) (42 U.S.C.  
9 1396d(a)), as amended by section 5174(c)(1), is further  
10 amended—

11 (1) in paragraph (7), by striking “including  
12 personal care services” and all that follows through  
13 “nursing facility”;

14 (2) in paragraph (23), by striking “and” at the  
15 end;

16 (3) by redesignating paragraph (24) as para-  
17 graph (25); and

18 (4) by inserting after paragraph (23) the fol-  
19 lowing new paragraph:

20 “(24) personal care services furnished to an in-  
21 dividual who is not an inpatient or resident of a  
22 nursing facility that are (A) authorized by a physi-  
23 cian for the individual in accordance with a plan of  
24 treatment, (B) provided by an individual who is  
25 qualified to provide such services and who is not a

1 member of the individual's family, (C) supervised by  
2 a registered nurse, and (D) furnished in a home or  
3 other location; and”.

4 (b) CONFORMING AMENDMENTS.—(1) Section  
5 1902(a)(10)(C)(iv) (42 U.S.C. 1396a(a)(10)(C)(iv)), as  
6 amended by section 5174(c)(2)(A), is amended by striking  
7 “through (23)” and inserting “through (24)”.

8 (2) Section 1902(j) (42 U.S.C. 1396a(j)), as amend-  
9 ed by section 5174(c)(2)(B), is amended by striking  
10 “through (24)” and inserting “through (25)”.

11 (c) EFFECTIVE DATE.—The amendments made by  
12 subsections (a) and (b) shall take effect as if included in  
13 the enactment of section 4721(a) of OBRA–90.

## 14 PART II—OUTPATIENT PRESCRIPTION DRUGS

### 15 **SEC. 5106. PERMITTING PRESCRIPTION DRUG** 16 **FORMULARIES UNDER STATE PLANS.**

17 (a) ELIMINATION OF PROHIBITION AGAINST USE OF  
18 FORMULARIES.—Paragraph (54) of section 1902(a)(54)  
19 (42 U.S.C. 1396a(a)(54)) is amended to read as follows:

20 “(54) in the case of a State plan that provides  
21 medical assistance for covered outpatient drugs (as  
22 defined in section 1927(k)), comply with the applica-  
23 ble requirements of section 1927;”.

1 (b) STANDARDS FOR FORMULARIES.—Section  
2 1927(d) (42 U.S.C. 1396r–8(d)), as amended by sections  
3 5107(a) and 5108(b)(4)(A)(iii), is amended—

4 (1) by adding at the end of paragraph (1) the  
5 following new subparagraph:

6 “(C) In the case of a State that establishes a  
7 formulary in accordance with paragraph (5), the  
8 State may exclude coverage of a covered outpatient  
9 drug that is not included in the formulary.”; and

10 (2) by inserting after paragraph (4) the follow-  
11 ing new paragraph:

12 “(5) REQUIREMENTS FOR FORMULARIES.—A  
13 State may establish a formulary only if the following  
14 requirements are met:

15 “(A) The formulary is established by a  
16 committee consisting of physicians, phar-  
17 macists, and other appropriate individuals ap-  
18 pointed by the Governor of the State (or, at the  
19 option of the State, the State’s drug use review  
20 board established under subsection (g)(3)).

21 “(B) Except as provided in subparagraph  
22 (C), the formulary includes the covered out-  
23 patient drugs of any manufacturer which has  
24 entered into and complies with an agreement  
25 under subsection (a).

1           “(C) The committee may exclude a covered  
2           outpatient drug with respect to the treatment of  
3           a specific disease or condition for an identified  
4           population (if any) only if the committee finds,  
5           based on the drug’s labeling (or, in the case of  
6           a drug whose prescribed use is not approved  
7           under the Federal Food, Drug, and Cosmetic  
8           Act but is a medically accepted indication,  
9           based on information from the appropriate com-  
10          pendia described in subsection (k)(6)), that the  
11          excluded drug does not have a significant, clini-  
12          cally meaningful therapeutic advantage in terms  
13          of safety, effectiveness, or clinical outcome of  
14          such treatment for such population over other  
15          drugs included in the formulary.

16          “(D) With respect to a decision to exclude  
17          a covered outpatient drug from the formulary  
18          or a prescribed use of such a drug, the commit-  
19          tee issues a written explanation of its decision  
20          that is available to the public, unless the deci-  
21          sion was made at a meeting of the committee  
22          which was open to the public.

23          “(E) The manufacturer of the drug, and  
24          any person affected by the decision, may obtain  
25          a reversal of the committee’s decision to exclude

1 a covered outpatient drug from the formulary  
2 under subparagraph (C) on the ground that the  
3 decision was arbitrary and capricious, in ac-  
4 cordance with an appeals process that is estab-  
5 lished by the State and that provides an oppor-  
6 tunity for judicial review of such decision.

7 “(F) The State plan permits coverage of a  
8 drug excluded from the formulary pursuant to  
9 a prior authorization program that is consistent  
10 with paragraph (4).

11 “(G) The formulary meets such other re-  
12 quirements as the Secretary may impose.”.

13 (c) EFFECTIVE DATE.—The amendments made by  
14 this section shall apply to calendar quarters beginning on  
15 or after October 1, 1993, without regard to whether or  
16 not regulations to carry out such amendments have been  
17 promulgated by such date.

18 **SEC. 5107. ELIMINATION OF SPECIAL EXEMPTION FROM**

19 **PRIOR AUTHORIZATION FOR NEW DRUGS.**

20 (a) IN GENERAL.—Section 1927(d) (42 U.S.C.  
21 1396r–8(d)), as amended by section 5108(b)(4)(A)(iii), is  
22 amended by striking paragraph (5).

23 (b) CONFORMING AMENDMENT.—Section 1927(d)(3)  
24 (42 U.S.C. 1396r–8(d)(3)) is amended by striking “(ex-

1 cept with respect” and all that follows through “of this  
2 paragraph)”.

3 (c) EFFECTIVE DATE.—The amendments made by  
4 this section shall apply to calendar quarters beginning on  
5 or after October 1, 1993, without regard to whether or  
6 not regulations to carry out such amendments have been  
7 promulgated by such date.

8 **SEC. 5108. TECHNICAL CORRECTIONS RELATING TO SEC-**  
9 **TION 4401 OF OBRA-1990.**

10 (a) SECTION 1903, SSA.—Paragraph (10) of section  
11 1903(i), as inserted by section 4401(a)(1)(B) of OBRA-  
12 1990, is amended to read as follows:

13 “(10) with respect to covered outpatient drugs  
14 unless there is a rebate agreement in effect under  
15 section 1927 with respect to such drugs or unless  
16 section 1927(a)(3) applies;”.

17 (b) SECTION 1927, SSA.—(1) Section 1927(a) (42  
18 U.S.C. 1396r-8(a)) is amended—

19 (A) in paragraph (1)—

20 (i) by amending the second sentence to  
21 read as follows: “Any such agreement entered  
22 into prior to April 1, 1991, shall be deemed to  
23 have been entered into on January 1, 1991, and  
24 the amount of the rebate under such agreement

1 shall be calculated as if the agreement had been  
2 entered into on January 1, 1991.”, and

3 (ii) in the third sentence, by striking  
4 “March” and inserting “April”;

5 (B) in paragraph (2)—

6 (i) by striking “first”, and

7 (ii) by striking the period at the end and  
8 inserting the following: “, except that such  
9 paragraph (and section 1903(i)(10)(A)) shall  
10 not apply to the dispensing of such a drug be-  
11 fore April 1, 1991, if the Secretary determines  
12 that there were extenuating circumstances with  
13 respect to the first calendar quarter of 1991.”;

14 (C) in paragraph (3), by striking “single  
15 source” and all that follows and inserting the follow-  
16 ing: “covered outpatient drugs if—

17 “(A) based on information provided by a  
18 beneficiary’s physician, the State has made a  
19 determination that the availability of the drug  
20 is essential to the health of the beneficiary  
21 under the State plan, and the Secretary has re-  
22 viewed and approved such determination; and

23 “(B) the drug has been given a rating of  
24 1-A by the Food and Drug Administration.”;

25 (D) in paragraph (4)—

1 (i) by striking “in compliance with”  
2 and inserting “in effect under”, and

3 (ii) by striking “coverage of the man-  
4 ufacturer’s drugs” and inserting “ingredi-  
5 ent costs of the manufacturer’s covered  
6 outpatient drugs covered”; and

7 (E) by adding at the end the following new  
8 paragraph:

9 “(5) APPLICATION IN CERTAIN STATES AND  
10 TERRITORIES.—

11 “(A) APPLICATION IN STATES OPERATING  
12 UNDER DEMONSTRATION PROJECTS.—In the  
13 case of any State which is providing medical as-  
14 sistance to its residents under a waiver granted  
15 under section 1115, the Secretary shall require  
16 the State to meet the requirements of section  
17 1902(a)(54) and of this section in the same  
18 manner as the State would be required to meet  
19 such requirements if the State had in effect a  
20 plan approved under this title.

21 “(B) NO APPLICATION IN COMMON-  
22 WEALTHS AND TERRITORIES.—This section,  
23 and sections 1902(a)(54) and 1903(i)(10), shall  
24 only apply to a State that is one of the 50  
25 States or the District of Columbia.”.

1           (2) Section 1927(b) (42 U.S.C. 1396r-8(b)) is  
2 amended—

3           (A) in paragraph (1)(A)—

4                 (i) by striking “(or periodically in accord-  
5 ance with a schedule specified by the Sec-  
6 retary)” and inserting “(or other period speci-  
7 fied by the Secretary)”, and

8                 (ii) by inserting “after December 31, 1990,  
9 for which payment was made” after “dis-  
10 pensed”;

11           (B) in paragraph (2)(A)—

12                 (i) by striking “calendar quarter” and “the  
13 quarter” and inserting “rebate period” and  
14 “the period”, respectively,

15                 (ii) by striking “dosage units” and insert-  
16 ing “units of each dosage form and strength”,  
17 and

18                 (iii) by inserting “after December 31,  
19 1990, for which payment was made” after “dis-  
20 pensed”;

21           (C) in paragraph (3)(A)—

22                 (i) in clause (i), by striking “quarter” each  
23 place it appears and inserting “calendar quarter  
24 or other rebate period under the agreement”,

1 (ii) in clause (i), by striking the open pa-  
2 renthesis before “for” and the close parenthesis  
3 after “drugs”,

4 (iii) in clause (i), by striking “subsection  
5 (c)(2)(B)) for covered outpatient drugs” and in-  
6 serting “subsection (c)(1)(C) for each covered  
7 outpatient drug”, and

8 (iv) in clause (ii), by inserting a comma  
9 after “this section” and after “1990”;

10 (D) in paragraph (3)(B)—

11 (i) by striking “\$100,000” and inserting  
12 “\$10,000”,

13 (ii) by striking “if the wholesaler” and in-  
14 serting “for each instance in which the whole-  
15 saler”,

16 (iii) by inserting “in response to such a re-  
17 quest” after “false information”, and

18 (iv) by striking “(with respect to amounts  
19 of penalties or additional assessments)”;

20 (E) in paragraph (3)(C)—

21 (i) in clause (i), by striking “the penalty”  
22 and inserting “the rebate next required to be  
23 paid”,

1           (ii) in clause (i), by striking “and such  
2 amount shall be paid to the Treasury, and, if”  
3 and inserting “. If”,

4           (iii) in clause (ii), by inserting “under sub-  
5 paragraph (A)” after “provides false informa-  
6 tion”, and

7           (iv) in clause (ii), by striking “Such civil  
8 money penalties are” and inserting “Any such  
9 civil money penalty shall be”;

10          (F) in paragraph (3)(D), by striking “whole-  
11 saler,” and inserting “wholesaler or the”; and

12          (G) in paragraph (4)(B)(iii), by adding at the  
13 end the following: “In the case of such a termi-  
14 nation, a State may terminate coverage of the drugs  
15 affected by such termination as of the effective date  
16 of such termination without providing any advance  
17 notice otherwise required by regulation.”.

18          (3) Section 1927(c) (42 U.S.C. 1396r-8(c)) is  
19 amended—

20           (A) in paragraph (1) in the matter preceding  
21 subparagraph (A)—

22               (i) by striking the first sentence,

23               (ii) in the second sentence, by striking  
24 “Except as otherwise provided” and all that fol-  
25 lows through “the Secretary)” and inserting the

1 following: “For purposes of this section, the  
2 amount of the rebate under this subsection for  
3 a rebate period”, and

4 (iii) by inserting “(except as provided in  
5 subsection (b)(3)(C) and paragraph (2))” after  
6 “drugs shall”;

7 (B) in paragraph (1)(A), by striking “the quar-  
8 ter (or other period)” and inserting “the rebate pe-  
9 riod”;

10 (C) in subparagraph (C)—

11 (i) by striking “For purposes of this para-  
12 graph” and inserting “BEST PRICE DEFINED.—  
13 For purposes of this section”,

14 (ii) by inserting “provider,” after “re-  
15 tailer,”, and

16 (iii) by striking the semicolon at the end  
17 and inserting a period; and

18 (D) by striking subparagraph (D) and inserting  
19 the following:

20 “(D) USE OF ESTIMATED BEST PRICES  
21 DURING INITIAL YEAR OF AVAILABILITY OF  
22 DRUG.—If the Secretary determines that a  
23 manufacturer cannot determine the best price  
24 for rebate periods during the first year in which  
25 an agreement is in effect until after the end of

1 the year, as part of the agreement the Sec-  
2 retary may require the manufacturer to esti-  
3 mate the best price for rebate periods during  
4 the year and provide an adjustment to the re-  
5 bate paid to the State to take into account the  
6 difference (if any) between the best price and  
7 the estimated best price.”.

8 (4)(A) Section 1927(d) (42 U.S.C. 1396r-8(d)) is  
9 amended—

10 (i) in paragraph (2)—

11 (I) in subparagraph (A), by inserting “or  
12 loss” after “gain”,

13 (II) by striking subparagraph (I), and

14 (III) by redesignating subparagraphs (J)  
15 and (K) as subparagraphs (I) and (J);

16 (ii) in paragraph (3)—

17 (I) by striking “described in paragraph  
18 (2)”, and

19 (II) by inserting “described in paragraph  
20 (2)” after “classes of drugs,”;

21 (iii) by striking paragraph (4) and by redesign-  
22 ating paragraphs (5) through (7) as paragraphs  
23 (4) through (6);

24 (iv) in paragraph (6), as so redesignated, by  
25 striking “provided” and inserting “if”; and

1 (v) by striking the second sentence of para-  
2 graph (6), as so redesignated, and paragraph (8)  
3 and inserting the following:

4 “(7) CONSTRUCTION WITH RESPECT TO FRAUD  
5 AND ABUSE.—Nothing in this section shall be con-  
6 strued to restrict the authority of a State to apply  
7 sanctions under this Act against any person for  
8 fraud or abuse.”.

9 (B) Section 1927(d)(4) of the Social Security Act, as  
10 redesignated by subparagraph (A)(iii), shall first apply to  
11 drugs dispensed on or after July 1, 1991.

12 (5)(A) Section 1927(f) (42 U.S.C. 1396r-8(f)) is  
13 amended to read as follows:

14 “(f) NO REDUCTIONS IN PHARMACY REIMBURSE-  
15 MENT LIMITS.—

16 “(1) IN GENERAL.—During the period begin-  
17 ning on November 5, 1990, and ending on December  
18 31, 1994—

19 “(A) a State may not reduce the amount  
20 paid by the State under this title with respect  
21 to the ingredient cost of a covered outpatient  
22 drug or the dispensing fee for such a drug  
23 below the amount in effect as of November 5,  
24 1990, and

1           “(B) the Secretary may not change the  
2           regulations in effect on November 5, 1990, gov-  
3           erning the amounts described in subparagraph  
4           (A) which are eligible for Federal financial par-  
5           ticipation, to reduce the reimbursement limits  
6           described in such regulations.

7           “(2) CONSTRUCTION.—If the Secretary notified  
8           a State before November 5, 1990, that its payment  
9           amounts under this title with respect to the ingredi-  
10          ent cost of a covered outpatient drug or the dispens-  
11          ing fee for such a drug were in excess of those per-  
12          mitted under regulations in effect on such date,  
13          paragraph (1)(B) shall not be construed as prevent-  
14          ing a State from reducing payment amounts or dis-  
15          pensing fee in order to comply with such regula-  
16          tions.”.

17          (B) Not later than April 1, 1994, the Secretary of  
18          Health and Human Services shall establish an upper limit  
19          on the amount of payment which is eligible for Federal  
20          financial participation under title XIX of the Social Secu-  
21          rity Act for each multiple source drug (as defined in sec-  
22          tion 1927(k)(7)(A)(i) of such Act) for which the Food and  
23          Drug Administration has rated at least 3 formulations of  
24          such drug as therapeutically and pharmaceutically equiva-  
25          lent, regardless of whether all the formulations of such

1 drug are rated as so equivalent. In establishing such a  
2 limit for a drug, the Secretary shall take into account only  
3 those formulations of the drug which the Food and Drug  
4 Administration has rated as therapeutically and pharma-  
5 ceutically equivalent.

6 (6) Section 1927(g) (42 U.S.C. 1396r-8(g)) is  
7 amended—

8 (A) by amending paragraph (1) to read as fol-  
9 lows:

10 “(1) REQUIREMENT FOR DRUG USE REVIEW  
11 PROGRAM.—Each State shall provide, by not later  
12 than January 1, 1993, for a drug use review pro-  
13 gram for covered outpatient drugs (other than drugs  
14 dispensed to residents of nursing facilities) that—

15 “(i) meets the requirements of para-  
16 graph (2), and

17 “(ii) is intended to assure that pre-  
18 scriptions for such drugs are appropriate,  
19 medically necessary, and not likely to lead  
20 to adverse medical results.”;

21 (B) in paragraph (2)—

22 (i) by amending the matter before subpara-  
23 graph (A) to read as follows:

24 “(2) REQUIREMENTS.—”,

1           (ii) by amending subparagraph (A) to read  
2 as follows:

3           “(A) PROSPECTIVE DRUG USE REVIEW.—  
4 Each drug use review program shall provide for  
5 a review of drug therapy before each prescrip-  
6 tion is filled or delivered to an individual receiv-  
7 ing benefits under this title (including counsel-  
8 ing by pharmacists) consistent with standards  
9 established by the Secretary. Nothing in this  
10 paragraph shall be construed as requiring a  
11 pharmacist to provide consultation when an in-  
12 dividual receiving benefits under this title or  
13 caregiver of such individual refuses such con-  
14 sultation.”,

15           (iii) in subparagraph (C)—

16           (I) by striking “APPLICATION OF  
17 STANDARDS.—” and inserting “STAND-  
18 ARDS.—(i)”,

19           (II) by striking “and literature re-  
20 ferred to in subsection (1)(B)” and insert-  
21 ing “described in clause (ii)”,

22           (III) by striking “including but not  
23 limited to” and inserting “. Such assess-  
24 ment shall include”,

1 (IV) by striking “abuse/misuse and,  
2 as necessary, introduce remedial strate-  
3 gies,” and inserting “abuse or misuse and  
4 introduce remedial strategies”, and

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

7 “(ii) The compendia described in this  
8 clause are the American Hospital Formulary  
9 Service Drug Information, the United States  
10 Pharmacopeia-Drug Information, and the  
11 American Medical Association Drug Evalua-  
12 tions.”, and

13 (iv) by amending subparagraph (D) to  
14 read as follows:

15 “(D) EDUCATIONAL PROGRAM.—The pro-  
16 gram shall educate (directly or by contract)  
17 pharmacists, physicians, and other individuals  
18 prescribing or dispensing covered outpatient  
19 drugs under the State plan on common drug  
20 therapy problems in order to improve prescrib-  
21 ing or dispensing practices.”;

22 (C) in paragraph (3)—

23 (i) in subparagraph (A), by striking  
24 “(hereinafter)” and all that follows and inserting

1 “(in this paragraph referred to as the ‘DUR  
2 Board’).”,

3 (ii) in subparagraph (B), by striking “51  
4 percent” and all that follows and inserting “50  
5 percent licensed and actively practicing physi-  
6 cians and at least 1/3 but not more than 50  
7 percent licensed and actively practicing phar-  
8 macists.”,

9 (iii) by amending subparagraph (C) to  
10 read as follows:

11 “(C) RESPONSIBILITIES.—The responsibil-  
12 ities of the DUR Board shall include the follow-  
13 ing:

14 “(i) Carrying out retrospective drug  
15 use review pursuant to paragraph (2)(B).

16 “(ii) Establishing and applying stand-  
17 ards for drug use review described in para-  
18 graph (2)(C).

19 “(iii) Implementing educational pro-  
20 grams described in paragraph (2)(D).

21 “(iv) Conducting ongoing evaluations  
22 of the effectiveness of its programs and ac-  
23 tivities in improving the quality and safety  
24 of drug therapy for individuals receiving  
25 benefits under the State plan.”; and

1 (D) by amending subparagraph (D) to read as  
2 follows:

3 “(4) ANNUAL REPORT.—Each State shall sub-  
4 mit a report each year to the Secretary on the na-  
5 ture and scope of the drug use review program  
6 under this subsection. Such report shall include an  
7 estimate of cost savings resulting from operation of  
8 such program.”.

9 (7) Section 1927(h) (42 U.S.C. 1396r-8(h)) is  
10 amended to read as follows:

11 “(h) ENCOURAGING ELECTRONIC CLAIMS MANAGE-  
12 MENT.—The Secretary shall encourage each single State  
13 agency under this title to establish, as its principal means  
14 of processing claims for covered outpatient drugs, a point-  
15 of-sale electronic claims management system for the pur-  
16 pose of verifying eligibility, transmitting data on claims,  
17 and assisting pharmacists and other authorized persons  
18 in applying for and receiving payment under the State  
19 plan.”.

20 (8) Section 1927(i) (42 U.S.C. 1396r-8(i)) is amend-  
21 ed to read as follows:

22 “(i) ANNUAL REPORT ON REBATE PROGRAM.—Not  
23 later than May 1 of each year, the Secretary shall submit  
24 to the Committee on Finance of the Senate, the Commit-  
25 tee on Energy and Commerce of the House of Representa-

1 tives, and the Committee on Aging of the Senate a report  
2 on the operation of the rebate agreements required for  
3 covered outpatient drugs under this section in the preced-  
4 ing fiscal year, and shall include in the report such infor-  
5 mation in addition to the information required to be re-  
6 ported under section 601(d) of the Veterans Health Care  
7 Act of 1992 as the Secretary considers appropriate.”.

8 (9) Section 1927(j) (42 U.S.C. 1396r-8(j)) is amend-  
9 ed to read as follows:

10 “(j) EXEMPTION FROM CERTAIN REQUIREMENTS  
11 FOR CERTAIN HEALTH MAINTENANCE ORGANIZATIONS  
12 AND HOSPITALS.—

13 “(1) CERTAIN HEALTH MAINTENANCE ORGANI-  
14 ZATIONS AND PHARMACIES.—The requirements of  
15 subsections (g) and (h) shall not apply with respect  
16 to covered outpatient drugs dispensed by—

17 “(A) an entity which receives payment  
18 under a prepaid capitation basis or under any  
19 other risk basis in accordance with section  
20 1903(m)(2)(A) for services provided under the  
21 State plan; or

22 “(B) a pharmacy that is owned or operated  
23 by a qualified health maintenance organization  
24 (as defined in section 1310(d) of the Public

1 Health Service Act) that operates its own pro-  
2 spective drug use review program.

3 “(2) HOSPITALS WITH INDEPENDENT FOR-  
4 MULARY SYSTEMS.—

5 “(A) IN GENERAL.—The requirements of  
6 subsections (g) and (h) shall not apply with re-  
7 spect to covered outpatient drugs dispensed by  
8 a hospital providing medical assistance under  
9 the State plan that dispenses such drugs under  
10 a drug formulary system.

11 “(B) APPLICATION OF STATE FOR-  
12 MULARY.—Nothing in subparagraph (A) shall  
13 be construed to permit payment to be made  
14 under the State plan for a covered outpatient  
15 drug that is included in a drug formulary but  
16 that is not included in the State formulary  
17 under subsection (d)(5).

18 “(3) CONSTRUCTION IN DETERMINING BEST  
19 PRICE.—Nothing in this subsection shall be con-  
20 strued to exclude any covered outpatient drugs sub-  
21 ject to the provisions of this subsection from the de-  
22 termination of the best price (as defined in sub-  
23 section (c)(1)(C)) for such drugs.”.

24 (10) Section 1927(k) (42 U.S.C. 1396r-8(k)) is  
25 amended—

1 (A) in paragraph (1), by striking “calendar  
2 quarter” and inserting “rebate period”;

3 (B) in paragraph (2)—

4 (i) in the matter before clause (i) of sub-  
5 paragraph (A), strike “paragraph (5)” and in-  
6 sert “subparagraph (D)”;

7 (ii) by striking “and” at the end of sub-  
8 paragraph (A),

9 (iii) by striking the period at the end of  
10 subparagraph (C) and inserting “; and”, and

11 (iv) by adding at the end the following new  
12 subparagraph:

13 “(D) a drug which may be sold without a  
14 prescription (commonly referred to as an ‘over-  
15 the-counter drug’), if the drug is prescribed by  
16 a physician (or other person authorized to pre-  
17 scribe under State law).”;

18 (C) in paragraph (3)—

19 (i) in subparagraph (E), by striking “\*\*\*\*  
20 emergency room visits”;

21 (ii) in subparagraph (F), by striking  
22 “sevices” and inserting “services”, and

23 (iii) in subparagraph (H), by inserting  
24 “services” after “dialysis”;

25 (D) by striking paragraph (4);

1 (E) by amending paragraph (5) to read as fol-  
2 lows:

3 “(5) MANUFACTURER.—The term ‘manufac-  
4 turer’ means, with respect to a covered outpatient  
5 drug—

6 “(A) the entity (if any) that both manufac-  
7 tures and distributes the drug, or

8 “(B) if no such entity exists, the entity  
9 that distributes the drug.

10 Such term does not include a wholesale distributor  
11 of the drug that does not hold a National Drug Code  
12 number for the drug or a retail pharmacy licensed  
13 under State law.”;

14 (F) in paragraph (6), by striking “, which ap-  
15 pears” and all that follows and inserting “which is  
16 accepted by any of the compendia described in sub-  
17 section (g)(2)(C)(ii).”;

18 (G) in paragraph (7)—

19 (i) in subparagraph (A)(i), by striking  
20 “calendar quarter” and inserting “rebate pe-  
21 riod”,

22 (ii) in subparagraph (A)(i), by striking  
23 “paragraph (5)” and inserting “paragraph  
24 (2)(D)”,

1 (iii) in subparagraph (A)(ii), by inserting  
2 “or product licensing application” after “appli-  
3 cation”,

4 (iv) in subparagraph (C)(i), by striking  
5 “pharmaceutically” and inserting “pharma-  
6 ceutically”, and

7 (v) in subparagraph (C)(iii), by striking “,  
8 provided that” and inserting “and”; and

9 (H) by redesignating paragraph (8) as para-  
10 graph (9) and by inserting after paragraph (7) the  
11 following new paragraph:

12 “(8) REBATE PERIOD.—The term ‘rebate pe-  
13 riod’ means, with respect to an agreement under  
14 subsection (a), a calendar quarter or other period  
15 specified with respect to the agreement under sub-  
16 section (b)(1)(A) for the payment of rebates.”.

17 (d) FUNDING.—Section 4401(b)(2) of OBRA–1990  
18 is amended by striking “75 percent,” and all that follows  
19 and inserting “75 percent.”.

20 (e) DEMONSTRATION PROJECTS.—Section  
21 4401(c)(1) of OBRA–1990 is amended—

22 (A) in subparagraph (A), by striking “10” and  
23 inserting “5”; and

24 (B) in subparagraph (C), by striking “regi-  
25 ment” and inserting “regimen”.

1 (f) STUDIES.—Section 4401(d) of OBRA–1990 is  
2 amended—

3 (1) in paragraph (1)(A), by striking “other in-  
4 stitutional facilities, and managed care plans” and  
5 inserting “nursing facilities, intermediate care facili-  
6 ties for the mentally retarded, and health mainte-  
7 nance organizations”;

8 (2) in paragraph (1)(B), by striking “under  
9 this subsection” and inserting “under this para-  
10 graph”;

11 (3) in paragraph (1)(B)(i), by striking “under  
12 this section” and inserting “under section 1927 of  
13 the Social Security Act”;

14 (4) in paragraph (1)(B)(ii)—

15 (A) by striking “drug use review” and in-  
16 serting “the type of drug use review that is”,  
17 and

18 (B) by striking “under this section” and  
19 inserting “under such section”;

20 (5) in paragraph (1)(B)(iii), by striking “under  
21 this title” and inserting “under title XIX of the So-  
22 cial Security Act”;

23 (6) in paragraph (1)(C)—

24 (A) by striking “May 1, 1991” and insert-  
25 ing “May 1, 1992”, and

1 (B) by striking “hereafter”;

2 (7) in paragraph (2), by striking “the Commit-  
3 tees on Aging of the Senate and House of Rep-  
4 resentatives an annual report and inserting “the  
5 Committee on Aging of the Senate a report”;

6 (8) in paragraph (3)—

7 (A) in subparagraph (A), by striking “,  
8 acting in consultation with the Comptroller  
9 General,”,

10 (B) by indenting subparagraph (B) an ad-  
11 ditional 2 ems, and

12 (C) in subparagraph (B)—

13 (i) by striking “December 31, 1991,  
14 the Secretary and the Comptroller Gen-  
15 eral” and inserting “June 1, 1993, the  
16 Secretary”, and

17 (ii) by striking “the Committees on  
18 Aging of the Senate and the House of Rep-  
19 resentatives” and inserting “the Commit-  
20 tee on Aging of the Senate”;

21 (9) in paragraph (4)(A), by striking “each” and  
22 by striking the semicolon and inserting a comma;  
23 and

24 (10) by striking paragraphs (5) and (6).

1 PART III—RESTRICTIONS ON DIVESTITURE OF  
2 ASSETS AND ESTATE RECOVERY

3 **SEC. 5111. TRANSFER OF ASSETS.**

4 (a) PERIOD OF INELIGIBILITY.—

5 (1) EXTENDING LOOK-BACK PERIOD TO 36  
6 MONTHS.—Section 1917(c)(1) (42 U.S.C.  
7 1396p(c)(1)) is amended by striking “30-month pe-  
8 riod” and inserting “36-month period”.

9 (2) ELIMINATING 30-MONTH LIMIT ON PERIOD  
10 OF INELIGIBILITY.—The second sentence of such  
11 section is amended by striking “equal to” and all  
12 that follows and inserting the following: “equal to—

13 “(A) the total uncompensated value of the re-  
14 sources so transferred; divided by

15 “(B) the average monthly cost, to a private pa-  
16 tient at the time of the application, of nursing facil-  
17 ity services in the State or, at State option, in the  
18 community in which the individual is institutional-  
19 ized.”.

20 (3) CUMULATIVE PERIODS OF INELIGIBILITY IN  
21 THE CASE OF MULTIPLE TRANSFERS.—Such sen-  
22 tence is further amended by inserting “(or, in the  
23 case of a transfer which occurs during a period of  
24 ineligibility attributable to a previous transfer, the  
25 first month after the end of all periods of ineligibil-

1       ity attributable to any previous transfer)” after  
2       “shall begin with the month in which such resources  
3       were transferred”.

4       (b) CRITERIA FOR UNDUE HARDSHIP EXCEPTION.—  
5       Section 1917(c)(2)(D) (42 U.S.C. 1396p(c)(2)(D)) is  
6       amended to read as follows:

7               “(D) the State agency determines, under proce-  
8       dures established by the State (in accordance with  
9       standards specified by the Secretary) that the denial  
10       of eligibility would work an undue hardship (in ac-  
11       cordance with criteria established by the Sec-  
12       retary).”.

13       (c) TREATMENT OF JOINTLY HELD ASSETS.—Sec-  
14       tion 1917(c) (42 U.S.C. 1936p(c)) is further amended by  
15       adding at the end the following new paragraph:

16               “(6) For purposes of this subsection, in the case of  
17       an asset held by an individual in common with another  
18       person or persons in a joint tenancy or a similar arrange-  
19       ment, the asset (or the affected portion thereof) shall be  
20       considered to be transferred by such individual when any  
21       action is taken, either by such individual or by any other  
22       person, that reduces or eliminates such individual’s owner-  
23       ship or control of such asset.”.

1 (d) MEDICAID QUALIFYING TRUSTS.—Section  
2 1902(k) (42 U.S.C. 1396a(k)) is amended to read as fol-  
3 lows:

4 “(k) TREATMENT OF TRUST AMOUNTS.—

5 “(1) IN GENERAL.—For purposes of determin-  
6 ing an individual’s eligibility for or amount of bene-  
7 fits under a State plan under this title, subject to  
8 paragraph (4), the following rules shall apply to a  
9 trust (which term includes, for purposes of this sub-  
10 section, any similar legal instrument or device, such  
11 as an annuity) established by such individual:

12 “(A) REVOCABLE TRUSTS.—In the case of  
13 a revocable trust—

14 “(i) the corpus of the trust shall be  
15 considered resources available to the indi-  
16 vidual,

17 “(ii) payments from the trust to or  
18 for the benefit of the individual shall be  
19 considered income of the individual, and

20 “(iii) any other payments from the  
21 trust shall be considered a transfer of as-  
22 sets by the individual subject to section  
23 1917(c).

24 “(B) IRREVOCABLE TRUSTS WHICH MAY  
25 BENEFIT GRANTOR.—In the case of an irrev-

1           ocable trust, if there are any circumstances  
2           under which payment from the trust could be  
3           made to or for the benefit of the individual—

4                   “(i) the corpus of the trust (or that  
5                   portion of the corpus from which, or from  
6                   the increase whereof, payment to the indi-  
7                   vidual could be made) shall be considered  
8                   resources available to the individual, and  
9                   payments from that portion of the corpus  
10                  (or increase)—

11                   “(I) to or for the benefit of the  
12                   individual, shall be considered income  
13                   of the individual, and

14                   “(II) for any other purpose, shall  
15                   be considered a transfer of assets by  
16                   the individual subject to the provisions  
17                   of section 1917(c); and

18                   “(ii) any portion of the trust from  
19                   which (or from the income whereof) no  
20                   payment could under any circumstances be  
21                   made to the individual shall be considered,  
22                   as of the date of establishment of the trust  
23                   (or, if later, the date on which payment to  
24                   the individual was foreclosed), a transfer of  
25                   assets by the individual subject to section

1           1917(c), and payments from such portion  
2           of the trust after such date shall be dis-  
3           regarded.

4           “(C) IRREVOCABLE TRUSTS WHICH CAN-  
5           NOT BENEFIT GRANTOR.—In the case of an ir-  
6           revocable trust, if no payment may be made  
7           from the trust under any circumstances to or  
8           for the benefit of the individual—

9                   “(i) the corpus of the trust shall be  
10                  considered, as of the date of establishment  
11                  of the trust (or, if later, the date on which  
12                  payment to the individual was foreclosed),  
13                  a transfer of assets subject to section  
14                  1917(c), and

15                   “(ii) payments from the trust after  
16                  the date specified in clause (i) shall be dis-  
17                  regarded.

18           “(2) DETERMINATION OF GRANTOR.—

19                   “(A) TREATMENT OF ACTS BY INDIVIDUAL  
20                  AND OTHERS.—For purposes of this subsection,  
21                  an individual shall be considered to have estab-  
22                  lished a trust if—

23                   “(i) the individual (or the individual’s  
24                  spouse), or a person (including a court or  
25                  administrative body) with legal authority

1 to act in place of or on behalf of such indi-  
2 vidual (or spouse), or any person (includ-  
3 ing any court or administrative body) act-  
4 ing at the direction or upon the request of  
5 such individual (or spouse), established  
6 (other than by will) such a trust, and

7 “(ii) assets of the individual (as de-  
8 fined in subparagraph (B)) were used to  
9 form all or part of the corpus of such  
10 trust.

11 “(B) ASSETS.—For purposes of this para-  
12 graph, assets of an individual include all income  
13 and resources of the individual and of the indi-  
14 vidual’s spouse, including any income or re-  
15 sources which the individual (or spouse) is enti-  
16 tled to but does not receive because of action by  
17 the individual (or spouse), by a person (includ-  
18 ing a court or administrative body) with legal  
19 authority to act in place of or on behalf of such  
20 individual (or spouse), or by any person (includ-  
21 ing any court or administrative body) acting at  
22 the direction or upon the request of such indi-  
23 vidual (or spouse).

24 “(C) TRUSTS CONTAINING ASSETS OF  
25 MORE THAN ONE INDIVIDUAL.—In the case of

1 a trust whose corpus includes assets of an indi-  
2 vidual (as determined pursuant to subpara-  
3 graph (A)) and assets of any other person or  
4 persons, the provisions of this subsection shall  
5 apply to the portion of the trust attributable to  
6 the assets of the individual.

7 “(3) APPLICATION; RELATION TO OTHER PRO-  
8 VISIONS.—Subject to paragraph (4), this subsection  
9 shall apply without regard to—

10 “(A) the purposes for which the trust is es-  
11 tablished,

12 “(B) whether the trustees have or exercise  
13 any discretion under the trust,

14 “(C) any restrictions on when or whether  
15 distributions may be made from the trust, or

16 “(D) any restrictions on the use of dis-  
17 tributions from the trust.

18 “(4) EXCEPTIONS AND HARDSHIP WAIVER.—

19 “(A) EXCEPTION FOR CERTAIN TRUSTS.—  
20 This subsection shall not apply to any of the  
21 following trusts:

22 “(i) A trust established for the benefit  
23 of a disabled individual (as determined  
24 under section 1614(a)(3)) by a parent,

1 grandparent, or other representative payee  
2 of the individual.

3 “(ii) A trust established in a State for  
4 the benefit of an individual if—

5 “(I) the trust is composed only of  
6 pension, Social Security, and other in-  
7 come to the individual (and accumu-  
8 lated income in the trust),

9 “(II) the State will receive any  
10 amounts remaining in the trust upon  
11 the death of the individual, and

12 “(III) the State makes medical  
13 assistance available to individuals de-  
14 scribed in section  
15 1902(a)(10)(A)(ii)(V), but does not  
16 make such assistance available to any  
17 group of individuals under section  
18 1902(a)(10)(C).

19 “(B) SPECIAL TREATMENT OF ANNU-  
20 ITIES.—In this subsection, the term ‘trust’ in-  
21 cludes an annuity only to such extent and in  
22 such manner as the Secretary specifies.

23 “(C) HARDSHIP WAIVER.—The State  
24 agency shall establish procedures (in accordance  
25 with standards specified by the Secretary)

1 under which the agency waives the application  
2 of this subsection with respect to an individual  
3 if the individual establishes (under criteria es-  
4 tablished by the Secretary) that such applica-  
5 tion would work an undue hardship on the indi-  
6 vidual.”.

7 (e) EFFECTIVE DATE.—(1) The amendments made  
8 by this section shall apply, except as provided in this sub-  
9 section, to payments under title XIX of the Social Security  
10 Act for calendar quarters beginning on or after October  
11 1, 1993, without regard to whether or not final regulations  
12 to carry out such amendments have been promulgated by  
13 such date.

14 (2) The amendments made by this section shall not  
15 apply—

16 (A) to medical assistance provided for services  
17 furnished before October 1, 1993,

18 (B) with respect to resources disposed of before  
19 May 11, 1993,

20 (C) with respect to trusts established before  
21 May 11, 1993, or

22 (D) with respect to inter-spousal transfers.

23 **SEC. 5112. MEDICAID ESTATE RECOVERIES.**

24 (a) REQUIRING ESTABLISHMENT OF ESTATE RECOV-  
25 ERY PROGRAMS.—

1           (1) IN GENERAL.—Section 1902(a)(51) (42  
2 U.S.C. 1396a(a)(51)) is amended by striking “and  
3 (B)” and inserting “(B) provide for an estate recovery  
4 program that meets the requirements of section  
5 1917(b)(1), and (C)”.

6           (2) REQUIREMENTS FOR ESTATE RECOVERY  
7 PROGRAMS.—Section 1917(b) (42 U.S.C. 1396p(b))  
8 is amended—

9           (A) in paragraph (1)—

10                   (i) by striking “(b)(1)” and inserting  
11                   “(2)”, and

12                   (ii) by striking “(a)(1)(B)” and in-  
13                   serting “(a)(1)(B)(i)”;

14           (B) in paragraph (2), by striking “(2) Any  
15           adjustment or recovery under” and inserting  
16           “(3) Any adjustment or recovery under an es-  
17           tate recovery program under”; and

18           (C) by inserting before paragraph (2), as  
19           designated by subparagraph (A), the following:

20           “(b)(1) For purposes of section 1902(a)(51)(B), the  
21           requirements for an estate recovery program of a State  
22           are as follows:

23                   “(A) The program provides for identifying and  
24                   tracking (and, at the option of the State, preserving)  
25                   resources (whether excluded or not) of individuals

1 who are furnished any of the following long-term  
2 care services for which medical assistance is pro-  
3 vided under this title:

4 “(i) Nursing facility services.

5 “(ii) Home and community-based services  
6 (as defined in section 1915(d)(5)(C)(i)).

7 “(iii) Services described in section  
8 1905(a)(14) (relating to services in an institu-  
9 tion for mental diseases).

10 “(iv) Home and community care provided  
11 under section 1929.

12 “(v) Community supported living arrange-  
13 ments services provided under section 1930.

14 “(B) The program provides for promptly  
15 ascertaining—

16 “(i) when such an individual dies;

17 “(ii) in the case of such an individual who  
18 was married at the time of death, when the sur-  
19 viving spouse dies; and

20 “(iii) at the option of the State, cases in  
21 which adjustment or recovery may not be made  
22 at the time of death because of the application  
23 of paragraph (3)(A) or paragraph (3)(B).

1           “(C)(i) The program provides for the collection  
2 consistent with paragraph (3) of an amount (not to  
3 exceed the amount described in clause (ii)) from—

4                   “(I) the estate of the individual;

5                   “(II) in the case of an individual described  
6 in subparagraph (B)(ii), from the estate of the  
7 surviving spouse; or

8                   “(III) at the option of the State, in a case  
9 described in subparagraph (B)(iii), from the ap-  
10 propriate person.

11           “(ii) The amount described in this clause is the  
12 amount of medical assistance correctly paid under  
13 this title for long-term care services described in  
14 subparagraph (A) furnished on behalf of the individ-  
15 ual.”.

16           (b) **HARDSHIP WAIVER.**—Section 1917(b) (42 U.S.C.  
17 1396p(b)) is further amended by adding at the end the  
18 following new paragraph:

19           “(4) The State agency shall establish procedures (in  
20 accordance with standards specified by the Secretary)  
21 under which the agency waives the application of this sub-  
22 section if such application would work an undue hardship  
23 (in accordance with criteria established by the Sec-  
24 retary).”.

1 (c) DEFINITION OF ESTATE.—Section 1917(b) (42  
2 U.S.C. 1396(b)) is further amended by adding at the end  
3 the following new paragraph:

4 “(5) For purposes of this section, the term ‘estate’,  
5 with respect to a deceased individual, includes all real and  
6 personal property and other assets in which the individual  
7 had any legally cognizable title or interest at the time of  
8 his death, including such assets conveyed to a survivor,  
9 heir, or assign of the deceased individual through joint  
10 tenancy, survivorship, life estate, living trust, or other ar-  
11 rangement.”.

12 (d) EFFECTIVE DATE.—

13 (1)(A) The amendments made by subsections  
14 (a) and (b) apply (except as provided under subpara-  
15 graph (B)) to payments under title XIX of the So-  
16 cial Security Act for calendar quarters beginning on  
17 or after October 1, 1993, without regard to whether  
18 or not final regulations or standards to carry out  
19 such amendments have been promulgated by such  
20 date.

21 (B) In the case of a State plan for medical as-  
22 sistance under title XIX of the Social Security Act  
23 which the Secretary of Health and Human Services  
24 determines requires State legislation (other than leg-  
25 islation appropriating funds) in order for the plan to

1 meet the additional requirements imposed by the  
2 amendments made by subsections (a) and (b), the  
3 State plan shall not be regarded as failing to comply  
4 with the requirements of such title solely on the  
5 basis of its failure to meet these additional require-  
6 ments before the first day of the first calendar quar-  
7 ter beginning after the close of the first regular ses-  
8 sion of the State legislature that begins after the  
9 date of the enactment of this Act. For purposes of  
10 the previous sentence, in the case of a State that has  
11 a 2-year legislative session, each year of such session  
12 shall be deemed to be a separate regular session of  
13 the State legislature.

14 (2) The amendments made by this section shall  
15 not apply to individuals who died before October 1,  
16 1993.

17 **SEC. 5113. CLOSING LOOPHOLE PERMITTING WEALTHY IN-**  
18 **DIVIDUALS TO QUALIFY FOR MEDICAID.**

19 (a) IN GENERAL.—Section 1902(r)(2) (42 U.S.C.  
20 1396a(r)(2)) is amended by adding at the end the follow-  
21 ing:

22 “(C)(i) Notwithstanding subparagraph (A), except as  
23 provided in clause (ii), a State plan may not provide pur-  
24 suant to this paragraph for disregarding any assets—

1           “(I) to the extent that payments are made  
2           under a long-term care insurance policy; or

3           “(II) because an individual has received (or is  
4           entitled to receive) benefits for a specified period of  
5           time under a long-term care insurance policy.

6           “(ii) Clause (i) shall not apply to State plan provi-  
7           sions that are approved as of May 14, 1993.”.

8           (b) EFFECTIVE DATE.—The amendment made by  
9           subsection (a) shall take effect on the date of the enact-  
10          ment of this Act.

11   PART IV—IMPROVEMENT IN IDENTIFICATION  
12   AND COLLECTION OF THIRD PARTY PAYMENTS

13   **SEC. 5116. LIABILITY OF THIRD PARTIES TO PAY FOR CARE**  
14                                   **AND SERVICES.**

15          (a) LIABILITY OF ERISA PLANS.—(1) Section  
16   1902(a)(25)(A) (42 U.S.C. 1396a(a)(25)(A)) is amended  
17   by striking “insurers)” and inserting “insurers and group  
18   health plans (as defined in section 607(1) of the Employee  
19   Retirement Income Security Act of 1974) and including  
20   a service benefit plan and a health maintenance organiza-  
21   tion)”.

22          (2) Section 1903(o) of such Act (42 U.S.C. 1396b(o))  
23   is amended by striking “regulation)” and inserting “regu-  
24   lation and including a group health plan (as defined in  
25   section 607(1) of the Employee Retirement Income Secu-

1 rity Act of 1974)), a service benefit plan, and a health  
2 maintenance organization”.

3 (b) REQUIRING STATE TO PROHIBIT INSURERS  
4 FROM TAKING MEDICAID STATUS INTO ACCOUNT.—Sec-  
5 tion 1902(a)(25) (42 U.S.C. 1396a(a)(25)) is amended—

6 (1) by striking “and” at the end of subpara-  
7 graph (F);

8 (2) by adding “and” at the end of subpara-  
9 graph (G); and

10 (3) by adding after subparagraph (G) the fol-  
11 lowing new subparagraph:

12 “(H) that the State prohibits any health  
13 insurer (including a group health plan, as de-  
14 fined in section 607(1) of the Employee Retire-  
15 ment Income Security Act of 1974, a service  
16 benefit plan, and a health maintenance organi-  
17 zation), in enrolling an individual or in making  
18 any payments for benefits to the individual or  
19 on the individual’s behalf, from taking into ac-  
20 count that the individual is eligible for or is  
21 provided medical assistance under a State  
22 plan;”.

23 (c) STATE RIGHT TO SUBROGATION.—Section  
24 1902(a)(25) (42 U.S.C. 1396a(a)(25)), as amended by  
25 subsection (b), is further amended—

1           (1) by striking “and” at the end of subpara-  
2 graph (G);

3           (2) by adding “and” at the end of subpara-  
4 graph (H); and

5           (3) by adding after subparagraph (H) the fol-  
6 lowing new subparagraph:

7           “(I) that to the extent that payment has  
8 been made under the State plan for medical as-  
9 sistance in any case where a third party has a  
10 legal liability to make payment for such assist-  
11 ance, the State is subrogated to the right of any  
12 other party to payment for such assistance;”.

13       (d) EFFECTIVE DATE.—(1) Except as provided in  
14 paragraph (2), the amendments made by subsections  
15 (a)(1), (b), and (c) shall apply to calendar quarters begin-  
16 ning on or after October 1, 1993, without regard to wheth-  
17 er or not final regulations to carry out such amendments  
18 have been promulgated by such date.

19       (2) In the case of a State plan for medical assistance  
20 under title XIX of the Social Security Act which the Sec-  
21 retary of Health and Human Services determines requires  
22 State legislation (other than legislation appropriating  
23 funds) in order for the plan to meet the additional require-  
24 ments imposed by the amendments made by subsections  
25 (a) and (b), the State plan shall not be regarded as failing

1 to comply with the requirements of such title solely on the  
2 basis of its failure to meet these additional requirements  
3 before the first day of the first calendar quarter beginning  
4 after the close of the first regular session of the State leg-  
5 islature that begins after the date of the enactment of this  
6 Act. For purposes of the previous sentence, in the case  
7 of a State that has a 2-year legislative session, each year  
8 of such session shall be deemed to be a separate regular  
9 session of the State legislature.

10 (3) The amendment made by subsection (a)(2) shall  
11 apply to items and services furnished on or after October  
12 1, 1993.

13 **SEC. 5117. HEALTH COVERAGE CLEARINGHOUSE.**

14 (a) IN GENERAL.—The Social Security Act is  
15 amended by adding at the end the following new title:

16 “TITLE XXI—HEALTH COVERAGE  
17 CLEARINGHOUSE

18 “ESTABLISHMENT OF CLEARINGHOUSE

19 “SEC. 2101. (a) IN GENERAL.—The Secretary shall  
20 establish and operate a Health Coverage Clearinghouse (in  
21 this title referred to as the ‘Clearinghouse’) for the pur-  
22 pose of identifying, for beneficiaries of a covered health  
23 program (as defined in subsection (c)), third parties  
24 (which may include a covered health program) which may

1 be liable for payment for health care items and services  
2 furnished to such beneficiaries under such program.

3 “(b) DIRECTOR.—The Clearinghouse shall be headed  
4 by a Director (in this title referred to as the ‘Director’)  
5 appointed by the Secretary.

6 “(c) COVERED HEALTH PROGRAM DEFINED.—In  
7 this title, the term ‘covered health program’ means any  
8 of the following under which payment is made for health  
9 care items or services furnished to a beneficiary:

10 “(1) The medicare program under title XVIII.

11 “(2) A State plan for medical assistance under  
12 title XIX (including a State plan operating under a  
13 Statewide waiver under section 1115).

14 “(3) The Indian Health Service and any pro-  
15 gram under the Indian Health Care Improvement  
16 Act.

17 “(4) A State program under title V that pro-  
18 vides payment for items or services.

19 “(d) OTHER DEFINITIONS.—In this title:

20 “(1) The term ‘administrator’ means, with re-  
21 spect to the covered health program described in—

22 “(A) subsection (c)(1), the Administrator  
23 of the Health Care Financing Administration;

24 “(B) subsection (c)(2), the single State  
25 agency referred to in section 1902(a)(5);

1           “(C) subsection (c)(3), the Director of the  
2           Indian Health Service; and

3           “(D) subsection (c)(4), the State agency  
4           receiving funds under title V.

5           “(2) The term ‘group health plan’ has the  
6           meaning given such term in section  
7           6103(l)(12)(E)(ii) of such Code.

8           “(3) The term ‘qualified employer’ has the  
9           meaning given such term in section  
10          6103(l)(12)(E)(iii) of the Internal Revenue Code of  
11          1986.

12                           “PROVISION OF INFORMATION

13          “SEC. 2102. (a) REQUEST FOR INFORMATION.—An  
14          administrator of a covered health program may request  
15          from the Director information concerning the employment  
16          and group health coverage of a program beneficiary, the  
17          beneficiary’s spouse, and (if the beneficiary is a dependent  
18          child) the beneficiary’s parents. The Director shall provide  
19          such information if the request—

20                   “(1) is in such form and manner and at such  
21                   a time as the Director may require, and

22                   “(2) specifies the name and tax identification  
23                   number of the beneficiary.

24                   “(b) DATA MATCHING PROGRAM.—

25                   “(1) REQUEST BY DIRECTOR.—The Director  
26                   shall, at such intervals as the Director finds appro-

1        appropriate, transmit to the Secretary of the Treasury the  
2        names and tax identification numbers of bene-  
3        ficiaries with respect to whom a request has been  
4        made pursuant to subsection (a), and request that  
5        such Secretary disclose to the Commissioner of So-  
6        cial Security the following information:

7                “(A) Whether the beneficiary is married  
8                and, if so, the name of the spouse and such  
9                spouse’s tax identification number.

10              “(B) If the beneficiary is a dependent  
11              child, the name of and tax identification num-  
12              bers of the beneficiary’s parents.

13              “(2) INFORMATION FROM COMMISSIONER OF  
14              SOCIAL SECURITY.—The Secretary, acting through  
15              the Commissioner of Social Security, shall, upon  
16              written request from the Director, disclose to the Di-  
17              rector, the following information:

18              “(A) For each individual who is identified  
19              as having received wages (as defined in section  
20              3401(a) of the Internal Revenue Code of 1986)  
21              from, and as having available coverage under a  
22              group health plan of, an employer in a previous  
23              year—

24                      “(i) the name and taxpayer identifica-  
25                      tion number of the individual;

1           “(ii) the name, address, and taxpayer  
2           identification number of the employer, and  
3           whether such employer is a qualified em-  
4           ployer; and

5           “(iii) whether the employer has made  
6           available a group health plan to the em-  
7           ployee and the plan coverage provided (if  
8           any) with respect to the employee and fam-  
9           ily members of the employee under the  
10          group health plan.

11          “(B) For each individual who is identified  
12          as married and whose spouse is identified as  
13          having received wages (as defined in section  
14          3401(a) of the Internal Revenue Code of 1986)  
15          from, and as having available coverage under a  
16          group health plan of, an employer in a previous  
17          year—

18                 “(i) the name and taxpayer identifica-  
19                 tion number of the individual and of the  
20                 individual’s spouse;

21                 “(ii) the name, address, and taxpayer  
22                 identification number of the spouse’s em-  
23                 ployer, and whether such employer is a  
24                 qualified employer; and

1           “(iii) whether the spouse’s employer  
2           has made available a group health plan to  
3           the spouse and the plan coverage provided  
4           (if any) with respect to the spouse and  
5           family members of the spouse under the  
6           group health plan.

7           “(C) For each individual who is identified  
8           as a dependent child and whose parent is iden-  
9           tified as having received wages (as defined in  
10          section 3401(a) of the Internal Revenue Code  
11          of 1986) from, and as having available coverage  
12          under a group health plan of, an employer in a  
13          previous year—

14                 “(i) the name and taxpayer identifica-  
15                 tion number of the individual and of the  
16                 individual’s parent;

17                 “(ii) the name, address, and taxpayer  
18                 identification number of the parent’s em-  
19                 ployer, and whether such employer is a  
20                 qualified employer; and

21                 “(iii) whether the parent’s employer  
22                 has made available a group health plan to  
23                 the parent and the plan coverage provided  
24                 (if any) with respect to the parent and de-

1           pendent children of the parent under the  
2           group health plan.

3           “(3) INFORMATION FROM EMPLOYERS.—The  
4     Director shall—

5           “(A) request, from the employer of each  
6     individual (including each spouse) with respect  
7     to whom information was received from the  
8     Commissioner of Social Security pursuant to  
9     paragraph (2), specific information concerning  
10    coverage of such individual (and of the individ-  
11    ual’s spouse and dependent children) under the  
12    employer’s group health plan (including the pe-  
13    riod and nature of the coverage, and the name,  
14    address, and identifying number of the plan),  
15    and

16           “(B) furnish the information received in  
17    response to such request with respect to an in-  
18    dividual (or such individual’s spouse or depend-  
19    ent children) to the administrator requesting  
20    such information pursuant to subsection (a).

21           “REQUIREMENT THAT EMPLOYERS FURNISH  
22    INFORMATION

23           “SEC. 2103. (a) IN GENERAL.—An employer shall  
24    furnish to the Director the information requested pursu-  
25    ant to section 2102(b)(3) within 30 days after receipt of  
26    such a request.

1       “(b) SUNSET ON REQUIREMENT.—Subsection (a)  
2 shall not apply to inquiries made after September 30,  
3 1998.

4       “(c) CIVIL MONEY PENALTY FOR FAILURE TO CO-  
5 OPERATE.—

6           “(1) IN GENERAL.—An employer (other than a  
7 Federal or other governmental entity) who willfully  
8 or repeatedly fails to provide timely and accurate re-  
9 sponse to a request for information pursuant to sec-  
10 tion 2102(b)(3) shall be subject, in addition to any  
11 other penalties that may be prescribed by law, to a  
12 civil money penalty of not to exceed \$1,000 for each  
13 individual with respect to whom such a request is  
14 made.

15           “(2) ENFORCEMENT AUTHORITY.—In cases of  
16 failure to respond to the Director in accordance with  
17 subsection (a) to inquiries relating to requests pur-  
18 suant to section 2102, the provisions of section  
19 1128A (other than subsections (a) and (b)) shall  
20 apply to civil money penalties under paragraph (1)  
21 in the same manner as such provisions apply to pen-  
22 alties or proceedings under section 1128A(a).

23           “DATA BANK

24       “SEC. 2104. (a) MAINTENANCE OF INFORMATION.—  
25 The Clearinghouse shall maintain a data bank, containing  
26 information on individuals obtained pursuant to this title.

1 Individual information in the data bank shall be retained  
2 for not less than one year after the date the information  
3 was obtained.

4 “(b) DISCLOSURE OF INFORMATION IN DATA  
5 BANK.—

6 “(1) IN GENERAL.—The Director is authorized  
7 (subject to paragraph (2)) to disclose any informa-  
8 tion in the data bank established pursuant to sub-  
9 section (a) with respect to an individual (or an indi-  
10 vidual’s spouse or parent)—

11 “(A) to the Commissioner of Social Secu-  
12 rity, the Secretary of the Treasury, administra-  
13 tors, employers, and insurers, to the extent nec-  
14 essary to assist such administrators;

15 “(B) to Federal and State law enforcement  
16 officials responsible for enforcement of civil or  
17 criminal laws, in connection with investigations  
18 or administrative or judicial law enforcement  
19 proceedings relating to a covered health pro-  
20 gram; and

21 “(C) for research or statistical purposes.

22 “(2) RESTRICTIONS ON DISCLOSURE.—Informa-  
23 tion in the data bank may be disclosed under this  
24 subsection only for purposes of, and to the extent

1       necessary in, determining the extent to which an in-  
2       dividual is covered under any group health plan.

3       “(c) USE OF CONTRACTORS.—The responsibilities of  
4       the Clearinghouse under this section may be carried out  
5       by contract.

6       “(d) FEES.—The Clearinghouse shall—

7               “(1) establish fees for services under this sec-  
8       tion designed to cover the full costs to the Clearing-  
9       house of providing such services, and

10              “(2) require the payment of such fees to pro-  
11       vide such services.”.

12       (b) CONFORMING MEDICARE AMENDMENTS.—Sec-  
13       tion 1862(b)(5) (42 U.S.C. 1395y(b)(5)) is amended—

14              (1) in subparagraph (A)(i)—

15                      (A) by striking “Secretary of the Treas-  
16       ury” and inserting “Director of the Health Cov-  
17       erage Clearinghouse”,

18                      (B) by striking “(as defined in section  
19       6103(l)(12) of the Internal Revenue Code of  
20       1986)” and inserting “(as defined in clause  
21       (iii))”, and

22                      (C) by striking “and request” and all that  
23       follows and inserting a period;

24              (2) in subparagraph (A)(ii)—

1 (A) by striking “the Commissioner of the  
2 Social Security Administration” and all that  
3 follows and inserting “the Director of the  
4 Health Coverage Clearinghouse to obtain and  
5 disclose to the Administrator, pursuant to sec-  
6 tion 2102(b) and to subparagraph (C) of sec-  
7 tion 6103(l)(12) of the Internal Revenue Code  
8 of 1986, the information described in section  
9 2102(b) and subparagraph (B) of such section  
10 6103(l)(12).”, and

11 (B) by inserting “, pursuant to section  
12 1144(c),” after “disclose to the Administrator”;  
13 and

14 (3) by striking subparagraph (C).

15 (c) MEDICAID USE OF CLEARINGHOUSE.—Section  
16 1902(a)(25)(A) (42 U.S.C. 1396a(a)(25)(A)) is amended  
17 by inserting “(including making appropriate requests to  
18 the Director of the Health Coverage Clearinghouse under  
19 section 2102)” after “all reasonable measures”.

20 (d) COLLECTION OF THIRD PARTY PAYMENTS  
21 UNDER MATERNAL AND CHILD HEALTH BLOCK GRANT  
22 PROGRAM.—Section 505(a) (42 U.S.C. 705(a)) is amend-  
23 ed—

24 (1) by striking “and” at the end of paragraph

25 (4),

1           (2) by striking the period at the end of para-  
2 graph (5) and inserting “; and”, and

3           (3) by inserting after paragraph (5) the follow-  
4 ing new paragraph:

5           “(6) provides for an entity providing health  
6 services with assistance from the State under this  
7 title taking all reasonable steps—

8                   “(A) to ascertain the legal liability of third  
9 parties to pay for such services, and

10                   “(B) where such liability is found to exist,  
11 to seek reimbursement for such services.”.

12       (e) EFFECTIVE DATES.—

13           (1) The amendments made by subsections (a),  
14 (b), and (d) shall take effect on April 1, 1995.

15           (2) The amendments made by subsection (c)  
16 shall apply to allotments for years beginning with  
17 fiscal year 1994.

18 **SEC. 5118. MEDICAL CHILD SUPPORT.**

19       (a) STATE PLAN REQUIREMENT.—Section  
20 1902(a)(45) (42 U.S.C. 1396a(a)(45)) is amended by  
21 striking “owed to recipients” and inserting “and have in  
22 effect laws relating to medical child support”.

23       (b) MEDICAL CHILD SUPPORT LAWS.—Section 1912  
24 of such Act (42 U.S.C. 1396k) is amended—

1           (1) by adding at the end of the heading the fol-  
2           lowing: “; REQUIRED LAWS RELATING TO MEDICAL  
3           CHILD SUPPORT”; and

4           (2) by adding at the end the following new sub-  
5           section:

6           “(c) The laws relating to medical child support, which  
7           a State is required to have in effect under section  
8           1902(a)(45), are as follows:

9           “(1) A law that prohibits an insurer from deny-  
10          ing enrollment of a child under the health coverage  
11          of the child’s parent on the ground that the child  
12          was born out of wedlock, on the ground that the  
13          child may not be claimed as a dependent on the par-  
14          ent’s Federal income tax return, or on the ground  
15          that the child does not reside with the parent or in  
16          the insurer’s service area. In this subsection, the  
17          term ‘insurer’ includes a group health plan, as de-  
18          fined in section 607(1) of the Employee Retirement  
19          Income Security Act of 1974, a health maintenance  
20          organization, and an entity offering a service benefit  
21          plan.

22          “(2) A law that requires an insurer, in any case  
23          in which a parent is required by court or administra-  
24          tive order to provide health coverage for a child and

1 the parent is eligible for family health coverage  
2 through the insurer—

3 “(A) to permit such parent, upon applica-  
4 tion and without regard to any enrollment sea-  
5 son restrictions, to enroll the parent and such  
6 child under such family coverage;

7 “(B) if such a parent is enrolled but fails  
8 to make application to obtain coverage of such  
9 child, to enroll such child under such family  
10 coverage upon application by the child’s other  
11 parent or by the State agency administering the  
12 program under this title or part D of title IV;  
13 and

14 “(C) not to disenroll (or eliminate coverage  
15 of) such a child unless the insurer is provided  
16 satisfactory written evidence that—

17 “(i) such court or administrative  
18 order is no longer in effect, or

19 “(ii) the child is or will be enrolled in  
20 comparable health coverage through an-  
21 other insurer which will take effect not  
22 later than the effective date of such  
23 disenrollment.

24 “(3) A law that requires an employer doing  
25 business in the State, in the case of health coverage

1 offered through employment with the employer and  
2 providing coverage of a child of an employee pursu-  
3 ant to a court or administrative order, to withhold  
4 from such employee's compensation the employee's  
5 share (if any) of premiums for health coverage (to  
6 the maximum amount permitted under section  
7 303(b) of the Consumer Credit Protection Act) and  
8 to pay such share of premiums to the insurer.

9 “(4) A law that prohibits an insurer from im-  
10 posing requirements upon a State agency, which is  
11 acting as an agent or subrogee of an individual eligi-  
12 ble for medical assistance under this title and cov-  
13 ered for health benefits from the insurer, that are  
14 different from requirements applicable to an agent  
15 or subrogee of any other individual so covered.

16 “(5) A law that requires an insurer, in any case  
17 in which a child has health coverage through the in-  
18 surer of a noncustodial parent—

19 “(A) to provide such information to the  
20 custodial parent as may be necessary for the  
21 child to obtain benefits through such coverage;

22 “(B) to permit the custodial parent (or  
23 provider, with the custodial parent's approval)  
24 to submit claims for covered services without  
25 the approval of the noncustodial parent; and

1           “(C) to make payment on claims submitted  
2           in accordance with subparagraph (B) directly to  
3           the custodial parent or the provider.

4           “(6) A law that requires the State agency under  
5           this title to garnish the wages, salary, or other em-  
6           ployment income of, and to withhold amounts from  
7           State tax refunds to, any person who—

8                   “(A) is required by court or administrative  
9                   order to provide coverage of the costs of health  
10                  services to a child who is eligible for medical as-  
11                  sistance under this title,

12                   “(B) has received payment from a third  
13                  party for the costs of such services to such  
14                  child, but

15                   “(C) has not used such payments to reim-  
16                  burse, as appropriate, either the other parent or  
17                  guardian of such child or the provider of such  
18                  services,

19           to the extent necessary to reimburse the State agen-  
20           cy for expenditures for such costs under its plan  
21           under this title, but any claims for current or past-  
22           due child support shall take priority over any such  
23           claims for the costs of such services.”.

24           (c) EFFECTIVE DATE.—(1) Except as provided in  
25           paragraph (2), the amendments made by this section

1 apply to calendar quarters beginning on or after April 1,  
2 1994, without regard to whether or not final regulations  
3 to carry out such amendments have been promulgated by  
4 such date.

5 (2) In the case of a State plan under title XIX of  
6 the Social Security Act which the Secretary of Health and  
7 Human Services determines requires State legislation in  
8 order for the plan to meet the additional requirements im-  
9 posed by the amendments made by this section, the State  
10 plan shall not be regarded as failing to comply with the  
11 requirements of such title solely on the basis of its failure  
12 to meet these additional requirements before the first day  
13 of the first calendar quarter beginning after the close of  
14 the first regular session of the State legislature that be-  
15 gins after the date of enactment of this Act. For purposes  
16 of the previous sentence, in the case of a State that has  
17 a 2-year legislative session, each year of such session shall  
18 be deemed to be a separate regular session of the State  
19 legislature.

20 PART V—ASSURING PROPER PAYMENTS TO  
21 DISPROPORTIONATE SHARE HOSPITALS

22 **SEC. 5121. ASSURING PROPER PAYMENTS TO DISPROPOR-**  
23 **TIONATE SHARE HOSPITALS.**

24 (a) DISPROPORTIONATE SHARE HOSPITALS RE-  
25 QUIRED TO PROVIDE MINIMUM LEVEL OF SERVICES TO

1 MEDICAID PATIENTS.—Section 1923 (42 U.S.C. 1396r–  
2 4) is amended—

3 (1) in subsection (a)(1)(A), by striking “re-  
4 quirement” and inserting “requirements”;

5 (2) in subsection (b)(1), by striking “require-  
6 ment” and inserting “requirements”;

7 (3) in the heading to subsection (d), by striking  
8 “REQUIREMENT” and inserting “REQUIREMENTS”;

9 (4) by adding at the end of subsection (d) the  
10 following new paragraph:

11 “(3) No hospital may be defined or deemed as  
12 a disproportionate share hospital under a State plan  
13 under this title or under subsection (b) or (e) of this  
14 section unless the hospital has a medicaid inpatient  
15 utilization rate (as defined in subsection (b)(2)) of  
16 not less than 1 percent.”;

17 (5) in subsection (e)(1)—

18 (A) by striking “and” before “(B)”, and

19 (B) by inserting before the period at the  
20 end the following: “, and (C) the plan meets the  
21 requirement of subsection (d)(3) and such pay-  
22 ment adjustments are made consistent with the  
23 fourth sentence of subsection (c)”;

24 (6) in subsection (e)(2)—

1 (A) in subparagraph (A), by inserting  
2 “(other than the fourth sentence of subsection  
3 (c))” after “(c)”,

4 (B) by striking “and” at the end of sub-  
5 paragraph (A),

6 (C) by striking the period at the end of  
7 subparagraph (B) and inserting “, and”, and

8 (D) by adding at the end the following new  
9 subparagraph:

10 “(C) subsection (d)(3) shall apply.”.

11 (b) LIMITING AMOUNT OF PAYMENT ADJUSTMENTS  
12 FOR STATE OR COUNTY HOSPITALS TO UNCOVERED  
13 COSTS.—Subsection (c) of such section is amended by  
14 adding at the end the following: “A payment adjustment  
15 during a year is not considered to be consistent with this  
16 subsection with respect to a hospital owned or operated  
17 by a State (or by an instrumentality or a unit of govern-  
18 ment within a State) if the payment adjustment exceeds  
19 the costs of furnishing hospital services (as determined by  
20 the Secretary and net of payments under this title, other  
21 than under this section, and by uninsured patients) by the  
22 hospital to individuals who either are eligible for medical  
23 assistance under the State plan or have no health insur-  
24 ance (or other source of third party payment) for such  
25 services during the year. For purposes of the preceding

1 sentence, payments made to a hospital for services pro-  
2 vided to indigent patients made by a State or a unit of  
3 local government within a State shall not be considered  
4 to be a source of third party payment.”.

5 (c) EFFECTIVE DATE.—The amendments made by  
6 this section shall apply to payments to States under sec-  
7 tion 1903(a) of the Social Security Act for payments to  
8 hospitals made under State plans after—

9 (1) the end of the State fiscal year that ends  
10 during 1994, or

11 (2) in the case of a State with a State legisla-  
12 ture which is not scheduled to have a regular legisla-  
13 tive session in 1994, the end of the State fiscal year  
14 that ends during 1995;

15 without regard to whether or not final regulations to carry  
16 out such amendments have been promulgated by either  
17 such date.

## 18 **Subchapter B—Miscellaneous Provisions**

### 19 **PART I—ANTI-FRAUD AND ABUSE PROVISIONS**

#### 20 **SEC. 5131. APPLICATION OF MEDICARE RULES LIMITING** 21 **CERTAIN PHYSICIAN REFERRALS.**

22 (a) IN GENERAL.—Section 1903(i) (42 U.S.C.  
23 1396b(i)), as amended by section 5174(b), is amended—

24 (A) in paragraph (12), by striking or at  
25 the end,

1 (B) in paragraph (13), by striking the pe-  
2 riod at the end and inserting “; or”, and

3 (C) by inserting after paragraph (13) the  
4 following new paragraph:

5 “(14) with respect to any amount expended for  
6 an item or service for which payment would be de-  
7 nied under section 1877(g)(1) if the item or service  
8 were furnished to an individual entitled to benefits  
9 under title XVIII.”.

10 (b) EFFECTIVE DATE.—The amendment made by  
11 subsection (a) shall apply to items and services furnished  
12 on or after October 1, 1993.

13 **SEC. 5132. INTERMEDIATE SANCTIONS FOR KICKBACK VIO-**  
14 **LATIONS.**

15 (a) PENALTY FOR KICKBACKS.—Section 1128A(a)  
16 (42 U.S.C. 1320a–7a(a)) is amended—

17 (1) by striking “or” at the end of paragraphs  
18 (1) and (2);

19 (2) by adding “or” at the end of paragraph (3);

20 (3) by inserting after paragraph (3) the follow-  
21 ing new paragraph:

22 “(4) carries out any activity in violation of  
23 paragraph (1) or (2) of section 1128B(b);”;

1 (4) by striking “given).” at the end of the first  
2 sentence and inserting “given or, in cases under  
3 paragraph (4), \$50,000 for each such violation).”;

4 (5) in the second sentence, by inserting “in  
5 cases under paragraphs (1), (2), and (3),” after “In  
6 addition,”; and

7 (6) by inserting after the second sentence, the  
8 following new sentence: “In cases under paragraph  
9 (4), such a person shall be subject to an assessment  
10 of not more than twice the total amount of the re-  
11 munerations offered, paid, solicited, or received in  
12 violation of section 1128B(b), determined without  
13 regard to whether a portion of such remuneration  
14 was offered, paid, solicited, or received for a lawful  
15 purpose.”.

16 (b) AUTHORIZATION TO ACT.—The first sentence of  
17 section 1128A(c)(1) (42 U.S.C. 1320a–7a(c)(1)) is  
18 amended by striking all that follows “(b)” and inserting  
19 the following: “unless, within one year after the date the  
20 Secretary presents a case to the Attorney General for con-  
21 sideration, the Attorney General brings an action in a dis-  
22 trict court of the United States.”.

23 (c) EFFECTIVE DATES.—

24 (1) The amendments made by subsection (a)  
25 shall apply to remuneration offered, paid, solicited,

1 or received before, on, or after the date of the enact-  
2 ment of this Act.

3 (2) The amendment made by subsection (b)  
4 shall apply to cases presented by the Secretary of  
5 Health and Human Services for consideration on or  
6 after the date of the enactment of this Act.

7 **SEC. 5133. REQUIRING MAINTENANCE OF EFFORT FOR**  
8 **STATE MEDICAID FRAUD CONTROL UNITS.**

9 (a) IN GENERAL.—Section 1902(a)(49) (42 U.S.C.  
10 1396a(a)(49)) is amended—

11 (1) by inserting “(A)” after “(49)”, and

12 (2) by adding at the end the following new sub-  
13 paragraph:

14 “(B) provide that the State will expend for its  
15 medicaid fraud and abuse control unit (as defined in  
16 section 1903(q)), for each State fiscal year, an  
17 amount that is not less than the amount expended  
18 for such unit in the State fiscal year that ended in  
19 1992 adjusted to reflect the percentage increase in  
20 total expenditures under the State plan between  
21 such State fiscal year and the State fiscal year in-  
22 volved;”.

23 (b) EFFECTIVE DATE.—The amendments made by  
24 subsection (a) shall apply to State fiscal years ending after  
25 1993.

## 1 PART II—MANAGED CARE PROVISIONS

2 **SEC. 5135. MEDICAID MANAGED CARE ANTI-FRAUD PROVI-**  
3 **SIONS.**4 (a) PROHIBITING AFFILIATIONS WITH INDIVIDUALS  
5 DEBARRED BY FEDERAL AGENCIES.—6 (1) IN GENERAL.—Section 1903(m) (42 U.S.C.  
7 1396b(m)) is amended—

8 (A) in paragraph (2)(A)—

9 (i) by striking “and” at the end of  
10 clause (x),11 (ii) by striking the period at the end  
12 of clause (xi) and inserting “; and”, and13 (iii) by adding at the end the follow-  
14 ing new clause:15 “(xii) the entity complies with the requirements  
16 of paragraph (3) (relating to certain protections  
17 against fraud and abuse).”;18 (B) in paragraph (2)(B), as amended by  
19 section 5158(b), by striking “clause (ix)” and  
20 inserting “clauses (ix) and (xii)”; and21 (C) by inserting after paragraph (2) the  
22 following new paragraph:23 “(3)(A)(i) A health maintenance organization may  
24 not have a person described in clause (iv) as a director,

1 officer, partner, or person with beneficial ownership of  
2 more than 5 percent of organization's equity.

3       “(ii) A health maintenance organization may not have  
4 an employment, consulting, or other agreement with a per-  
5 son described in clause (iv) for the provision of goods and  
6 services that are significant and material to the organiza-  
7 tion's obligations under its contract with the State de-  
8 scribed in paragraph (2)(A)(iii).

9       “(iii) If a health maintenance organization is not in  
10 compliance with clause (i) or clause (ii)—

11               “(I) a State may continue an existing agree-  
12 ment with the organization unless the Secretary (in  
13 consultation with the Inspector General of the De-  
14 partment of Health and Human Services) directs  
15 otherwise; and

16               “(II) a State may not renew or otherwise ex-  
17 tend the duration of an existing agreement with the  
18 organization unless the Secretary (in consultation  
19 with the Inspector General of the Department of  
20 Health and Human Services) provides a written  
21 statement describing compelling reasons that exist  
22 for renewing or extending the agreement.

23       “(iv) A person described in this clause is a person  
24 that—

1           “(I) is debarred or suspended by the Federal  
2           Government, pursuant to the Federal acquisition  
3           regulation, from Government contracting and sub-  
4           contracting, or

5           “(II) is an affiliate (within the meaning of the  
6           Federal acquisition regulation) of a person described  
7           in subclause (I).”.

8           (2) EFFECTIVE DATE.—The amendments made  
9           by paragraph (1) shall apply to agreements between  
10          a State and an entity under section 1903(m) of the  
11          Social Security Act entered into or renewed on or  
12          after October 1, 1993, without regard to whether  
13          regulations to carry out such amendments are pro-  
14          mulgated by such date.

15          (b) REQUIREMENT FOR STATE CONFLICT-OF-INTER-  
16          EST SAFEGUARDS IN MEDICAID RISK CONTRACTING.—

17                 (1) IN GENERAL.—Section 1903(m)(2)(A) (42  
18                 U.S.C. 1396b(m)(2)(A)), as amended by subsection  
19                 (a)(1)(C), is amended—

20                         (A) by striking “and” at the end of clause  
21                         (xi),

22                         (B) by striking the period at the end of  
23                         clause (xii) and inserting “; and”, and

24                         (C) by adding at the end the following new  
25                         clause:

1           “(xiii) the State certifies to the Secretary that  
2           it has in effect conflict-of-interest safeguards with  
3           respect to officers and employees of the State with  
4           responsibility with respect to contracts with organi-  
5           zations under this subsection that are at least as ef-  
6           fective as the Federal safeguards, provided under  
7           section 27 of the Office of Federal Procurement Pol-  
8           icy Act (41 U.S.C. 423), against conflicts of interest  
9           that apply with respect to Federal procurement offi-  
10          cials with comparable responsibilities with respect to  
11          such contracts.”.

12           (2) EFFECTIVE DATE.—The amendments made  
13          by paragraph (1) shall apply as of July 1, 1994,  
14          without regard to whether regulations to carry out  
15          such amendments are promulgated by such date.

16          (c) REQUIRING DISCLOSURE OF FINANCIAL INFOR-  
17          MATION.—

18           (1) IN GENERAL.—Section 1903(m)(3), as in-  
19          serted by subsection (a)(1)(C), is amended by add-  
20          ing at the end the following new subparagraph:

21          “(B) The contract between the State and an entity  
22          referred to in paragraph (2)(A)(iii) shall provide that—

23           “(i) the entity agrees to report to the State  
24          such financial information as the Secretary or the

1 State may require to demonstrate that the entity has  
2 a fiscally sound operation; and

3 “(ii) the entity agrees to make available to its  
4 enrollees upon reasonable request—

5 “(I) the information reported under para-  
6 graph (1),

7 “(II) the information required to be dis-  
8 closed under sections 1124 and 1126, and

9 “(III) a description of each transaction,  
10 described in subparagraphs (A) through (C) of  
11 section 1318(a)(3) of the Public Health Service  
12 Act, between the entity and a party in interest  
13 (as defined in section 1318(b) of such Act).”.

14 (2) EFFECTIVE DATE.—The amendment made  
15 by paragraph (1) shall apply to contract years begin-  
16 ning on or after October 1, 1993, without regard to  
17 whether regulations to carry out such amendments  
18 are promulgated by such date, with respect to infor-  
19 mation reported or required to be disclosed, or  
20 transactions occurring, before, on, or after such  
21 date.

22 (d) PROHIBITING MARKETING FRAUD.—

23 (1) IN GENERAL.—Section 1903(m)(3), as in-  
24 serted by subsection (a)(1) and as amended by sub-

1 section (c)(1), is amended by adding at the end the  
2 following new subparagraph:

3 “(C) The contract between the State and an entity  
4 referred to in paragraph (2)(A)(iii) shall provide that the  
5 entity agrees to comply with such procedures and condi-  
6 tions as the Secretary prescribes in order to ensure that,  
7 before an individual is enrolled with the entity, the individ-  
8 ual is provided accurate and sufficient information to  
9 make an informed decision whether or not to enroll.”.

10 (2) EFFECTIVE DATE.—The amendment made  
11 by paragraph (1) shall apply to contract years that  
12 begin on or after October 1, 1993, without regard  
13 to whether regulations to carry out such amendment  
14 are promulgated by such date.

15 (e) REQUIRING ADEQUATE EQUITY FOR FOR-PROFIT  
16 ENTITIES.—

17 (1) IN GENERAL.—Section 1903(m)(3), as pre-  
18 viously amended by this section, is further amended  
19 by adding at the end the following new subpara-  
20 graph:

21 “(D)(i) The contract between the State and an entity  
22 referred to in paragraph (2)(A)(iii) shall require, in the  
23 case of a for-profit entity, that the entity shall maintain  
24 an average ratio of—

25 “(I) equity capital to

1           “(II) payments made by the State to the entity  
2           under the contract on a capitation basis or any other  
3           risk basis,  
4           of not less than such minimum ratio as the Secretary shall  
5           specify.

6           “(ii) The contract between the State and a non-profit  
7           entity referred to in paragraph (2)(A)(iii) shall require  
8           that no payment shall be made directly or indirectly under  
9           an agreement between the non-profit entity and a related  
10          for-profit entity (as defined by the Secretary) unless the  
11          for-profit entity maintains an average ratio of equity cap-  
12          ital to payments under such agreement of not less than  
13          such ratio as the Secretary shall specify.”.

14           (2) EFFECTIVE DATE.—The amendment made  
15          by paragraph (1) shall apply to contract years begin-  
16          ning on or after July 1, 1994, without regard to  
17          whether regulations to carry out such amendment  
18          are promulgated by such date.

19           (f) REQUIRING ADEQUATE PROVISION AGAINST RISK  
20          OF INSOLVENCY.—

21           (1) IN GENERAL.—Section 1903(m)(1)(A)(ii)  
22          (42 U.S.C. 1396b(m)(1)(A)(ii)) is amended by in-  
23          serting “, which meets such standards as the Sec-  
24          retary shall prescribe” after “satisfactory to the  
25          State”.

1 (2) EFFECTIVE DATE AND TRANSITION.—(A)

2 The amendment made by paragraph (1) shall apply  
3 to contract years beginning on or after July 1, 1994,  
4 without regard to whether regulations to carry out  
5 such amendments are promulgated by such date.

6 (B) If the Secretary of Health and Human  
7 Services has not promulgated standards to carry out  
8 the amendment made by paragraph (1) by July 1,  
9 1994, until such standards have been promulgated a  
10 provision of a health maintenance organization  
11 against the risk of insolvency shall not be considered  
12 to meet standards prescribed by the Secretary, for  
13 purposes of section 1903(m)(1)(A)(ii) of the Social  
14 Security Act, unless such provision has been found  
15 satisfactory by the Secretary under section  
16 1876(b)(2)(E) of such Act.

17 (g) REQUIRING REPORT ON NET EARNINGS AND AD-  
18 DITIONAL BENEFITS.—

19 (1) IN GENERAL.—Section 1903(m)(3), as pre-  
20 viously amended by this section, is amended by add-  
21 ing at the end the following new subparagraph:

22 “(E) The contract between the State and an entity  
23 referred to in paragraph (2)(A)(iii) shall provide that the  
24 entity shall submit a report to the State and the Secretary

1 not later than 12 months after the close of a contract year  
2 containing—

3 “(i) a financial statement of the entity’s net  
4 earnings under the contract during the contract  
5 year, which statement has been audited using audit-  
6 ing standards established by the Secretary in con-  
7 sultation with the States; and

8 “(ii) a description of any benefits that are in  
9 addition to the benefits required to be provided  
10 under the contract that were provided during the  
11 contract year to members enrolled with the entity  
12 and entitled to medical assistance under the plan.”.

13 (2) EFFECTIVE DATE.—The amendment made  
14 by paragraph (1) shall apply to contract years begin-  
15 ning on or after October 1, 1993, without regard to  
16 whether regulations to carry out such amendments  
17 are promulgated by such date.

18 (h) REPORT ON NET EARNINGS OF CONTRACTORS.—  
19 Not later than 6 months after the date of the enactment  
20 of this Act, the Secretary of Health and Human Services  
21 shall submit a report to Congress on the earnings of orga-  
22 nizations with contracts to receive payment for providing  
23 medical assistance under title XIX of the Social Security  
24 Act on a prepaid capitation or any other risk basis. The  
25 report shall include the Secretary’s recommendations on

1 options for requiring such organizations, as a condition  
2 of participation under such title, to dedicate a portion of  
3 such earnings to the provision of additional benefits to in-  
4 dividuals enrolled with the organization.

5 **SEC. 5136. CLARIFICATION OF TREATMENT OF HMO EN-**  
6 **ROLLEES IN COMPUTING THE MEDICAID IN-**  
7 **PATIENT UTILIZATION RATE IN QUALIFYING**  
8 **HOSPITALS AS DISPROPORTIONATE SHARE**  
9 **HOSPITALS.**

10 (a) IN GENERAL.—Section 1923(b)(2) (42 U.S.C.  
11 1396r-4(b)(2)) is amended by inserting before the period  
12 at the end the following: “and whether or not the individ-  
13 ual is enrolled with an entity contracting with the State  
14 on a prepaid capitation basis or other risk basis under sec-  
15 tion 1903(m)”.

16 (b) EFFECTIVE DATE.—The amendment made by  
17 subsection (a) shall apply to payments to States under sec-  
18 tion 1903(a) of the Social Security Act for payments to  
19 hospitals made under State plans on and after the first  
20 day of the first calendar quarter beginning after the date  
21 of the enactment of this Act.

1 **SEC. 5137. EXTENSION OF PERIOD OF APPLICABILITY OF**  
2 **ENROLLMENT MIX REQUIREMENT TO CER-**  
3 **TAIN HEALTH MAINTENANCE ORGANIZA-**  
4 **TIONS PROVIDING SERVICES UNDER DAYTON**  
5 **AREA HEALTH PLAN.**

6 Section 2 of Public Law 102-276 is amended by  
7 striking “January 31, 1994” and inserting “December 31,  
8 1995”.

9 **SEC. 5138. EXTENSION OF MEDICAID WAIVER FOR TEN-**  
10 **NESSEE PRIMARY CARE NETWORK.**

11 Section 6411(f) of the Omnibus Budget Reconcili-  
12 ation Act of 1989, as amended by section 1 of Public Law  
13 102-317, is amended by striking “January 31, 1994” and  
14 inserting “December 31, 1995”.

15 **SEC. 5139. WAIVER OF APPLICATION OF MEDICAID EN-**  
16 **ROLLMENT MIX REQUIREMENT TO DISTRICT**  
17 **OF COLUMBIA CHARTERED HEALTH PLAN,**  
18 **INC.**

19 (a) IN GENERAL.—The Secretary of Health and  
20 Human Services shall waive the application of the require-  
21 ment described in section 1903(m)(2)(A)(ii) of the Social  
22 Security Act to the entity known as the District of Colum-  
23 bia Chartered Health Plan, Inc., for the period described  
24 in subsection (b), if the Secretary determines that the en-  
25 tity is making continuous efforts and progress toward  
26 achieving compliance with such requirement.

1 (b) PERIOD OF APPLICABILITY.—The period referred  
2 to in subsection (a) is the period that begins on October  
3 1, 1992, and ends on December 31, 1995.

4 **SEC. 5140. EXTENSION OF MINNESOTA PREPAID MEDICAID**  
5 **DEMONSTRATION PROJECT.**

6 (a) IN GENERAL.—Section 507 of the Family Sup-  
7 port Act of 1988, as amended by section 6411(j) of  
8 OBRA–1989 and by section 4733 of OBRA–1990, is  
9 amended by striking “1996” and inserting “1998”.

10 (b) AUTHORITY TO IMPOSE PREMIUM.—

11 (1) IN GENERAL.—Notwithstanding section  
12 1916 of the Social Security Act and subject to para-  
13 graph (2), the State of Minnesota may impose a pre-  
14 mium on individuals receiving medical assistance  
15 under the Minnesota Prepaid Demonstration Project  
16 operated under a waiver granted by the Secretary of  
17 Health and Human Services under section 1115(a)  
18 of the Social Security Act and other individuals eligi-  
19 ble under the State’s plan for medical assistance  
20 under title XIX of such Act.

21 (2) LIMITATION ON AMOUNT OF PREMIUM.—In  
22 no case may the amount of any premium imposed on  
23 an individual receiving medical assistance under the  
24 State plan or under the Demonstration Project de-  
25 scribed in paragraph (1) exceed 10 percent of the

1 amount by which the family income (less expenses  
2 for the care of a dependent child) of the individual  
3 exceeds 110 percent of the income official poverty  
4 line (as defined by the Office of Management and  
5 Budget), and revised annually in accordance with  
6 section 673(2) of the Omnibus Budget Reconcili-  
7 ation Act of 1981) applicable to a family of the size  
8 involved.

9 PART III—EMERGENCY SERVICES TO  
10 UNDOCUMENTED ALIENS  
11 **SEC. 5141. INCREASE IN FEDERAL FINANCIAL PARTICIPA-**  
12 **TION FOR EMERGENCY MEDICAL ASSIST-**  
13 **ANCE TO UNDOCUMENTED ALIENS.**

14 (a) IN GENERAL.—Section 1905(b) (42 U.S.C.  
15 1396d(b)) is amended by adding at the end the following:  
16 “Notwithstanding the first sentence of this section, sub-  
17 ject to 1903(v)(4), the Federal medical assistance percent-  
18 age shall be 100 per centum with respect to amounts ex-  
19 pended by an eligible State in a covered fiscal year (as  
20 defined in section 1903(v)(4)(C)) as medical assistance for  
21 care and services described in section 1903(v)(2) to aliens  
22 described in section 1903(v)(1).”.

23 (b) LIMITATION.—Section 1903(v) (42 U.S.C.  
24 1396b(v)) is amended by adding at the end the following  
25 new paragraph:

1       “(4)(A) With respect to any eligible State (as defined  
2 in subparagraph (C)(i)), the amount of the increase in  
3 payments to a State under subsection (a) in a covered fis-  
4 cal year (as defined in subparagraph (C)(ii)), resulting  
5 from the increase in the Federal medical assistance per-  
6 centage under the fourth sentence of section 1905(b), shall  
7 not exceed the State’s allotment determined under sub-  
8 paragraph (B).

9       “(B)(i) The total of the allotments to all States for  
10 a covered fiscal year under this paragraph shall be  
11 \$300,000,000.

12       “(ii) From the total allotment under clause (i) for  
13 a covered fiscal year, the Secretary shall determine the  
14 amount of the allotment for each eligible State. Subject  
15 to clause (iii), the amount of such allotment for such a  
16 fiscal year shall bear the same ratio to the total amount  
17 specified in clause (i) for the fiscal year as the ratio of—

18               “(I) the allotment to the State for fiscal year  
19 1993 under section 204 of the Immigration Reform  
20 and Control Act of 1986, to

21               “(II) the total of such allotments for all such el-  
22 igible States for fiscal year 1993.

23       “(iii) In the case of an eligible State which notifies  
24 the Secretary that an amount of its allotment will not be  
25 used by the State under this paragraph, the State’s allot-

1 ment shall be reduced by such amount and such amount  
2 shall be redistributed among the other eligible States in  
3 proportion to the amount otherwise allotted to such State  
4 under clause (ii).

5 “(C) For purposes of this paragraph and the fourth  
6 sentence of section 1905(b):

7 “(i) The term ‘eligible State’ means a State—  
8 “(I) with a plan approved under this title  
9 (including a State which is providing medical  
10 assistance to its residents under a statewide  
11 waiver granted under section 1115), and

12 “(II) for which its allotment for fiscal year  
13 1993 under section 204 of the Immigration Re-  
14 form and Control Act of 1986 is at least 1 per-  
15 cent of the total of such allotments for all the  
16 States for fiscal year 1993.

17 “(ii) The term ‘covered fiscal year’ means only  
18 fiscal year 1994.

19 “(D) Nothing in this paragraph or the fourth sen-  
20 tence of section 1905(b) shall be construed as establishing  
21 entitlement authority (within the meaning of section 3(9)  
22 of the Congressional Budget Act of 1974) for any fiscal  
23 year other than a covered fiscal year.”.

1 **SEC. 5142. LIMITING FEDERAL MEDICAID MATCHING PAY-**  
2 **MENT TO BONA FIDE EMERGENCY SERVICES**  
3 **FOR UNDOCUMENTED ALIENS.**

4 (a) IN GENERAL.—Section 1903(v)(2) (42 U.S.C.  
5 1396b(v)(2)) is amended—

6 (1) by striking “and” at the end of subpara-  
7 graph (A),

8 (2) by striking the period at the end of sub-  
9 paragraph (B) and inserting “, and”, and

10 (3) by adding at the end the following new sub-  
11 paragraph:

12 “(C) such care and services are not related to  
13 an organ transplant procedure.”.

14 (b) EFFECTIVE DATE.—(1) Subject to paragraph  
15 (2), the amendments made by subsection (a) shall apply  
16 as if included in the enactment of OBRA-1986.

17 (2) The Secretary of Health and Human Services  
18 shall not disallow expenditures made for the care and serv-  
19 ices described in section 1903(v)(2)(C) of the Social Secu-  
20 rity Act, as added by subsection (a), furnished before the  
21 date of the enactment of this Act.

## 1 PART IV—MISCELLANEOUS PROVISIONS

2 **SEC. 5144. INCREASE IN LIMIT ON FEDERAL MEDICAID**  
3 **MATCHING PAYMENTS TO PUERTO RICO AND**  
4 **OTHER TERRITORIES.**

5 (a) IN GENERAL.—Paragraphs (1) through (5) of  
6 section 1108(c) (42 U.S.C. 1308(c)) are amended to read  
7 as follows:

8 “(1) Puerto Rico shall not exceed (A)  
9 \$104,000,000 for fiscal year 1994 and (B) for each  
10 succeeding fiscal year the amount provided in this  
11 paragraph for the preceding fiscal year increased by  
12 percentage increase in the medical care component  
13 of the consumer price index for all urban consumers  
14 (as published by the Bureau of Labor Statistics) for  
15 the twelve-month period ending in March preceding  
16 the beginning of the fiscal year, rounded to the near-  
17 est \$100,000;

18 “(2) the Virgin Islands shall not exceed (A)  
19 \$3,425,000 for fiscal year 1994, and (B) for each  
20 succeeding fiscal year the amount provided in this  
21 paragraph for the preceding fiscal year increased by  
22 percentage increase referred to in paragraph (1)(B),  
23 rounded to the nearest \$10,000;

24 “(3) Guam shall not exceed (A) \$3,290,000 for  
25 fiscal year 1994, and (B) for each succeeding fiscal

1 year the amount provided in this paragraph for the  
2 preceding fiscal year increased by percentage in-  
3 crease referred to in paragraph (1)(B), rounded to  
4 the nearest \$10,000;

5 “(4) Northern Mariana Islands shall not exceed  
6 (A) \$990,000 for fiscal year 1994, and (B) for each  
7 succeeding fiscal year the amount provided in this  
8 paragraph for the preceding fiscal year increased by  
9 percentage increase referred to in paragraph (1)(B),  
10 rounded to the nearest \$10,000; and

11 “(5) American Samoa shall not exceed (A)  
12 \$1,910,000 for fiscal year 1994, and (B) for each  
13 succeeding fiscal year the amount provided in this  
14 paragraph for the preceding fiscal year increased by  
15 percentage increase referred to in paragraph (1)(B),  
16 rounded to the nearest \$10,000.”.

17 (b) EFFECTIVE DATE.—The amendment made by  
18 subsection (a) shall apply beginning with fiscal year 1994.

19 **SEC. 5145. CRITERIA FOR MAKING DETERMINATIONS OF**  
20 **DENIAL OF FEDERAL MEDICAID MATCHING**  
21 **PAYMENTS TO STATES.**

22 (a) IN GENERAL.—Section 1903 (42 U.S.C. 1396b)  
23 is amended by adding at the end the following new sub-  
24 section:

1       “(x)(1) In any case in which the Secretary proposes  
2 to disallow under section 1116(d) a claim by a State under  
3 this section and the State exercises its right of reconsider-  
4 ation under section 1116(d), the Departmental Appeals  
5 Board established in the Department of Health and  
6 Human Services shall, if such Board upholds the basis for  
7 the disallowance, determine whether the amount of the  
8 disallowance should be reduced. In making this determina-  
9 tion, the Board shall take into account (to the extent the  
10 State makes a showing) factors which shall include—

11               “(A) the nature of the basis for the disallow-  
12               ance;

13               “(B) whether the amount of the disallowance is  
14               proportionate to the error or deficiency on which the  
15               disallowance is based;

16               “(C) whether the basis of the disallowance con-  
17               stitutes noncompliance that prevented or materially  
18               affected the provision of appropriate services to indi-  
19               viduals eligible under this title; or

20               “(D) whether Federal guidance with respect to  
21               the action that is the basis for the proposed dis-  
22               allowance was insufficient and the State made good  
23               faith efforts to conform its action to the intent of  
24               the applicable Federal statute or regulation.

1       “(2) No disallowance shall be taken or upheld if the  
2 action of the State on which the disallowance would be  
3 based is consistent with its approved State plan.”.

4       (b) EFFECTIVE DATE.—The amendment made by  
5 subsection (a) shall apply to disallowances made after the  
6 date of the enactment of this Act and shall take effect  
7 without regard to the promulgation of implementing regu-  
8 lations.

9       **SEC. 5146. RENEWAL OF UNFUNDED DEMONSTRATION**  
10                               **PROJECT FOR LOW-INCOME PREGNANT**  
11                               **WOMEN AND CHILDREN.**

12       (a) IN GENERAL.—Section 6407 of OBRA–89 is  
13 amended—

14               (1) in subsection (d), by striking “3 years” and  
15               inserting “5 years”;

16               (2) in subsection (f), by striking “\$10,000,000  
17               in each of fiscal years 1990, 1991, and 1992” and  
18               inserting “\$30,000,000”; and

19               (3) in subsection (g)(2), by striking “January  
20               1, 1994” and inserting “one year after the termi-  
21               nation of the demonstration projects”.

22       (b) EFFECTIVE DATE.—The amendments made by  
23 subsection (a) shall take effect as if included in the enact-  
24 ment of OBRA–89.

1 **SEC. 5147. OPTIONAL MEDICAID COVERAGE OF TB-RELAT-**  
2 **ED SERVICES FOR CERTAIN TB-INFECTED IN-**  
3 **DIVIDUALS.**

4 (a) COVERAGE AS OPTIONAL, CATEGORICALLY  
5 NEEDY GROUP.—Section 1902(a)(10)(A)(ii) (42 U.S.C.  
6 1396a(a)(10)(A)(ii)) is amended—

7 (1) by striking “or” at the end of subclause  
8 (X),

9 (2) by adding “or” at the end of subclause  
10 (XI), and

11 (3) by adding at the end the following new  
12 subclause:

13 “(XII) who are described in sub-  
14 section (z)(1) (relating to certain TB-  
15 infected individuals);”.

16 (b) GROUP AND BENEFIT DESCRIBED.—Section  
17 1902 is amended by adding at the end the following new  
18 subsection:

19 “(z)(1) Individuals described in this paragraph are  
20 individuals not described in subsection (a)(10)(A)(i)—

21 “(A) who have tested positively to be infected  
22 with tuberculosis;

23 “(B) whose income (as determined under the  
24 State plan under this title with respect to disabled  
25 individuals) does not exceed the maximum amount  
26 of income a disabled individual described in sub-

1 section (a)(10)(A)(i) may have and obtain medical  
2 assistance under the plan; and

3 “(C) whose resources (as determined under the  
4 State plan under this title with respect to disabled  
5 individuals) do not exceed the maximum amount of  
6 resources a disabled individual described in sub-  
7 section (a)(10)(A)(i) may have and obtain medical  
8 assistance under the plan.

9 “(2) For purposes of subsection (a)(10), the term  
10 ‘TB-related services’ means each of the following services  
11 relating to treatment of infection with tuberculosis:

12 “(A) Prescribed drugs.

13 “(B) Physicians’ services and services described  
14 in section 1905(a)(2).

15 “(C) Laboratory and X-ray services.

16 “(D) Clinic services and Federally-qualified  
17 health center services.

18 “(E) Case management services (as defined in  
19 section 1915(g)(2)).

20 “(F) Services (other than room and board) de-  
21 signed to encourage completion of regimens of pre-  
22 scribed drugs by outpatients, including services to  
23 observe directly the intake of prescribed drugs.”.

1 (c) LIMITATION ON BENEFITS.—Section  
2 1902(a)(10), as amended by section 5162(a), is amended,  
3 in the matter following subparagraph (F)—

4 (1) by striking “, and (XII)” and inserting “,  
5 (XII)”, and

6 (2) by inserting before the semicolon at the end  
7 the following: “, and (XIII) the medical assistance  
8 made available to an individual described in sub-  
9 section (z)(1) who is eligible for medical assistance  
10 only because of subparagraph (A)(ii)(XII) shall be  
11 limited to medical assistance for TB-related services  
12 (as defined in subsection (z)(2))”.

13 (d) CONFORMING EXPANSION OF CASE MANAGE-  
14 MENT SERVICES OPTION.—Section 1915(g)(1) (42 U.S.C.  
15 1396n(g)(1)) is amended by inserting “or to individuals  
16 described in section 1902(z)(1)(A),” after “or with ei-  
17 ther,”.

18 (e) CONFORMING AMENDMENT.—Section 1905(a)  
19 (42 U.S.C. 1396d(a)) is amended—

20 (1) by striking “or” at the end of clause (ix),

21 (2) by adding “or” at the end of clause (x),

22 (3) by inserting after clause (x) the following  
23 new clause:

24 “(xi) individuals described in section  
25 1902(z)(1),”, and

1           (4) by amending paragraph (19) to read as fol-  
2           lows:

3           “(19) case management services (as defined in  
4           section 1915(g)(2)) and TB-related services de-  
5           scribed in section 1902(z)(2)(F);”.

6           (f) EFFECTIVE DATE.—The amendments made by  
7           this section shall apply to medical assistance furnished on  
8           or after January 1, 1994, without regard to whether or  
9           not final regulations to carry out such amendments have  
10          been promulgated by such date.

11 **SEC. 5148. APPLICATION OF MAMMOGRAPHY CERTIFI-**  
12 **CATION REQUIREMENTS UNDER THE MEDIC-**  
13 **AID PROGRAM.**

14          (a) IN GENERAL.—Section 1902(a)(9) (42 U.S.C.  
15 1396a(a)(9)) is amended—

16           (1) by striking “and” at the end of subpara-  
17           graph (B),

18           (2) by striking the semicolon at the end of sub-  
19           paragraph (C) and inserting “, and”, and

20           (3) by adding at the end the following new sub-  
21           paragraph:

22           “(D) that any mammography paid for  
23           under such plan must be conducted by a facility  
24           that has a certificate (or provisional certificate)

1           issued under section 354 of the Public Health  
2           Service Act;”.

3           (b) EFFECTIVE DATE.—(1) Except as provided in  
4 paragraph (2), the amendments made by subsection (a)  
5 shall apply to mammography furnished by a facility during  
6 calendar quarters beginning on or after the first date that  
7 the certificate requirements of section 354(b) of the Public  
8 Health Service Act apply to such mammography con-  
9 ducted by such facility, without regard to whether or not  
10 final regulations to carry out such amendments have been  
11 promulgated by such date.

12           (2) In the case of a State plan for medical assistance  
13 under title XIX of the Social Security Act which the Sec-  
14 retary of Health and Human Services determines requires  
15 State legislation (other than legislation appropriating  
16 funds) in order for the plan to meet the additional require-  
17 ment imposed by the amendment made by subsection  
18 (a)(3), the State plan shall not be regarded as failing to  
19 comply with the requirements of such title solely on the  
20 basis of its failure to meet this additional requirement be-  
21 fore the first day of the first calendar quarter beginning  
22 after the close of the first regular session of the State leg-  
23 islature that begins after the date of the enactment of this  
24 Act. For purposes of the previous sentence, in the case  
25 of a State that has a 2-year legislative session, each year

1 of such session shall be deemed to be a separate regular  
2 session of the State legislature.

3 **SEC. 5149. REMOVAL OF SUNSET ON EXTENSION OF ELIGI-**  
4 **BILITY FOR WORKING FAMILIES.**

5 Subsection (f) of section 1925 (42 U.S.C. 1396r-6)  
6 is repealed.

7 **SEC. 5150. EXTENSION OF MORATORIUM ON TREATMENT**  
8 **OF CERTAIN FACILITIES AS INSTITUTIONS**  
9 **FOR MENTAL DISEASES.**

10 Effective as if included in the enactment of OBRA-  
11 1989, section 6408(a)(3) of such Act is amended by strik-  
12 ing “180 days” and all that follows and inserting “Decem-  
13 ber 31, 1995.”.

14 **SEC. 5150A. TREATMENT OF CERTAIN CLINICS AS FEDER-**  
15 **ALLY-QUALIFIED HEALTH CENTERS.**

16 (a) IN GENERAL.—Section 1905(l)(2)(B) (42 U.S.C.  
17 1396d(l)(2)(B)), as amended by section 5158(c), is  
18 amended—

19 (1) by striking “or” at the end of clause

20 (ii)(II),

21 (2) by adding “or” at the end of clause (iii),

22 and

23 (3) by inserting after clause (iii) the following

24 new clause:

1           “(iv) was treated by the Secretary, for purposes  
2           of part B of title XVIII, as a comprehensive Feder-  
3           ally funded health center as of January 1, 1990;”.

4           (b) EFFECTIVE DATE.—The amendments made by  
5           subsection (a) shall apply to calendar quarters beginning  
6           on or after July 1, 1993.

7           **SEC. 5150B. NURSING HOME REFORM.**

8           (a) SUSPENSION OF DECERTIFICATION OF NURSES  
9           AIDE TRAINING AND COMPETENCY EVALUATION PRO-  
10          GRAMS BASED ON EXTENDED SURVEYS.—

11           (1)           IN           GENERAL.—Section  
12          1919(f)(2)(B)(iii)(I)(b)           (42           U.S.C.  
13          1396r(f)(2)(B)(iii)(I)(b)) is amended by striking the  
14          semicolon and inserting the following: “, unless the  
15          survey shows that the facility is in compliance with  
16          the requirements of subsections (b), (c), and (d) of  
17          this section;”.

18           (2) EFFECTIVE DATE.—The amendment made  
19          by paragraph (1) shall take effect as included in the  
20          enactment of OBRA-1990.

21          (b) REQUIREMENTS FOR CONSULTANTS CONDUCT-  
22          ING REVIEWS ON USE OF DRUGS.—

23           (1) IN GENERAL.—Section 1919(c)(1)(D) (42  
24          U.S.C. 1396r(c)(1)(D)) is amended by adding at the  
25          end the following sentence: “In determining whether

1 such a consultant is qualified to conduct reviews  
2 under the previous sentence, the Secretary shall take  
3 into account the needs of nursing facilities under  
4 this title to have access to the services of such a con-  
5 sultant on a timely basis.”.

6 (2) EFFECTIVE DATE.—The amendment made  
7 by paragraph (1) shall take effect as included in the  
8 enactment of OBRA-1987.

9 (c) INCREASE IN MINIMUM AMOUNT REQUIRED FOR  
10 SEPARATE DEPOSIT OF PERSONAL FUNDS.—

11 (1) IN GENERAL.—Section 1919(c)(6)(B)(i) (42  
12 U.S.C. 1396r(c)(6)(B)(i)) is amended by striking  
13 “\$50” and inserting “\$100”.

14 (2) EFFECTIVE DATE.—The amendment made  
15 by paragraph (1) shall take effect October 1, 1993.

16 (d) DUE PROCESS PROTECTIONS FOR NURSES  
17 AIDES.—

18 (1) PROHIBITING STATE FROM INCLUDING UN-  
19 DOCUMENTED ALLEGATIONS IN NURSES AIDE REG-  
20 ISTRY.—Section 1919(e)(2)(B) (42 U.S.C.  
21 1396r(e)(2)(B)) is amended by striking the period at  
22 the end of the first sentence and inserting the fol-  
23 lowing: “, but shall not include any allegations of  
24 resident abuse or neglect or misappropriation of

1 resident property that are not specifically docu-  
2 mented by the State under such subsection.”.

3 (2) DUE PROCESS REQUIREMENTS FOR REBUT-  
4 TING ALLEGATIONS.—Section 1919(g)(1)(C) (42  
5 U.S.C. 1396r(g)(1)(C)) is amended by striking the  
6 second sentence and inserting the following: “The  
7 State shall, after providing the individual involved  
8 with a written notice of the allegations (including a  
9 statement of the availability of a hearing for the in-  
10 dividual to rebut the allegations) and the oppor-  
11 tunity for a hearing on the record, make a written  
12 finding as to the accuracy of the allegations.”.

13 (3) EFFECTIVE DATE.—The amendments made  
14 by this subsection shall take effect October 1, 1993.

15 **Subchapter C—Miscellaneous and Technical**  
16 **Corrections Relating to OBRA-1990**

17 **SEC. 5151. EFFECTIVE DATE.**

18 Except as otherwise provided, the amendments made  
19 by this subchapter shall take effect as if included in the  
20 enactment of OBRA-1990.

21 **SEC. 5152. CORRECTIONS RELATING TO SECTION 4402 (EN-**  
22 **ROLLMENT UNDER GROUP HEALTH PLANS).**

23 Section 4402(b) of OBRA-1990 is amended by strik-  
24 ing “1903(u)(1)(C)(iv) (42 U.S.C. 1395b(u)(1)(C)(iv))”

1 and inserting “1903(u)(1)(D)(iv) (42 U.S.C.  
2 1395b(u)(1)(D)(iv))”.

3 **SEC. 5153. CORRECTIONS RELATING TO SECTION 4501**  
4 **(LOW-INCOME MEDICARE BENEFICIARIES).**

5 (a) Section 1902(a)(10)(E)(iii), as added by section  
6 4501(b)(3) of OBRA–1990, is amended by striking “cost  
7 sharing” and inserting “cost-sharing”.

8 (b) Section 1905(p)(4)(B), as amended by section  
9 4501(c)(1) of OBRA–1990, is amended by striking  
10 “1902(a)(10)(E)(iii)” and inserting “section  
11 1902(a)(10)(E)(iii)”.

12 **SEC. 5154. CORRECTIONS RELATING TO SECTION 4601**  
13 **(CHILD HEALTH).**

14 (a) Section 1902(a)(10)(A)(i)(VII), as added by sec-  
15 tion 4601(a)(10)(A)(iii) of OBRA–1990, is amended by  
16 striking “family;” and inserting “family; and”.

17 (b) Section 1902(l), as amended by section  
18 4601(a)(1)(C) of OBRA–1990, is amended—

19 (1) in paragraph (1)(C), by striking “children”  
20 after “(C)”;

21 (2) in paragraph (3), by striking  
22 “(a)(10)(A)(i)(VII),,” and inserting  
23 “(a)(10)(A)(i)(VII),”; and

24 (3) in paragraph (4)(B), by inserting a comma  
25 before “(a)(10)(A)(i)(VI),”.

1 (c) Subsections (a)(3)(C) and (b)(3)(C)(i) of section  
2 1925, as amended by section 4601(a) of OBRA-1990, are  
3 each amended by striking “(i)(VI)” and inserting  
4 “(i)(VI),”.

5 **SEC. 5155. CORRECTIONS RELATING TO SECTION 4602 (OUT-**  
6 **REACH LOCATIONS).**

7 (a) Section 1902(a)(55), as added by section  
8 4602(a)(3) of OBRA-1990, is amended—

9 (1) in the matter preceding subparagraph (A)—

10 (A) by striking “subsection” and inserting  
11 “paragraph”, and

12 (B) by striking “(a)” each place it ap-  
13 pears; and

14 (2) in subparagraph (A), by striking  
15 “1905(1)(2)(B)” and inserting “1905(l)(2)(B)”.

16 (b) Section 1902(l)(1) is amended by striking “who  
17 are not described in any of subclauses (I) through (III)  
18 of subsection (a)(10)(A)(i) and”.

19 **SEC. 5156. CORRECTIONS RELATING TO SECTION 4604 (PAY-**  
20 **MENT FOR HOSPITAL SERVICES FOR CHIL-**  
21 **DREN UNDER 6 YEARS OF AGE).**

22 (a) Section 1902(a)(10) is amended in clause (X) in  
23 the matter following subparagraph (F) by striking “under  
24 one year of age” and inserting “under 6 years of age”.

1 (b) Section 1902(s), as added by section 4604(a) of  
2 OBRA-1990, is amended to read as follows:

3 “(s) In order to meet the requirements of subsection  
4 (a)(56), the State plan must provide that payments to hos-  
5 pitals under the plan for inpatient services furnished to  
6 infants who have not attained the age of 1 year (or, in  
7 the case of such an individual who is an inpatient on his  
8 first birthday, until such individual is discharged) shall—

9 “(1) if made on a prospective basis (whether  
10 per diem, per case, or otherwise) provide for an  
11 outlier adjustment in payment amounts for medi-  
12 cally necessary inpatient hospital services involving  
13 exceptionally high costs or exceptionally long lengths  
14 of stay;

15 “(2) not be limited by the imposition of day  
16 limits; and

17 “(3) not be limited by the imposition of dollar  
18 limits (other than dollar limits resulting from pro-  
19 spective payments as adjusted pursuant to para-  
20 graph (1)).”.

21 (c) Section 1923(a)(2)(C) is amended by striking  
22 “provided on or after July 1, 1989,” and all that follows  
23 and inserting the following: “involving exceptionally high  
24 costs or exceptionally long lengths of stay—

1           “(i) for individuals under 1 year of age, in the  
2 case of services provided on or after July 1, 1989,  
3 and on or before June 30, 1991; and

4           “(ii) for individuals under 6 years of age, in the  
5 case of services provided on or after July 1, 1991.”.

6 **SEC. 5157. CORRECTIONS RELATING TO SECTION 4703 (PAY-**  
7 **MENT ADJUSTMENTS FOR DISPROPORTION-**  
8 **ATE SHARE HOSPITALS).**

9 (a) Section 1923(c) is amended—

10           (1) in paragraph (2), by striking “paragraph  
11 (b)(3)” and inserting “subsection (b)(3)”;

12           (2) by striking the period at the end of para-  
13 graph (3)(B) and inserting a comma; and

14           (3) in the third sentence, by striking “the pay-  
15 ment adjustment described in paragraph (2)” and  
16 inserting “a payment adjustment described in para-  
17 graph (2) or (3)”.

18           (b) Effective December 22, 1987, section  
19 1923(d)(2)(A)(ii) is amended by striking “the date of the  
20 enactment of this Act” and inserting “December 22,  
21 1987”.

22           (c) Section 4703(d) of OBRA-1990 is amended by  
23 striking “412(a)(2)” and inserting “4112(a)(2)”.

1 **SEC. 5158. CORRECTIONS RELATING TO SECTION 4704 (FED-**  
2 **ERALLY-QUALIFIED HEALTH CENTERS).**

3 (a) Clause (ix) of section 1903(m)(2)(A), as added  
4 by section 4704(b)(1)(C) of OBRA-1990, is amended—

5 (1) by striking “of such center” the first place  
6 it appears;

7 (2) by striking “federally qualified” and insert-  
8 ing “Federally-qualified”;

9 (3) by inserting “section” before  
10 “1905(a)(2)(C)”; and

11 (4) by moving such clause 2 ems to the left.

12 (b) Section 1903(m)(2)(B), as amended by section  
13 4704(b)(2) of OBRA-1990, is amended by striking “ex-  
14 cept with respect to clause (ix) of subparagraph (A),” and  
15 inserting “(except with respect to clause (ix) of such sub-  
16 paragraph)”.

17 (c) Section 1905(l)(2), as amended by section  
18 4704(c) of OBRA-1990, is amended—

19 (1) in subparagraph (A)—

20 (A) by striking “Federally-qualified” and  
21 inserting “Federally-qualified”, and

22 (B) by striking “an patient” and inserting  
23 “a patient”; and

24 (2) in subparagraph (B)—

25 (A) in the matter preceding clause (i), by  
26 striking “a entity” and inserting “an entity”,

1 (B) by striking “or” at the end of clause

2 (i),

3 (C) by striking the semicolon at the end of

4 clause (ii)(II) and inserting “, or”,

5 (D) by moving clause (ii) 4 ems to the left,

6 and

7 (E) in the last sentence, by striking

8 “clause (ii)” and inserting “clause (iii)”.

9 **SEC. 5159. CORRECTIONS RELATING TO SECTION 4708 (SUB-**  
10 **STITUTE PHYSICIANS).**

11 Section 1902(a)(32)(C), as added by section  
12 4708(a)(3) of OBRA–1990, is amended to read as follows:

13 “(C) payment may be made to a physician  
14 for physicians’ services (and services furnished  
15 incident to such services) furnished by a second  
16 physician to patients of the first physician if (i)  
17 the first physician is unavailable to provide the  
18 services; (ii) the services are furnished pursuant  
19 to an arrangement between the two physicians  
20 that (I) is informal and reciprocal, or (II) in-  
21 volves per diem or other fee-for-time compensa-  
22 tion for such services; (iii) the services are not  
23 provided by the second physician over a contin-  
24 uous period of more than 60 days; and (iv) the  
25 claim form submitted to the carrier for such

1 services includes the second physician's unique  
2 identifier (provided under the system estab-  
3 lished under subsection (x)) and indicates that  
4 the claim meets the requirements of this clause  
5 for payment to the first physician;”.

6 **SEC. 5160. CORRECTIONS RELATING TO SECTION 4711**  
7 **(HOME AND COMMUNITY CARE FOR FRAIL**  
8 **ELDERLY).**

9 (a) Section 1929, as added by section 4711(b) of  
10 OBRA-1990, is amended—

11 (1) in subsection (c)(2)(F), by moving the sec-  
12 ond sentence 2 ems to the right;

13 (2) in subsection (d)(2)(F)(ii), by striking “they  
14 manage” and inserting “it manages”;

15 (3) in subsection (d)(2)(F)(iii), by inserting  
16 “the agency or organization” after “(iii)”;

17 (4) in subsection (e)(2)(B), by striking “fiscal  
18 year 1989” and inserting “fiscal year 1990”;

19 (5) in subsection (f)(1), by striking “Commu-  
20 nity care” and inserting “community care”;

21 (6) in subsection (g)(1)—

22 (A) by striking “SETTINGS” and inserting  
23 “SETTING”, and

24 (B) in subparagraph (B), by striking “set-  
25 ting.” and inserting “setting in which home and

1 community care under this section is pro-  
2 vided.”;

3 (7) in subsection (g)(2), by striking “commu-  
4 nity care” the second, third, and fourth places it ap-  
5 pears and inserting “home and community care”;

6 (8) in subsection (h)(1)—

7 (A) by striking “more than 8” each place  
8 it appears and inserting “8 or more”, and

9 (B) in subparagraph (B), by inserting  
10 “(other than merely board)” after “personal  
11 services”;

12 (9) in subsection (h)(2), by striking “commu-  
13 nity care” the second and third places it appears  
14 and inserting “home and community care”;

15 (10) in subsection (j)(1)—

16 (A) in subparagraph (B)(ii), by striking  
17 “1990” and inserting “1991”, and

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

20 “(C) APPLICABILITY TO COMMUNITY CARE  
21 SETTINGS.—Subparagraphs (A) and (B) shall  
22 apply to community care settings in the same  
23 manner as such subparagraphs apply to provid-  
24 ers of home or community care.”;

1           (11) in subsection (j)(2), by adding at the end  
2 the following new subparagraph:

3           “(D) APPLICABILITY TO COMMUNITY CARE  
4 SETTINGS.—Subparagraphs (A), (B), and (C)  
5 shall apply to community care settings in the  
6 same manner as such subparagraphs apply to  
7 providers of home or community care.”;

8           (12) in subsection (k)(1)(A)(i)—

9           (A) by striking “(d)(2)(E)” and inserting  
10 “(d)(2)”, and

11           (B) by striking “settings,” and inserting  
12 “settings),”;

13           (13) in subsection (l), by striking “State wide-  
14 ness” and inserting “Statewideness”;

15           (14) in subsection (m)—

16           (A) in paragraph (2), by striking “Individ-  
17 ual Community Care Plan” and inserting “indi-  
18 vidual community care plan”,

19           (B) in paragraph (3), by striking “and  
20 need for services” and inserting “need for serv-  
21 ices, and income”,

22           (C) in the second sentence in paragraph  
23 (4), by striking “elderly individuals” and all  
24 that follows and inserting “individuals receiving  
25 home and community care under this section

1           who reside in such State in relation to the total  
2           number of individuals receiving home and com-  
3           munity care under this section.”, and

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

6           “(5) NOTICE TO STATES OF AMOUNTS AVAIL-  
7           ABLE FOR ASSISTANCE.—

8           “(A) NOTICE TO SECRETARY.—In order to  
9           receive Federal medical assistance for expendi-  
10          tures for home and community care under this  
11          section for a fiscal year (beginning with fiscal  
12          year 1994), a State shall submit a notice to the  
13          Secretary of its intention to provide such care  
14          under this section not later than 3 months be-  
15          fore the beginning of the fiscal year.

16          “(B) NOTICE TO STATES.—Not later than  
17          2 months before the beginning of each fiscal  
18          year (beginning with fiscal year 1994), the Sec-  
19          retary shall notify each State that has submit-  
20          ted a notice to the Secretary under subpara-  
21          graph (A) for the fiscal year of the amount of  
22          Federal medical assistance that will be available  
23          to the State for the fiscal year (as established  
24          under paragraph (4)).”; and



1 (C) by striking “3 other” and inserting  
2 “3”;

3 (2) in subsection (d)—

4 (A) in the matter preceding paragraph (1),  
5 by striking “program,” and inserting “pro-  
6 gram”, and

7 (B) in the second sentence, by striking  
8 “plan” each place it appears and inserting  
9 “program”; and

10 (3) in subsection (i), by striking “FUNDS” and  
11 inserting “FUNDS”.

12 (b) Section 4712(c) of OBRA-1990 is amended—

13 (1) in paragraph (1), by inserting “of section  
14 1930 of the Social Security” after “subsection (h)”;  
15 and

16 (2) in paragraph (2), by striking “this section”  
17 and inserting “such section”.

18 **SEC. 5162. CORRECTION RELATING TO SECTION 4713**

19 **(COBRA CONTINUATION COVERAGE).**

20 (a) Section 1902(a)(10) is amended in the matter fol-  
21 lowing subparagraph (F)—

22 (1) by striking “; and (XI)” and inserting  
23 “, (XI)”;

24 (2) by striking “individuals, and (XI)” and in-  
25 serting “individuals, and (XII); and

1           (3) by striking “COBRA continuation pre-  
2           miums” and inserting “COBRA premiums”.

3           (b) Section 1902(u)(3), as added by section  
4 4713(a)(2) of OBRA-1990, is amended by striking “title  
5 VI” and inserting “part 6 of subtitle B of title I”.

6 **SEC. 5163. CORRECTION RELATING TO SECTION 4716 (MED-**  
7                           **ICAID TRANSITION FOR FAMILY ASSIST-**  
8                           **ANCE).**

9           Section 4716(a) of OBRA-1990 is amended by strik-  
10 ing “AMENDMENTS.—Subsection (f) of section” and in-  
11 serting “IN GENERAL.—Section”.

12 **SEC. 5164. CORRECTIONS RELATING TO SECTION 4723**  
13                           **(MEDICAID SPENDDOWN OPTION).**

14           Section 1903(f)(2), as amended by section 4723(a)  
15 of OBRA-1990, is amended—

16           (1) by striking “(A)” after “(2)”;

17           (2) by striking “or, (B)” and inserting “. There  
18 shall also be excluded,”;

19           (3) by striking “to the State, provided that”  
20 and inserting “to the State if”; and

21           (4) by striking “pursuant to this subpara-  
22 graph.” and inserting “pursuant to the previous sen-  
23 tence”.

1 **SEC. 5165. CORRECTIONS RELATING TO SECTION 4724 (OP-**  
2 **TIONAL STATE DISABILITY DETERMINA-**  
3 **TIONS).**

4 Section 1902(v), as added by section 4724 of OBRA-  
5 1990, is amended—

6 (1) by striking “(v)(1)” and inserting “(v)”;

7 and

8 (2) by striking “of the Social Security Act”.

9 **SEC. 5166. CORRECTION RELATING TO SECTION 4732 (SPE-**  
10 **CIAL RULES FOR HEALTH MAINTENANCE OR-**  
11 **GANIZATIONS).**

12 Section 1903(m)(2)(F)(i), as amended by section  
13 4732(b)(2)(B) of OBRA-1990, is amended by striking  
14 “or” before “with an eligible organization”.

15 **SEC. 5167. CORRECTIONS RELATING TO SECTION 4741**  
16 **(HOME AND COMMUNITY-BASED WAIVERS).**

17 The first sentence of section 1915(d)(3) is amended  
18 by striking the period at the end and inserting the follow-  
19 ing: “, and a waiver of the requirements of section  
20 1902(a)(23) (relating to choice of providers) insofar as  
21 such requirements relate to the provision of case manage-  
22 ment services and the State provides assurances satisfac-  
23 tory to the Secretary that a waiver of such requirements  
24 will not substantially limit access to such services).”

1 **SEC. 5168. CORRECTIONS RELATING TO SECTION 4744**  
2 **(FRAIL ELDERLY WAIVERS).**

3 (a) Section 1924(a)(5), as added by section  
4 4744(b)(1) of OBRA–1990, is amended by striking  
5 “1986.” and inserting “1986 or a waiver under section  
6 603(c) of the Social Security Amendments of 1983.”.

7 (b) Section 603(c) of the Social Security Amend-  
8 ments of 1983 is amended—

9 (1) by striking “(c)” and inserting “(c)(1)”;

10 (2) by redesignating paragraphs (1) and (2) as  
11 subparagraphs (A) and (B); and

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

14 “(2) Section 1924 of the Social Security Act shall  
15 apply to any individual receiving services from an organi-  
16 zation receiving a waiver under this subsection.”.

17 **SEC. 5169. CORRECTIONS RELATING TO SECTION 4747 (COV-**  
18 **ERAGE OF HIV-POSITIVE INDIVIDUALS).**

19 Section 4747 of OBRA–1990 is amended—

20 (1) in subsection (a), by striking “subsection  
21 (c)” and inserting “subsection (b)”;

22 (2) in subsection (b)(2)—

23 (A) by striking “preventative” each place it  
24 appears and inserting “preventive”, and

25 (B) by adding a period at the end of sub-  
26 paragraph (J);

1 (3) in subsection (c)(1)—

2 (A) by striking “subsection (c)” and in-  
3 serting “subsection (b)”, and

4 (B) by striking “paragraphs (1) and (2)  
5 of’; and

6 (4) in subsection (d)—

7 (A) by striking “paragraph (3)” and in-  
8 serting “subsection (b)”, and

9 (B) by striking “paragraph (1)” and in-  
10 serting “subsection (a)”.

11 **SEC. 5170. CORRECTION RELATING TO SECTION 4751 (AD-**  
12 **VANCE DIRECTIVES).**

13 Section 1903(m)(1)(A), as amended by section  
14 4751(b)(1) of OBRA–1990, is amended—

15 (1) by striking “1902(w)” and inserting  
16 “1902(w) and”; and

17 (2) by striking “1902(a)” and inserting  
18 “1902(w)”.

19 **SEC. 5171. CORRECTIONS RELATING TO SECTION 4752 (PHY-**  
20 **SICIANS’ SERVICES).**

21 (a) The paragraph (58) of section 1902(a) added by  
22 section 4752(c)(1)(C) of OBRA–1990 is amended by  
23 striking “subsection (v)” and inserting “subsection (x)”.

1 (b) Subparagraphs (A) and (B) of the paragraph (14)  
2 of section 1903(i) added by section 4752(e)(2) of OBRA-  
3 1990 are each amended—

4 (1) by striking “or” at the end of clause (v);

5 (2) by redesignating clause (vi) as clause (vii);

6 and

7 (3) by inserting after clause (v) the following  
8 new clause:

9 “(vi) delivers such services in the  
10 emergency department of a hospital par-  
11 ticipating in the state plan approved under  
12 this title, or”.

13 **SEC. 5172. CORRECTIONS RELATING TO SECTION 4801**  
14 **(NURSING HOME REFORM).**

15 (a) Section 1919(b)(3)(C)(i)(I), as amended by sec-  
16 tion 4801(e)(3) of OBRA-1990, is amended by striking  
17 “no later than” before “not to exceed 14 days”.

18 (b) Section 1919(b)(5)(D), as amended by section  
19 4801(a)(4) of OBRA-1990, is amended by striking the  
20 comma before “or a new competency evaluation pro-  
21 gram.”.

22 (c) Section 1919(b)(5)(G) is amended by striking “or  
23 licensed or certified social worker” and inserting “licensed  
24 or certified social worker, registered respiratory therapist,  
25 or certified respiratory therapy technician”.

1 (d) Section 1919(f)(2)(B)(i) is amended by striking  
2 “facilities,” and inserting “facilities (subject to clause  
3 (iii)),”.

4 (e) Section 1919(f)(2)(B)(iii)(I)(c) is amended by  
5 striking “clauses” each place it appears and inserting  
6 “clause”.

7 (f) Section 1919(g)(5)(B) is amended by striking  
8 “paragraphs” and inserting “paragraph”.

9 (g) Section 4801(a)(6)(B) of OBRA-1990 is amend-  
10 ed—

11 (1) by striking “The amendments” and insert-  
12 ing “(i) The amendments”;

13 (2) by redesignating clauses (i) through (v) as  
14 subclauses (I) through (V); and

15 (3) by adding at the end the following new  
16 clause:

17 “(ii) Notwithstanding clause (i) and sub-  
18 ject to section 1919(f)(2)(B)(iii) of the Social  
19 Security Act (as amended by subparagraph  
20 (A)), a State may approve a training and com-  
21 petency evaluation program or a competency  
22 evaluation program offered by or in a nursing  
23 facility described in clause (i) if, during the pre-  
24 vious 2 years, none of the subclauses of clause  
25 (i) applied to the facility.”.

1 **SEC. 5173. OTHER TECHNICAL CORRECTIONS.**

2 (a) Section 1905(o)(1)(A) is amended—

3 (1) in the first sentence, by striking “intermedi-  
4 ate care facility services” and inserting “for nursing  
5 facility services or intermediate care facility services  
6 for the mentally retarded”; and

7 (2) in the second sentence, by striking “or in-  
8 termediate care facility” and inserting “(for pur-  
9 poses of title XVIII), a nursing facility, or an inter-  
10 mediate care facility for the mentally retarded”.

11 (b) Section 1915(d) is amended—

12 (1) by striking “skilled nursing facility or inter-  
13 mediate care facility” each place it appears in para-  
14 graphs (1), (2)(B), and (2)(C) and inserting “nurs-  
15 ing facility”;

16 (2) in paragraph (2)(B)(i), by striking “skilled  
17 nursing or intermediate care facility” and inserting  
18 “nursing facility”;

19 (3) in paragraph (5)(A), by striking “under”  
20 the second place it appears and inserting “(or, in the  
21 case of waiver years beginning on or after October  
22 1, 1990, with respect to nursing facility services and  
23 home and community-based services) under”; and

24 (4) in paragraph (5)(B)—

25 (A) in clause (i), by striking “furnished”  
26 and inserting “(or, with respect to waiver years

1 beginning on or after October 1, 1990, for  
2 nursing facility services) furnished”; and

3 (B) in clause (iii)(I), by striking “(regard-  
4 less” and inserting “(or, with respect to waiver  
5 years beginning on or after October 1, 1990,  
6 which comprise nursing facility services) (re-  
7 gardless”.

8 **SEC. 5174. CORRECTIONS TO DESIGNATIONS OF NEW PRO-**  
9 **VISIONS.**

10 (a) PARAGRAPHS ADDED TO SECTION 1902(a).—

11 Section 1902(a) is amended—

12 (1) by striking “and” at the end of paragraph  
13 (54);

14 (2) in the paragraph (55) inserted by section  
15 4602(a)(3) of OBRA–1990, by striking the period at  
16 the end and inserting a semicolon;

17 (3) by redesignating the paragraph (55) in-  
18 serted by section 4604(b)(3) of OBRA–1990 as  
19 paragraph (56), by transferring and inserting it  
20 after the paragraph (55) inserted by section  
21 4602(a)(3) of such Act, and by striking the period  
22 at the end and inserting a semicolon;

23 (4) by placing paragraphs (57) and (58), in-  
24 serted by section 4751(a)(1)(C) of OBRA–1990, im-

1       mediately after paragraph (56), as redesignated by  
2       paragraph (3);

3           (5) in the paragraph (58) inserted by section  
4       4751(a)(1)(C) of OBRA-1990, by striking the pe-  
5       riod at the end and inserting “; and”; and

6           (6) by redesignating the paragraph (58) in-  
7       serted by section 4752(c)(1)(C) of OBRA-1990 as  
8       paragraph (59) and by transferring and inserting it  
9       after the paragraph (58) inserted by section  
10      4751(a)(1)(C) of such Act.

11      (b) PARAGRAPHS ADDED TO SECTION 1903(i).—Sec-  
12      tion 1903(i), as amended by section 2(b)(2) of the Medic-  
13      aid Voluntary Contribution and Provider-Specific Tax  
14      Amendments of 1991, is amended—

15           (1) in the paragraph (10) inserted by section  
16      4401(a)(1)(B) of OBRA-1990, by striking all that  
17      follows “1927(g)” and inserting a semicolon;

18           (2) by redesignating the paragraph (12) in-  
19      serted by section 4752(a)(2) of OBRA-1990 as  
20      paragraph (11), by transferring and inserting it  
21      after the paragraph (10) inserted by section  
22      4401(a)(1)(B) of OBRA-1990, and by striking the  
23      period at the end and inserting a semicolon;

24           (3) by redesignating the paragraph (14) in-  
25      serted by section 4752(e) of OBRA-1990 as para-

1 graph (12), by transferring and inserting it after  
2 paragraph (11), as redesignated by paragraph (2),  
3 and by striking the period at the end and inserting  
4 “; or”; and

5 (4) by redesignating the paragraph (11) in-  
6 serted by section 4801(e)(16)(A) of OBRA-1990 as  
7 paragraph (13) and by transferring and inserting it  
8 after paragraph (12), as redesignated by paragraph  
9 (3).

10 (c) PARAGRAPHS ADDED TO SECTION 1905(a).—

11 (1) IN GENERAL.—Section 1905(a) is amend-  
12 ed—

13 (A) by striking “and” at the end of para-  
14 graph (21);

15 (B) in paragraph (24), by striking the  
16 comma at the end and inserting “; and”; and

17 (C) by redesignating paragraphs (22),  
18 (23), and (24) as paragraphs (24), (22), and  
19 (23), respectively, and by transferring and in-  
20 serting paragraph (24) after paragraph (23), as  
21 so redesignated.

22 (2) CONFORMING AMENDMENTS.—(A) Effective  
23 July 1, 1991, section 1902(a)(10)(C)(iv), as amend-  
24 ed by section 4755(c)(1)(A) of OBRA-1990, is

1 amended by striking “through (21)” and inserting  
2 “through (23)”.

3 (B) Effective July 1, 1991, section 1902(j), as  
4 amended by section 4711(d)(1) of OBRA-1990, is  
5 amended by striking “through (22)” and inserting  
6 “through (24)”.

7 (d) FINAL SECTIONS.—Section 1928, as redesignated  
8 by section 4401(a)(3) of OBRA-1990, is amended—

9 (1) by transferring such section to the end of  
10 title XIX of the Social Security Act; and

11 (2) by redesignating such section as section  
12 1931.

13 **CHAPTER 2—UNIVERSAL ACCESS TO**  
14 **CHILDHOOD IMMUNIZATIONS**

15 **SEC. 5181. ESTABLISHMENT OF ENTITLEMENT AND MON-**  
16 **ITORING PROGRAMS WITH RESPECT TO**  
17 **CHILDHOOD IMMUNIZATIONS.**

18 (a) IN GENERAL.—Title XXI of the Public Health  
19 Service Act (42 U.S.C. 300aa-1 et seq.) is amended by  
20 adding at the end the following subtitle:

1 “Subtitle 3—Entitlement and Monitoring Programs With  
2                   Respect to Childhood Immunizations

3                   “PART A—ENTITLEMENT PROGRAM

4 **“SEC. 2151. DELIVERY TO STATES OF SUFFICIENT QUAN-**  
5                   **TITIES OF PEDIATRIC VACCINES.**

6           “(a) IN GENERAL.—In the case of any State that  
7 submits to the Secretary an application in accordance with  
8 section 2157, the Secretary, acting through the Director  
9 of the Centers for Disease Control and Prevention, shall  
10 provide for the purchase and delivery on behalf of the  
11 State of such quantities of pediatric vaccines as may be  
12 necessary for the immunization of each eligible child in  
13 the State. The preceding sentence is subject to sections  
14 2152(d) and 2159(a).

15           “(b) ELIGIBLE CHILDREN.—For purposes of this  
16 part, the term ‘eligible child’ means an individual 18 years  
17 of age or younger who—

18                   “(1) with respect to the State involved, is enti-  
19 tled to medical assistance under the plan approved  
20 for the State under title XIX of the Social Security  
21 Act (including a State operating under a statewide  
22 waiver under section 1115 of such Act);

23                   “(2)(A) is uninsured with respect to health in-  
24 surance policies or plans (including group health  
25 plans or prepaid health plans and including em-

1        ployee welfare benefit plans under the Employee Re-  
2        tirement Income Security Act of 1974); or

3            “(B) is covered under such a policy or plan, but  
4        under the policy or plan benefits are not available  
5        with respect to immunizations; or

6            “(3) is an Indian.

7        **“SEC. 2152. ENTITLEMENTS.**

8            “(a) ENTITLEMENT OF STATES.—Subject to sub-  
9        section (d), in the case of any State that submits to the  
10       Secretary an application in accordance with section 2157,  
11       the State is entitled to have the Secretary provide for the  
12       purchase and delivery on behalf of the State of pediatric  
13       vaccines under section 2151. The preceding sentence con-  
14       stitutes budget authority in advance of appropriations  
15       Acts, and represents the obligation of the Federal Govern-  
16       ment to provide for the purchase and delivery to the State  
17       of the vaccines.

18            “(b) ENTITLEMENTS OF CHILDREN AND HEALTH  
19       CARE PROVIDERS.—Subject to subsection (d), the Sec-  
20       retary may provide for the purchase and delivery of pedi-  
21       atric vaccines under section 2151 on behalf of a State only  
22       if the State agrees as follows:

23            “(1) Each eligible child in the State, in receiv-  
24       ing an immunization with a pediatric vaccine from  
25       a program-registered provider (as defined in section

1 2153(a)), is entitled to receive the immunization  
2 without charge for the cost of such vaccine.

3 “(2) Each program-registered provider in the  
4 State who administers a pediatric vaccine to an eligi-  
5 ble child in the State is entitled to receive such vac-  
6 cine from the State without charge.

7 “(3) The State will carry out a program to ad-  
8 minister the entitlements established pursuant to  
9 paragraphs (1) and (2).

10 “(c) ENFORCEMENT OF PROVIDER RIGHTS BY ELI-  
11 GIBLE CHILDREN.—With respect to the obligation of a  
12 State under the entitlement established in subsection  
13 (b)(2), an eligible child (or representative of the child)  
14 may enforce the rights of the provider under such para-  
15 graph if—

16 “(1) the provider administered a pediatric vac-  
17 cine to the child notwithstanding the failure of the  
18 State to carry out such obligation with respect to the  
19 vaccine; or

20 “(2) an immunization with the vaccine was  
21 sought for the child by a parent of the child, but the  
22 provider, on the basis of such failure of the State,  
23 did not administer the vaccine to the child.

24 “(d) CERTAIN CONDITIONS.—

1           “(1) IN GENERAL.—This part does not apply  
2 with respect to any vaccine administered before Oc-  
3 tober 1, 1994.

4           “(2) RELATIONSHIP TO PURCHASE CONTRACTS  
5 WITH MANUFACTURERS.—With respect to a pedi-  
6 atric vaccine, the obligation of the Federal Govern-  
7 ment pursuant to subsection (a), and the obligations  
8 of the State pursuant to subsection (b), are effective  
9 only to the extent that there is in effect a contract  
10 under section 2158 for the purchase and delivery of  
11 the vaccine.

12           “(3) SUBMISSION OF APPLICATION.—

13           “(A) Subject to subparagraph (C), the en-  
14 titlements established pursuant to subsections  
15 (a) and (b) are established with respect to a  
16 State upon the State submitting to the Sec-  
17 retary an application in accordance with section  
18 2157.

19           “(B) An application submitted to the Sec-  
20 retary under section 2157 is deemed to have  
21 been submitted in accordance with such section  
22 unless the Secretary, not later than 30 days  
23 after the date on which the application is sub-  
24 mitted, notifies the State that the application is  
25 not in accordance with such section.

1           “(C) In the case of a State whose applica-  
2           tion submitted under section 2157 is not sub-  
3           mitted in accordance with such section, the Sec-  
4           retary may, upon the submission by the State  
5           of an application that is in accordance with  
6           such section, provide that the entitlements es-  
7           tablished pursuant to such submission are  
8           deemed to have been established on the date on  
9           which the State first submitted the application.

10 **“SEC. 2153. VOLUNTARY PARTICIPATION OF HEALTH CARE**  
11 **PROVIDERS.**

12           “(a) IN GENERAL.—

13           “(1) REQUEST FOR PARTICIPATION; REQUIRED  
14           APPROVAL.—The Secretary may provide for the pur-  
15           chase and delivery of pediatric vaccines under sec-  
16           tion 2151 on behalf of a State only if the State  
17           agrees that federally-supplied pediatric vaccines will  
18           not be distributed to a health care provider unless—

19           “(A) the provider submits to the State a  
20           written request to participate in the program  
21           established by the State pursuant to section  
22           2152(b)(3);

23           “(B) the request is in such form and is  
24           made in such manner as the Secretary may re-  
25           quire; and

1           “(C) the provider makes the agreements  
2           described in this section.

3           “(2) PROGRAM-REGISTERED PROVIDERS.—For  
4           purposes of this part, the term ‘program-registered  
5           provider’ means a health care provider that meets  
6           the conditions specified in subparagraphs (A)  
7           through (C) of paragraph (1).

8           “(b) ELIGIBILITY OF CHILDREN.—

9           “(1) IN GENERAL.—An agreement for a health  
10          care provider under subsection (a) is that the pro-  
11          vider—

12                 “(A) before administering a pediatric vac-  
13                 cine to a child, will ask a parent of the child  
14                 such questions as are necessary to determine  
15                 whether the child is an eligible child;

16                 “(B) will, for a period of time specified by  
17                 the Secretary, maintain records of responses  
18                 made to the questions; and

19                 “(C) will, upon request, make such records  
20                 available to the State involved and to the Sec-  
21                 retary, subject to paragraph (2).

22           “(2) RESTRICTION ON USE OF INFORMATION.—  
23          Records provided to a State or to the Secretary  
24          under paragraph (1)(C) may be used only for pur-

1 poses of audit of the program carried out under sec-  
2 tion 2152(b)(3) by the State.

3 “(c) CHARGES FOR VACCINES.—

4 “(1) VACCINES PER SE.—An agreement for a  
5 health care provider under subsection (a) is that, in  
6 administering a federally-supplied pediatric vaccine  
7 to an eligible child, the provider will not impose a  
8 charge for the cost of the vaccine.

9 “(2) ADMINISTRATION OF VACCINES.—With re-  
10 spect to compliance with an agreement under para-  
11 graph (1), a program-registered provider may im-  
12 pose a charge for the administration of a federally-  
13 supplied pediatric vaccine, subject to an agreement  
14 by the provider that the provider will not impose  
15 such charge with respect to a child if a parent of the  
16 child certifies to the provider that the parent is un-  
17 able to pay the charge.

18 “(d) RULES OF CONSTRUCTION.—

19 “(1) EXTENT OF PARTICIPATION.—This section  
20 may not be construed as requiring that a program-  
21 registered provider administer a federally-supplied  
22 pediatric vaccine to each eligible child for whom an  
23 immunization with the vaccine is sought from the  
24 provider.

1           “(2) VERIFICATION OF INFORMATION.—With  
2           respect to compliance with agreements under sub-  
3           sections (b) and (c), such agreements may not be  
4           construed as requiring a program-registered provider  
5           to verify independently the information provided to  
6           the provider by a parent pursuant to such sub-  
7           sections.

8   **“SEC. 2154. INTRASTATE DISTRIBUTION OF PEDIATRIC VAC-**  
9                           **CINES.**

10          “(a) IN GENERAL.—Not later than 180 days after  
11          the date of the enactment of the Omnibus Budget Rec-  
12          onciliation Act of 1993, the Secretary shall, through publi-  
13          cation in the Federal Register, establish criteria for the  
14          delivery on behalf of the States of federally-supplied pedi-  
15          atric vaccines to program-registered providers in the  
16          State.

17          “(b) INVOLVEMENT OF CERTAIN PROVIDERS.—

18                 “(1) IN GENERAL.—In establishing criteria  
19                 under subsection (a), the Secretary shall establish  
20                 criteria with respect to encouraging the entities de-  
21                 scribed in paragraph (2) to become program-reg-  
22                 istered providers.

23                 “(2) RELEVANT PROVIDERS.—The entities re-  
24                 ferred to in paragraph (1) are—

25                         “(A) private health care providers; and

1           “(B)(i) health care providers that receive  
2           funds under title V of the Indian Health Care  
3           Improvement Act;

4           “(ii) the Indian Health Service; and

5           “(iii) health programs or facilities operated  
6           by Indian tribes or tribal organizations.

7           “(c) CULTURAL CONTEXT OF SERVICES.—In estab-  
8           lishing criteria under subsection (a), the Secretary shall  
9           require that, in providing a federally-supplied pediatric  
10          vaccine to any population of eligible children a substantial  
11          portion of whose parents have a limited ability to speak  
12          the English language, a State have in effect a reasonable  
13          plan to administer the vaccines through program-reg-  
14          istered providers who are able to communicate with the  
15          population involved in the language and cultural context  
16          that is most appropriate.

17          “(d) COMPLIANCE BY STATES.—The Secretary may  
18          provide for the purchase and delivery of pediatric vaccines  
19          under section 2151 on behalf of a State only if the State  
20          agrees to maintain compliance with the criteria established  
21          under subsection (a).

22          **“SEC. 2155. GENERAL PROVISIONS.**

23          “(a) FEDERAL STANDARDS ON ACCOUNTABILITY.—

24                  “(1) ESTABLISHMENT OF STANDARDS.—Not  
25          later than 180 days after the date of the enactment

1 of the Omnibus Budget Reconciliation Act of 1993,  
2 the Secretary shall, through publication in the Fed-  
3 eral Register, establish standards with respect to de-  
4 termining the extent to which States and program-  
5 registered providers are in compliance with the  
6 agreements made under this part.

7 “(2) COMPLIANCE BY STATES.— The Secretary  
8 may provide for the purchase and delivery of pedi-  
9 atric vaccines under section 2151 on behalf of a  
10 State only if the State agrees to maintain compli-  
11 ance with the standards established under subsection  
12 (a).

13 “(b) STATE MAINTENANCE OF IMMUNIZATION  
14 LAWS.—The Secretary may provide for the purchase and  
15 delivery of vaccines under section 2151 on behalf of a  
16 State only if the State certifies to the Secretary that, if  
17 it had in effect as of May 1, 1993, a law that requires  
18 some or all health insurance policies or plans to provide  
19 some coverage with respect to a pediatric vaccine, the  
20 State has not modified or repealed such law in a manner  
21 that reduces the amount of coverage so required.

22 “(c) PARTICIPATION IN NATIONAL MONITORING SYS-  
23 TEM.—On and after January 1, 1998, the Secretary may  
24 provide for the purchase and delivery of vaccines under  
25 section 2151 on behalf of a State only if the State certifies

1 to the Secretary that the State is operating a registry in  
2 accordance with part B.

3 **“SEC. 2156. STATE OPTION REGARDING IMMUNIZATION OF**  
4 **ADDITIONAL CATEGORIES OF CHILDREN.**

5 “(a) STATE PURCHASES.—Subject to subsections (b)  
6 and (c), for the purpose of administering a pediatric vac-  
7 cine to children in addition to eligible children, any partici-  
8 pating State under section 2151 may, pursuant to section  
9 2158(a)(2), purchase the vaccine from a manufacturer of  
10 the vaccine at the price in effect under section 2158.

11 “(b) REQUIREMENTS.—A State may purchase pedi-  
12 atric vaccines pursuant to subsection (a) only if the follow-  
13 ing conditions are met:

14 “(1) The State agrees that the vaccines will be  
15 used to provide immunizations for children who are  
16 not eligible children.

17 “(2) The State designates the particular cat-  
18 egories of children who are to receive the immuniza-  
19 tions, and submits to the Secretary a description of  
20 the categories so designated.

21 “(3) The State provides to the Secretary such  
22 information as the Secretary determines to be nec-  
23 essary to provide for quantities of pediatric vaccines  
24 for the State to purchase pursuant to section  
25 2158(a)(2).

1           “(4) The State agrees, subject to subsection (c),  
2           that the program established by the State pursuant  
3           to section 2152(b)(3) applies to children designated  
4           under paragraph (2) to the same extent and in the  
5           same manner as the program applies to eligible chil-  
6           dren (except for the State being the purchaser of the  
7           pediatric vaccines involved).

8           “(c) CERTAIN LIMITATIONS.—A State may purchase  
9           pediatric vaccines pursuant to subsection (a) only if the  
10          State agrees as follows:

11           “(1) The authorization established in such sub-  
12           section with respect to a pediatric vaccine is subject  
13           to the quantity of the vaccine that, on behalf of the  
14           State, the Secretary provides for under section  
15           2158(a)(2).

16           “(2) In any case in which multiple contracts are  
17           in effect under section 2158 with respect to such a  
18           vaccine and the State elects to purchase the vaccine  
19           pursuant to subsection (a), the Secretary will deter-  
20           mine which of such contracts will be applicable to  
21           the purchase.

22          **“SEC. 2157. STATE APPLICATION FOR VACCINES.**

23           “(a) IN GENERAL.—An application by a State for pe-  
24           diatric vaccines under section 2151(a) is in accordance  
25           with this section if the application—

1           “(1) is submitted not later than the date speci-  
2           fied by the Secretary;

3           “(2) contains each agreement required in this  
4           part (including the agreements required in section  
5           2156, if the State is electing to purchase pediatric  
6           vaccines pursuant to such section);

7           “(3) contains any information required in this  
8           part to be submitted to the Secretary (including the  
9           information required in section 2156, if the State is  
10          electing to purchase pediatric vaccines pursuant to  
11          such section);

12          “(4) contains the certification required in sub-  
13          section (b) of section 2155 and, as applicable, the  
14          certification required in subsection (c) of such sec-  
15          tion; and

16          “(5) is in such form, is made in such manner,  
17          and contains such agreements, assurances, and in-  
18          formation as the Secretary determines to be nec-  
19          essary to carry out this part.

20          “(b) FAILURE TO APPLY.—

21                 “(1) IN GENERAL.—If, as of January 1, 1998,  
22                 a State is not receiving pediatric vaccines under sec-  
23                 tion 2151 and carrying out a program pursuant to  
24                 section 2152(b)(3), the Secretary shall, subject to

1 paragraph (2), terminate payments to the State  
2 under part A of title XIX.

3 “(2) EXCEPTIONS.—Paragraph (1) does not  
4 apply in the case of a State described in such para-  
5 graph that—

6 “(A) is, through all willing health care pro-  
7 viders, providing for the immunization of eligi-  
8 ble children with pediatric vaccines, and is not  
9 imposing a charge on such providers or children  
10 for the costs of the vaccines; or

11 “(B) meets or exceeds the objectives estab-  
12 lished by the Secretary for the year 2000 for  
13 the immunization status of children in the  
14 United States who are 2 years of age.

15 **“SEC. 2158. CONTRACTS WITH MANUFACTURERS OF PEDI-**  
16 **ATRIC VACCINES.**

17 “(a) IN GENERAL.—Subject to the provisions of this  
18 section, the Secretary shall periodically enter into negotia-  
19 tions with manufacturers of pediatric vaccines for the pur-  
20 pose of maintaining contracts under which—

21 “(1) the Secretary provides for the purchase of  
22 quantities of pediatric vaccines necessary for carry-  
23 ing out section 2151, and provides for the delivery  
24 of the vaccines to participating States under such  
25 section; and

1           “(2) each participating State, at the option of  
2           the State under section 2156, is permitted to obtain  
3           additional quantities of pediatric vaccines (subject to  
4           limits in such contracts regarding quantities)  
5           through purchasing the vaccines from the manufac-  
6           turers at the price negotiated by the Secretary for  
7           the quantities specified in paragraph (1).

8           The Secretary shall enter into the initial negotiations  
9           under the preceding sentence not later than 180 days after  
10          the date of the enactment of the Omnibus Budget Rec-  
11          onciliation Act of 1993.

12          “(b) NEGOTIATION OF PURCHASE PRICE.—

13                 “(1) IN GENERAL.—In negotiating the prices at  
14                 which pediatric vaccines will be purchased from a  
15                 manufacturer under subsection (a), the Secretary  
16                 shall negotiate a price that provides a reasonable  
17                 profit for the manufacturer.

18                 “(2) CERTAIN FACTORS.—

19                         “(A) In determining a reasonable profit for  
20                         a manufacturer under paragraph (1), the Sec-  
21                         retary shall consider the following factors:

22                                 “(i) The costs of the manufacturer in  
23                                 researching, developing, and producing the  
24                                 pediatric vaccine involved.

1           “(ii) The costs of the manufacturer in  
2           researching and developing new or im-  
3           proved vaccines (pediatric or otherwise).

4           “(iii) The costs of shipping and han-  
5           dling pediatric vaccines in compliance with  
6           the agreement under subsection (c).

7           “(iv) Such other factors as the Sec-  
8           retary determines to be appropriate.

9           “(B) With respect to factors considered  
10          under subparagraph (A), the Secretary may  
11          enter into a contract under subsection (a) only  
12          if the manufacturer involved provides to the  
13          Secretary such information regarding the fac-  
14          tors as the Secretary determines to be appro-  
15          priate.

16          “(3) CONFIDENTIALITY.—With respect to infor-  
17          mation provided to the Secretary by a manufacturer  
18          under paragraph (2), the following applies:

19                 “(A) The Secretary shall maintain the con-  
20                 fidentiality of the information, with provision  
21                 for reasonable disclosures.

22                 “(B) For purposes of section 552(b)(4) of  
23                 title 5, United States Code, the information  
24                 shall be considered to be trade secrets and com-

1           mercial or financial information obtained from  
2           a person and privileged or confidential.

3           “(C) Section 1905 of title 18, United  
4           States Code, applies to information maintained  
5           confidentially under subparagraph (A).

6           “(c) CHARGES FOR SHIPPING AND HANDLING.—The  
7           Secretary may enter into a contract under subsection (a)  
8           only if the manufacturer involved agrees that the manu-  
9           facturer will provide for delivering the vaccines on behalf  
10          of the States in accordance with the programs established  
11          by the States pursuant to section 2152(b)(3), and will not  
12          impose any charges for the costs of such delivery (except  
13          to the extent such costs are provided for in the price nego-  
14          tiated under subsection (b)).

15          “(d) QUANTITY OF VACCINES.—For the purpose of  
16          ensuring that the Federal Government has the ability to  
17          carry out section 2151, the Secretary, in negotiations  
18          under subsection (a), shall negotiate for maintaining a  
19          supply of pediatric vaccines to meet unanticipated needs  
20          for the vaccines. For purposes of the preceding sentence,  
21          the Secretary shall negotiate for a 6-month supply of vac-  
22          cines in addition to the quantity that the Secretary other-  
23          wise would provide for in such negotiations. In carrying  
24          out this paragraph, the Secretary shall consider the poten-

1 tial for outbreaks of the diseases with respect to which  
2 the vaccines have been developed.

3 “(e) NEGOTIATING AUTHORITY OF SECRETARY.—In  
4 carrying out subsection (a), the Secretary, to the extent  
5 determined by the Secretary to be appropriate, may enter  
6 into contracts described in such subsection, may decline  
7 to enter into such contracts, and with the consent of the  
8 manufacturers involved, may modify such agreements and  
9 may extend such agreements.

10 “(f) CERTAIN CONTRACT PROVISIONS.—

11 “(1) DURATION.—A contract entered into by  
12 the Secretary under subsection (a) is effective for  
13 such period as the Secretary and the manufacturer  
14 involved may agree in the contract.

15 “(2) ADVANCE FUNDING.—The Secretary may,  
16 pursuant to section 2152(a), enter into contracts  
17 under subsection (a) under which the Federal Gov-  
18 ernment is obligated to make outlays, the budget au-  
19 thority for which is not provided for in advance in  
20 appropriations Acts.

21 “(g) REPORTS TO SECRETARY.—The Secretary may  
22 enter into a contract under subsection (a) only if the man-  
23 ufacturer involved agrees to submit to the Secretary such  
24 reports as the Secretary determines to be appropriate with  
25 respect to compliance with the contract. For purposes of

1 paragraph (3) of subsection (b), such reports shall be con-  
2 sidered to be information provided by the manufacturer  
3 to the Secretary under paragraph (2) of such subsection.

4 “(h) MULTIPLE SUPPLIERS.—

5 “(1) IN GENERAL.—In the case of the pediatric  
6 vaccine involved, the Secretary shall, as appropriate,  
7 enter into a contract under subsection (a) with each  
8 manufacturer of the vaccine that meets the terms  
9 and conditions of the Secretary for an award of such  
10 a contract (including terms and conditions regarding  
11 safety, quality, and price).

12 “(2) RULE OF CONSTRUCTION.—With respect  
13 to multiple contracts entered into pursuant to para-  
14 graph (1), such paragraph may not be construed as  
15 prohibiting the Secretary from having in effect dif-  
16 ferent prices under each of such contracts.

17 **“SEC. 2159. CERTAIN ADMINISTRATIVE VARIATIONS.**

18 “(a) TRIBES AND TRIBAL ORGANIZATIONS.—

19 “(1) IN GENERAL.—Subject to paragraph (2),  
20 the Secretary shall provide for the purchase and de-  
21 livery on behalf of each Indian tribe and each tribal  
22 organization of such quantities of pediatric vaccines  
23 as may be necessary for the immunization of each  
24 Indian child in the State in which the tribe or orga-  
25 nization (as the case may be) is located.

1           “(2) ENTITLEMENTS; ADMINISTERING PRO-  
2           GRAM.—The Secretary may provide for the purchase  
3           and delivery of pediatric vaccines under paragraph  
4           (1) on behalf of an Indian tribe or tribal organiza-  
5           tion only if the tribe or organization (as the case  
6           may be) agrees that this part applies to the tribe or  
7           organization (in relation to Indian children) to the  
8           same extent and in the manner as such part applies  
9           to States (in relation to eligible children).

10          “(b) STATE AS MANUFACTURER.—

11           “(1) PAYMENTS IN LIEU OF VACCINES.—In the  
12           case of a participating State under section 2151 that  
13           manufactures a pediatric vaccine and is not receiv-  
14           ing the vaccine under such section, if the Secretary  
15           determines that the program of the State under  
16           2152(b)(3) is carried out with respect to the vaccine,  
17           the Secretary shall provide to the State an amount  
18           equal to the value of the quantity of such vaccine  
19           that otherwise would have been delivered to the  
20           State under section 2151, subject to the provisions  
21           of this subsection.

22           “(2) DETERMINATION OF VALUE.—In deter-  
23           mining the amount to pay a State under paragraph  
24           (1) with respect to a pediatric vaccine, the value of  
25           the quantity of vaccine shall be determined on the

1 basis of the price in effect for the vaccine under con-  
2 tracts under section 2158. If more than 1 such con-  
3 tract is in effect, the Secretary shall determine such  
4 value on the basis of the average of the prices under  
5 the contracts, after weighting each such price in re-  
6 lation to the quantity of vaccine under the contract  
7 involved.

8 “(3) USE OF PAYMENTS.—A State may expend  
9 payments received under paragraph (1) only for pur-  
10 poses relating to pediatric vaccines.

11 **“SEC. 2160. LIST OF PEDIATRIC VACCINES; SCHEDULE FOR**  
12 **ADMINISTRATION.**

13 “(a) RECOMMENDED PEDIATRIC VACCINES.—

14 “(1) IN GENERAL.—The Secretary shall estab-  
15 lish a list of the vaccines that the Secretary rec-  
16 ommends for administration to all children for the  
17 purpose of immunizing the children, subject to such  
18 contraindications for particular medical categories of  
19 children as the Secretary may establish under sub-  
20 section (b)(1)(D). The Secretary shall periodically  
21 review the list, and shall revise the list as appro-  
22 priate.

23 “(2) RULE OF CONSTRUCTION.—

1           “(A) The list of vaccines specified in sub-  
2 paragraph (B) is deemed to be the list of vac-  
3 cines maintained under paragraph (1).

4           “(B) The list of vaccines specified in this  
5 subparagraph is the list of vaccines that, for  
6 purposes of paragraph (1), is established (and  
7 periodically reviewed and as appropriate re-  
8 vised) by the Advisory Committee on Immuni-  
9 zation Practices, an advisory committee estab-  
10 lished by the Secretary, acting through the Di-  
11 rector of the Centers for Disease Control and  
12 Prevention.

13           “(b) RECOMMENDED SCHEDULE FOR ADMINISTRA-  
14 TION.—

15           “(1) IN GENERAL.—Subject to paragraph (2),  
16 in the case of a pediatric vaccine, the Secretary shall  
17 establish (and periodically review and as appropriate  
18 revise) a schedule of nonbinding recommendations  
19 for the following:

20           “(A) The number of immunizations with  
21 the vaccine that children should receive.

22           “(B) The ages at which children should re-  
23 ceive the immunizations.

24           “(C) The dosage of vaccine that should be  
25 administered in the immunizations.

1           “(D) Any contraindications regarding ad-  
2           ministration of the vaccine to particular medical  
3           categories of children.

4           “(E) Such other guidelines as the Sec-  
5           retary determines to be appropriate with re-  
6           spect to administering the vaccine to children.

7           “(2) VARIATIONS IN MEDICAL PRACTICE.—In  
8           establishing and revising a schedule under para-  
9           graph (1), the Secretary shall ensure that, in the  
10          case of the pediatric vaccine involved, the schedule  
11          provides for the full range of variations in medical  
12          judgment regarding the administration of the vac-  
13          cine, subject to remaining within medical norms.

14          “(3) RULE OF CONSTRUCTION.—

15                 “(A) The schedule specified in subpara-  
16                 graph (B) is deemed to be the schedule main-  
17                 tained under paragraph (1).

18                 “(B) The schedule specified in this sub-  
19                 paragraph is the schedule that, for purposes of  
20                 paragraph (1), is established (and periodically  
21                 reviewed and as appropriate revised) by the ad-  
22                 visory committee specified in subsection  
23                 (a)(2)(B).

24          “(c) GENERALLY APPLICABLE RULES OF CONSTRUC-  
25          TION.—

1           “(1) IN GENERAL.—The list established under  
2           subsection (a) and the schedules established under  
3           subsection (b) do not constitute guidelines, stand-  
4           ards, performance measures, or review criteria for  
5           purposes of the program carried out by the Adminis-  
6           trator for Health Care Policy and Research under  
7           part B of title IX or under section 1142 of the So-  
8           cial Security Act.

9           “(2) STATE LAWS.—This section does not su-  
10          persede any State law on requirements with respect  
11          to receiving immunizations (including any such law  
12          relating to religious exemptions or medical exemp-  
13          tions).

14          “(d) ISSUANCE OF LIST AND SCHEDULES.—Not later  
15          than 180 days after the date of the enactment of the Om-  
16          nibus Budget Reconciliation Act of 1993, the Secretary  
17          shall establish the initial list required in subsection (a) and  
18          the schedule required in subsection (b).

19          **“SEC. 2161. CHILDHOOD IMMUNIZATION TRUST FUND.**

20          “(a) ESTABLISHMENT OF FUND.—There is estab-  
21          lished in the Treasury of the United States a fund to be  
22          known as the National Childhood Immunization Trust  
23          Fund (in this section referred to as the ‘Fund’). The Fund  
24          shall consist of such amounts as may be appropriated to  
25          the Fund in appropriations Acts, in the Internal Revenue

1 Code of 1986, or in subsection (c)(3). Amounts appro-  
2 priated to the Fund shall remain available until expended.

3 “(b) EXPENDITURES FROM FUND.—Amounts in the  
4 Fund are available to the Secretary for the purpose of car-  
5 rying out this part. Payments under the program under  
6 this part, and the costs of carrying out such program,  
7 shall be exempt from reduction under any order issued  
8 under part C of the Balanced Budget and Emergency Def-  
9 icit Control Act of 1985.

10 “(c) INVESTMENT.—

11 “(1) IN GENERAL.—The Secretary of the  
12 Treasury shall invest such amounts of the Fund as  
13 such Secretary determines are not required to meet  
14 current withdrawals from the Fund. Such invest-  
15 ments may be made only in interest-bearing obliga-  
16 tions of the United States. For such purpose, such  
17 obligations may be acquired on original issue at the  
18 issue price, or by purchase of outstanding obliga-  
19 tions at the market price.

20 “(2) SALE OF OBLIGATIONS.—Any obligation  
21 acquired by the Fund may be sold by the Secretary  
22 of the Treasury at the market price.

23 “(3) AVAILABILITY OF INCOME.—Any interest  
24 derived from obligations acquired by the Fund, and

1 proceeds from any sale or redemption of such obliga-  
2 tions, are hereby appropriated to the Fund.

3 **“SEC. 2162. DEFINITIONS.**

4 “For purposes of this subtitle:

5 “(1) The term ‘eligible child’ has the meaning  
6 given such term in section 2151(b).

7 “(2) The term ‘federally-supplied’, with respect  
8 to a pediatric vaccine, means that such vaccine is  
9 purchased and delivered on behalf of a State under  
10 section 2151(a).

11 “(3) The term ‘health care provider’, with re-  
12 spect to the administration of vaccines to children,  
13 means an entity that is licensed or otherwise author-  
14 ized for such administration under the law of the  
15 State in which the entity administers the vaccine,  
16 subject to section 333(e).

17 “(4) The term ‘immunization’ means an immu-  
18 nization against a vaccine-preventable disease.

19 “(5) Each of the terms ‘Indian’, ‘Indian tribe’,  
20 and ‘tribal organization’ has the meaning given such  
21 term in section 4 of the Indian Health Care Im-  
22 provement Act.

23 “(6) The term ‘Indian child’ means an Indian  
24 who is 18 years of age or younger.

1           “(7) The term ‘manufacturer’ means any cor-  
2           poration, organization, or institution, whether public  
3           or private (including Federal, State, and local de-  
4           partments, agencies, and instrumentalities), which  
5           manufactures, imports, processes, or distributes  
6           under its label any pediatric vaccine. The term  
7           ‘manufacture’ means to manufacture, import, proc-  
8           ess, or distribute a vaccine.

9           “(8) The term ‘parent’, with respect to a child,  
10          means a legal guardian of the child.

11          “(9) The term ‘participating State under sec-  
12          tion 2151’ means a State that has submitted to the  
13          Secretary an application in accordance with section  
14          2157.

15          “(10) The term ‘pediatric vaccine’ means a vac-  
16          cine included on the list established under section  
17          2160(a).

18          “(11) The term ‘program-registered provider’  
19          has the meaning given such term in 2153(a)(2).

20       **“SEC. 2163. TERMINATION OF PROGRAM.**

21          This part shall cease to be in effect beginning on such  
22          date as may be prescribed in Federal law providing for  
23          immunization services for all children as part of a broad-  
24          based reform of the national health care system.

1       “PART B—NATIONAL SYSTEM FOR MONITORING  
2               IMMUNIZATION STATUS OF CHILDREN

3       **“SEC. 2171. FORMULA GRANTS FOR STATE REGISTRIES**  
4               **WITH RESPECT TO MONITORING.**

5       “(a) IN GENERAL.—For the purpose described in  
6 subsection (b), the Secretary, acting through the Director  
7 of the Centers for Disease Control and Prevention, shall  
8 make an allotment each fiscal year for each State in an  
9 amount determined in accordance with section 2175. The  
10 Secretary shall make a grant to the State of the allotment  
11 made for the State for the fiscal year if the State submits  
12 to the Secretary an application in accordance with section  
13 2174.

14       “(b) AUTHORIZED ACTIVITIES.—The Secretary may  
15 make a grant under subsection (a) only if the State agrees  
16 to expend the grant for the purpose of—

17               “(1) collecting the data described in section  
18               2172;

19               “(2) operating registries to maintain the data  
20               (and establishing such registries, in the case of a  
21               State that is not operating such a registry);

22               “(3) utilizing the data to monitor the extent to  
23               which children have received immunizations in ac-  
24               cordance with the schedule established under section  
25               2160(b);

1           “(4) notifying parents if children have not re-  
2           ceived immunizations in accordance with such sched-  
3           ule; and

4           “(5) such other activities as the Secretary may  
5           authorize with respect to achieving the objectives es-  
6           tablished by the Secretary for the year 2000 for the  
7           immunization status of children in the United  
8           States.

9           “(c) REQUIREMENT REGARDING STATE LAWS.—

10           “(1) IN GENERAL.—The Secretary may make a  
11           grant under subsection (a) only if the State in-  
12           volved—

13           “(A) provides assurances satisfactory to  
14           the Secretary that, not later than October 1,  
15           1996, the State will be operating a registry in  
16           accordance with this part, including having in  
17           effect such laws and regulations as may be nec-  
18           essary to so operate such a registry; and

19           “(B) agrees that, prior to such date, the  
20           State will make such efforts to operate a reg-  
21           istry in accordance with this part as may be au-  
22           thorized in the law and regulations of the State.

23           “(2) RULES OF CONSTRUCTION.—

24           “(A) With respect to the agreements made  
25           by a State under this part, other than the

1 agreement under paragraph (1)(B), the Sec-  
2 retary may require compliance with the agree-  
3 ments only to the extent consistent with such  
4 paragraph.

5 “(B) This part does not authorize the Sec-  
6 retary, as a condition of the receipt of a grant  
7 under subsection (a) by a State, to prohibit the  
8 State from providing any parent, upon the re-  
9 quest of the parent, with an exemption from the  
10 requirements established by the State pursuant  
11 to this part for the collection of data regarding  
12 any child of the parent.

13 **“SEC. 2172. REGISTRY DATA.**

14 “(a) IN GENERAL.—For purposes of section  
15 2171(b)(1), the data described in this section are the data  
16 described in subsection (b) and the data described in sub-  
17 section (c). This section applies to data regarding a child  
18 without regard to whether the child is an eligible child as  
19 defined in section 2162.

20 “(b) DATA REGARDING BIRTH OF CHILD.—With re-  
21 spect to the birth of a child, the data described in this  
22 subsection is as follows:

23 “(1) The name of each child born in the State  
24 involved on or after October 1, 1993.

25 “(2) Demographic data on the child.

1           “(3) The name of one or both of the parents of  
2 the child.

3           “(4) The address, as of the date of the birth of  
4 the child, of each parent whose name is received in  
5 the registry pursuant to paragraph (3).

6           “(c) DATA REGARDING INDIVIDUAL IMMUNIZA-  
7 TIONS.—With respect to a child to whom a pediatric vac-  
8 cine is administered in the State involved, the data de-  
9 scribed in this subsection is as follows:

10           “(1) The name, age, and address of the child.

11           “(2) The date on which the vaccine was admin-  
12 istered to the child.

13           “(3) The name and business address of the  
14 health care provider that administered the vaccine.

15           “(4) The address of the facility at which the  
16 vaccine was administered.

17           “(5) The name and address of one or both par-  
18 ents of the child as of the date on which the vaccine  
19 was administered, if such information is available to  
20 the health care provider.

21           “(6) The type of vaccine.

22           “(7) The number or other information identify-  
23 ing the particular manufacturing batch of the vac-  
24 cine, if such information appears on the container or

1 packaging for the vaccine or is otherwise readily ac-  
2 cessible to the health care provider.

3 “(8) The dosage of vaccine that was adminis-  
4 tered.

5 “(9) A description of any adverse medical reac-  
6 tions that the child experienced in relation to the  
7 vaccine and of which the health care provider is  
8 aware.

9 “(10) Any other contraindications noted by the  
10 health care provider with respect to administration  
11 of the vaccine to the child.

12 “(11) Such other data regarding immunizations  
13 for the child, including identifying data, as the Sec-  
14 retary may require consistent with applicable law  
15 (including social security account numbers furnished  
16 pursuant to section 205(c)(2)(E) of the Social Secu-  
17 rity Act).

18 “(d) DATE CERTAIN FOR SUBMISSION TO REG-  
19 ISTRY.—The Secretary may make a grant under section  
20 2171 only if the State involved agrees to ensure that, with  
21 respect to a child—

22 “(1) the data described in subsection (b) are  
23 submitted to the registry under such section not  
24 later than 6 weeks after the date on which the child  
25 is born; and

1           “(2) the data described in subsection (c) with  
2           respect to a vaccine are submitted to such registry  
3           not later than 6 weeks after the date on which the  
4           vaccine is administered to the child.

5   **“SEC. 2173. GENERAL PROVISIONS.**

6           “(a) FEDERAL STANDARDS ON CONFIDENTIALITY.—  
7   The Secretary shall by regulation establish standards pro-  
8   viding for maintaining the confidentiality of the identity  
9   of individuals with respect to whom data are maintained  
10  in a registries under section 2171. Such standards shall,  
11  with respect to a State, provide that the State is to have  
12  in effect laws regarding such confidentiality, including ap-  
13  propriate penalties for violation of the laws. The Secretary  
14  may make a grant under such section only if the State  
15  involved agrees to comply with the standards.

16          “(b) USE OF SOCIAL SECURITY ACCOUNT NUM-  
17  BERS.—Any usage or disclosure of data in registries under  
18  section 2171 that consists of social security account num-  
19  bers and related information which is otherwise permitted  
20  under this part may be exercised only to the extent per-  
21  mitted under section 205(c)(2)(E) of the Social Security  
22  Act. For purposes of the preceding sentence, the term ‘re-  
23  lated information’ has the meaning given such term in  
24  clause (iv)(II) of such section.

1       “(c) UNIFORMITY IN METHODOLOGIES.—The Sec-  
2 retary shall establish standards regarding the methodolo-  
3 gies used in establishing and operating registries under  
4 section 2171, and may make a grant under such section  
5 only if the State agrees to comply with the standards. The  
6 Secretary shall provide for a reasonable degree of uniform-  
7 ity among the States in such methodologies for the pur-  
8 pose of ensuring the utility, comparability, and exchange  
9 of the data maintained in such registries.

10       “(d) COORDINATION AMONG STATES.—The Sec-  
11 retary may make a grant under section 2171 to a State  
12 only if, with respect to the operation of the registry of  
13 the State under such section, the State agrees to cooperate  
14 with the Secretary and with other States in carrying out  
15 activities with respect to achieving the objectives estab-  
16 lished by the Secretary for the year 2000 for the immuni-  
17 zation status of children in the United States.

18       “(e) REPORTS TO SECRETARY.—The Secretary may  
19 make a grant under section 2171 only if the State involved  
20 agrees to submit to the Secretary such reports as the Sec-  
21 retary determines to be appropriate with respect to the  
22 activities of the State under this part.

23 **“SEC. 2174. APPLICATION FOR GRANT.**

24       “An application by a State for a grant under section  
25 2171 is in accordance with this section if the application—

1           “(1) is submitted not later than the date speci-  
2           fied by the Secretary;

3           “(2) contains each agreement required in this  
4           part;

5           “(3) contains any information required in this  
6           part to be submitted to the Secretary; and

7           “(4) is in such form, is made in such manner,  
8           and contains such agreements, assurances, and in-  
9           formation as the Secretary determines to be nec-  
10          essary to carry out this part.

11 **“SEC. 2175. DETERMINATION OF AMOUNT OF ALLOTMENT.**

12          “The Secretary shall determine the amount of the al-  
13          lotments required in section 2171 for States for a fiscal  
14          year in accordance with a formula established by the Sec-  
15          retary that allots the amounts appropriated under section  
16          2177 for the fiscal year on the basis of the costs of the  
17          States in establishing and operating registries under sec-  
18          tion 2171.

19 **“SEC. 2176. DEFINITIONS.**

20          “For purposes of this part, each of the terms ‘health  
21          care provider, ‘pediatric vaccine’ and ‘parent’ has the  
22          meaning given the term in section 2162.

23 **“SEC. 2177. AUTHORIZATION OF APPROPRIATIONS.**

24          “For the purpose of carrying out this part, there are  
25          authorized to be appropriated \$50,000,000, for fiscal year

1 1994, \$152,000,000 for fiscal year 1995, \$125,000,000  
2 for fiscal year 1996, and \$35,000,000 for each of the fis-  
3 cal years 1997 through 1999.

4 “PART C—FUNDING FOR OTHER PURPOSES REGARDING  
5 CHILDHOOD IMMUNIZATIONS

6 “**SEC. 2181. GRANTS REGARDING YEAR 2000 HEALTH OBJEC-**  
7 **TIVES.**

8 “(a) IN GENERAL.—The Secretary, acting through  
9 the Director of the Centers for Disease Control and Pre-  
10 vention, may make grants to States for the purpose of car-  
11 rying out activities with respect to achieving the objectives  
12 established by the Secretary for the year 2000 for the im-  
13 munization status of children in the United States, other  
14 than providing for the purchase and delivery on behalf of  
15 the State of any pediatric vaccine (as defined in section  
16 2162).

17 “(b) CERTAIN ACTIVITIES.—Subject to subsection  
18 (a), the purposes for which a grant under such subsection  
19 may be expended include the following:

20 “(1) Research into the prevention and control  
21 of diseases that may be prevented through vaccina-  
22 tion.

23 “(2) Demonstration projects for the prevention  
24 and control of such diseases.

1           “(3) Public information and education pro-  
2           grams for the prevention and control of such dis-  
3           eases.

4           “(4) Education, training, and clinical skills im-  
5           provement activities in the prevention and control of  
6           such diseases for health professionals (including al-  
7           lied health personnel).

8           “(5) Such other activities as the Secretary de-  
9           termines to be appropriate.

10          “(c) APPLICATION FOR GRANT.—The Secretary may  
11          make a grant under subsection (a) only if an application  
12          for the grant is submitted to the Secretary and the appli-  
13          cation is in such form, is made in such manner, and con-  
14          tains such agreements, assurances, and information as the  
15          Secretary determines to be necessary to carry out this sec-  
16          tion.

17          “(d) SUPPLIES AND SERVICES IN LIEU OF GRANT  
18          FUNDS.— The Secretary, at the request of a recipient of  
19          a grant under subsection (a), may reduce the amount of  
20          such grant by—

21                 “(1) the fair market value of any supplies or  
22                 equipment furnished the grant recipient, and

23                 “(2) the amount of the pay, allowances, and  
24                 travel expenses of any officer or employee of the  
25                 Federal Government when detailed to the grant re-

1 recipient and the amount of any other costs incurred  
2 in connection with the detail of such officer or em-  
3 ployee.

4 When the furnishing of such supplies or equipment or the  
5 detail of such an officer or employee is for the convenience  
6 of and at the request of such grant recipient and for the  
7 purpose of carrying out a program with respect to which  
8 the grant under subsection (a) is made. The amount by  
9 which any such grant is so reduced shall be available for  
10 payment by the Secretary of the costs incurred in furnish-  
11 ing the supplies or equipment, or in detailing the person-  
12 nel, on which the reduction of such grant is based, and  
13 such amount shall be deemed as part of the grant and  
14 shall be deemed to have been paid to the grant recipient.

15 “(e) AUTHORIZATION OF APPROPRIATIONS.—For the  
16 purpose of carrying out this part, there are authorized to  
17 be appropriated \$580,000,000 for fiscal year 1993,  
18 \$680,000,000 for fiscal year 1994, and such sums as may  
19 be necessary for each of the fiscal years 1995 through  
20 1999.”.

21 (b) AUTHORITY TO USE SOCIAL SECURITY ACCOUNT  
22 NUMBERS.—Section 205(c)(2) of the Social Security Act  
23 (42 U.S.C. 405(c)(2)) is amended—

24 (1) by redesignating subparagraphs (E) and  
25 (F) as subparagraphs (F) and (G), respectively; and

1           (2) by inserting after subparagraph (D) the fol-  
2           lowing new subparagraph:

3           “(E)(i) The Secretary and each State receiving  
4           grants under section 2171(a) of the Public Health Service  
5           Act may utilize social security account numbers issued by  
6           the Secretary under this subsection for purposes of—

7                 “(I) operating registries under such section to  
8                 maintain information including such numbers (and  
9                 establishing such registries, in the case of a State  
10                that is not operating such a registry),

11               “(II) utilizing such numbers to monitor the ex-  
12               tent to which children have received immunizations  
13               in accordance with the schedule established under  
14               section 2160(b) of the Public Health Service Act,  
15               and

16               “(III) notifying parents if children have not re-  
17               ceived immunizations in accordance with such sched-  
18               ule.

19           “(ii) Disclosure by individuals of social security ac-  
20           count numbers may be required by a State for purposes  
21           of identification of children in a registry operated pursu-  
22           ant to a grant referred to in clause (i), except that such  
23           disclosure may be required to be made only to persons spe-  
24           cifically authorized in regulations of the Secretary pre-  
25           scribed under part B of subtitle 3 of title XXI of the Pub-

1 lic Health Service Act. The Secretary shall take such ac-  
2 tions as are necessary to restrict access to information  
3 consisting of such numbers and related information only  
4 to such authorized persons whose duties or responsibilities  
5 require access for the purposes described in clause (i). The  
6 Secretary shall issue regulations governing the use, main-  
7 tenance, and disclosure by any holder of such information,  
8 including appropriate administrative, technical, and phys-  
9 ical safeguards, to ensure that only such authorized per-  
10 sons have access to such information. Any use or disclo-  
11 sure of such information in violation of such regulations  
12 shall be deemed a disclosure in violation of subparagraph  
13 (C)(vii).

14       “(iii) The Secretary shall submit a report to the Com-  
15 mittee on Ways and Means of the House of Representa-  
16 tives and the Committee on Finance of the Senate not  
17 later than January 1, 1996, and biennially thereafter, on  
18 the operation of this subparagraph.

19       “(iv) For purposes of this subparagraph—

20               “(I) the term ‘State’ has the meaning provided  
21 such term under section 2(f) of the Public Health  
22 Service Act, and

23               “(II) the term ‘related information’ means any  
24 record, list, or compilation which indicates, directly  
25 or indirectly, the identity of any individual with re-

1 spect to whom a social security account number is  
2 maintained pursuant to this subparagraph and part  
3 B of subtitle 3 of title XXI of the Public Health  
4 Service Act.”.

5 (c) RELATIONSHIP OF NEW PROGRAM OF IMMUNIZA-  
6 TION GRANTS TO CURRENT PROGRAM.—

7 (1) STRIKING OF CURRENT PROGRAM.—Section  
8 317 of the Public Health Service Act (42 U.S.C.  
9 247b) is amended—

10 (A) in subsection (j)—

11 (i) by striking paragraph (1); and

12 (ii) by striking the remaining para-  
13 graph designation; and

14 (B) in subsection (k)—

15 (i) by striking paragraph (1); and

16 (ii) by redesignating paragraphs (2)  
17 and (3) as paragraphs (1) and (2), respec-  
18 tively.

19 (2) TRANSITIONAL AUTHORITY UNDER NEW  
20 PROGRAM.—With respect to activities that the Sec-  
21 retary of Health and Human Services was author-  
22 ized to carry out pursuant to section 317(j)(1) of  
23 the Public Health Service Act (as in effect on the  
24 day before the date of the enactment of this Act),  
25 the Secretary may, for fiscal year 1994, carry out

1 any such activity under section 2181 of the Public  
2 Health Service Act (as added by subsection (a) of  
3 this section), notwithstanding the provisions of such  
4 section 2181. The authority established in the pre-  
5 ceding sentence includes the authority to purchase  
6 vaccines.

7 (d) CONTINUED COVERAGE OF COSTS OF A PEDI-  
8 ATRIC VACCINE UNDER GROUP HEALTH PLANS.—

9 (1) REQUIREMENT.—The requirement of this  
10 paragraph, with respect to a group health plan for  
11 plan years beginning after the date of the enactment  
12 of this Act, is that the group health plan not reduce  
13 its coverage of the costs of pediatric vaccines (as de-  
14 fined under section 2162 of the Public Health Serv-  
15 ice Act) below the coverage it provided as of May 1,  
16 1993.

17 (2) ENFORCEMENT.—

18 (A) For purposes of section 2207 of the  
19 Public Health Service Act, the requirement of  
20 paragraph (1) is deemed a requirement of title  
21 XXII of such Act.

22 (B) For purposes of subsections (a)  
23 through (e) of section 4980B of the Internal  
24 Revenue Code of 1986, paragraph (1) is

1           deemed a requirement of subsection (f) of such  
2           section.

3           (C) For purposes of section 502 of the  
4           Employee Retirement Income Security Act of  
5           1974, paragraph (1) is deemed a provision of  
6           part 6 of subtitle B of title I of such Act.

7   **SEC. 5182. NATIONAL VACCINE INJURY COMPENSATION**  
8           **PROGRAM AMENDMENTS.**

9           (a) USE OF VACCINE INJURY COMPENSATION TRUST  
10          FUND.—Section 6601(r) of the Omnibus Budget Rec-  
11          onciliation Act of 1989 is amended by striking  
12          “\$2,500,000 for each of fiscal years 1991 and 1992” each  
13          place it appears and inserting “\$3,000,000 for fiscal year  
14          1994 and each fiscal year thereafter” (in three places).

15          (b) AMENDMENT OF VACCINE INJURY TABLE.—Sec-  
16          tion 2116(b) of the Public Health Service Act (42 U.S.C.  
17          300aa-16(b)) is amended by striking “such person may  
18          file” and inserting “or to significantly increase the likeli-  
19          hood of obtaining compensation, such person may, not-  
20          withstanding section 2111(b)(2), file”.

21          (c) EXTENSION OF TIME FOR DECISION.—Section  
22          2112(d)(3)(D) of such Act (42 U.S.C. 300aa-  
23          12(d)(3)(D)) is amended by striking “540 days” and in-  
24          serting “30 months (but for no more than 6 months at  
25          a time)”.

1 (d) SIMPLIFICATION OF VACCINE INFORMATION MA-  
2 TERIALS.—

3 (1) Section 2126(b) of such Act (42 U.S.C.  
4 300aa–26(b)) is amended—

5 (A) by striking “by rule” in the matter  
6 preceding paragraph (1);

7 (B) by striking, in paragraph (1), “, op-  
8 portunity for a public hearing, and 90” and in-  
9 serting “and 30”; and

10 (C) by striking, in paragraph (2), “, appro-  
11 priate health care providers and parent organi-  
12 zations”.

13 (2) Section 2126(c) of such Act (42 U.S.C.  
14 300aa–26(c)) is amended—

15 (A) by inserting “shall be based on avail-  
16 able data and information,” after “such mate-  
17 rials” in the matter preceding paragraph (1),  
18 and

19 (B) by striking paragraphs (1) through  
20 (10) and inserting the following:

21 “(1) a concise description of the benefits of the  
22 vaccine,

23 “(2) a concise description of the risks associ-  
24 ated with the vaccine,

1           “(3) a statement of the availability of the Na-  
2           tional Vaccine Injury Compensation Program, and

3           “(4) such other relevant information as may be  
4           determined by the Secretary.”.

5           (3) Subsections (a) and (d) of section 2126 of  
6           such Act (42 U.S.C. 300aa–26) are each amended  
7           by inserting “or to any other individual” after “to  
8           the legal representative of any child”.

9           (4) Subsection (d) of section 2126 of such Act  
10          (42 U.S.C. 300aa–26) is amended—

11           (A) by striking all after “subsection (a),”  
12           the second place it appears in the first sentence  
13           and inserting “supplemented with visual presen-  
14           tations or oral explanations, in appropriate  
15           cases.”, and

16           (B) by striking “or other information” in  
17           the last sentence.

18   **SEC. 5183. MEDICAID IMMUNIZATION PROVISIONS.**

19           (a) OUTREACH AND EDUCATION.—

20           (1) IMMUNIZATION OUTREACH THROUGH EPSDT  
21           PROGRAM.—Section 1902(a)(43)(A) (42 U.S.C.  
22           1396a(a)(43)(A)) is amended by inserting before the  
23           comma at the end the following: “and the need for  
24           age-appropriate immunizations against vaccine-pre-  
25           ventable diseases”.

1           (2) COORDINATION WITH MATERNAL AND  
2 CHILD HEALTH BLOCK GRANT PROGRAMS AND WIC  
3 PROGRAMS.—Section 1902(a)(11) (42 U.S.C.  
4 1396a(a)(11)) is amended—

5           (A) in clause (B)—

6           (i) by striking “effective July 1,  
7 1969,”

8           (ii) by striking “and” before “(ii),”  
9 and

10           (iii) by striking “to him under section  
11 1903” and inserting “to the individual  
12 under section 1903, and (iii) providing for  
13 coordination of information and education  
14 on childhood vaccinations and delivery of  
15 immunization services”; and

16           (B) in clause (C), by inserting “(including  
17 the provision of information and education on  
18 childhood vaccinations and the delivery of im-  
19 munization services)” after “operations under  
20 this title”.

21           (3) COVERAGE OF PUBLIC HOUSING HEALTH  
22 CENTERS AS FEDERALLY-QUALIFIED HEALTH CEN-  
23 TERS.—Section 1905(l)(2)(B) (42 U.S.C.  
24 1396d(l)(2)(B)) is amended by striking “or 340”  
25 each place it appears and inserting “340, or 340A”.

1           (4) EFFECTIVE DATE.—(A) Except as provided  
2           in subparagraph (B), the amendments made by this  
3           subsection shall apply to calendar quarters beginning  
4           on or after October 1, 1993, without regard to  
5           whether or not final regulations to carry out such  
6           amendments have been promulgated by such date.

7           (B) In the case of a State plan for medical as-  
8           sistance under title XIX of the Social Security Act  
9           which the Secretary of Health and Human Services  
10          determines requires State legislation (other than leg-  
11          islation appropriating funds) in order for the plan to  
12          meet the additional requirements imposed by the  
13          amendments made by this subsection, the State plan  
14          shall not be regarded as failing to comply with the  
15          requirements of such title solely on the basis of its  
16          failure to meet these additional requirements before  
17          the first day of the first calendar quarter beginning  
18          after the close of the first regular session of the  
19          State legislature that begins after the date of the en-  
20          actment of this Act. For purposes of the previous  
21          sentence, in the case of a State that has a 2-year  
22          legislative session, each year of such session shall be  
23          deemed to be a separate regular session of the State  
24          legislature.

1 (b) SCHEDULE OF IMMUNIZATIONS UNDER  
2 EPSDT.—

3 (1) IN GENERAL.—Section 1905(r)(1) (42  
4 U.S.C. 1396d(r)(1)) is amended—

5 (A) in subparagraph (A)(i), by inserting  
6 “and, with respect to immunizations under sub-  
7 paragraph (B)(iii), in accordance with the  
8 schedule recommended by the Secretary under  
9 section 2160 of the Public Health Service Act”  
10 after “child health care”; and

11 (B) in subparagraph (B)(iii), by inserting  
12 “(according to the schedule recommended by  
13 the Secretary under section 2160 of the Public  
14 Health Service Act)” after “appropriate immu-  
15 nizations”.

16 (2) EFFECTIVE DATE.—The amendments made  
17 by subparagraphs (A) and (B) of paragraph (1)  
18 shall first apply 90 days after the date the Secretary  
19 of Health and Human Services first issues the rec-  
20 ommended schedule referred to in subparagraphs  
21 (A)(i) and subparagraph (B)(iii) of section  
22 1905(r)(1) of the Social Security Act (as amended  
23 by such respective subparagraphs).

24 (c) ASSURING ADEQUATE PAYMENT RATES FOR AD-  
25 MINISTRATION OF VACCINES TO CHILDREN.—

1           (1) PAYMENT RATES.—Section 1926(a)(4)(B)  
2           (42 U.S.C. 1396r-7(a)(4)(B)) is amended by insert-  
3           ing “(including the administration of vaccines)”  
4           after “means services”.

5           (2) EFFECTIVE DATE.—The amendment made  
6           by paragraph (1) shall apply to the plan amendment  
7           required to be submitted under section 1926(a)(2) of  
8           the Social Security Act by not later than April 1,  
9           1994.

10          (d) DENIAL OF FEDERAL FINANCIAL PARTICIPATION  
11          FOR INAPPROPRIATE ADMINISTRATION OF SINGLE-ANTI-  
12          GEN VACCINE.—

13           (1) IN GENERAL.—Section 1903(i) (42 U.S.C.  
14           1396b(i)), as amended by sections 5174(b) and  
15           5131(a), is amended—

16           (A) in paragraph (13), by striking “or” at  
17           the end,

18           (B) in paragraph (14), by striking the pe-  
19           riod at the end and inserting “; or”, and

20           (C) by inserting after paragraph (14) the  
21           following new paragraph:

22           “(15) with respect to any amount expended for  
23           a single-antigen vaccine and its administration in  
24           any case in which the administration of a combined-

1 antigen vaccine was medically appropriate (as deter-  
2 mined by the Secretary).”.

3 (2) EFFECTIVE DATE.—The amendments made  
4 by paragraph (1) shall apply to amounts expended  
5 for vaccines administered on or after October 1,  
6 1993.

7 (e) REQUIRING MEDICAID MANAGED CARE PLANS  
8 ~~T±±~~ TO COMPLY WITH IMMUNIZATION AND OTHER EPSDT  
9 REQUIREMENTS.—

10 (1) IN GENERAL.—Section 1903(m) (42 U.S.C.  
11 1396b(m)) is amended—

12 (A) in paragraph (2)(A), as amended by  
13 subsections (a)(1) and (b)(1) of section 5135—

14 (i) by striking “and” at the end of  
15 clause (xii),

16 (ii) by striking the period at the end  
17 of clause (xiii) and inserting “; and”, and

18 (iii) by adding at the end the follow-  
19 ing new clause:

20 “(xiv) the entity complies with the requirements  
21 of paragraph (7) (relating to EPSDT compliance).”;

22 and

23 (B) by adding at the end the following new  
24 paragraph:

1 “(7) The contract between the State and an entity  
2 referred to in paragraph (2)(A)(iii) shall—

3 “(A) specify which early and periodic screening,  
4 diagnostic, and treatment services are to be provided  
5 under the contract to individuals under age 21 en-  
6 rolled with the entity;

7 “(B) in the case of such services which are not  
8 to be so provided, specify the steps the entity will  
9 take (through referrals or other arrangements) to  
10 assure that such individuals will receive such serv-  
11 ices; and

12 “(C) require the entity to submit such periodic  
13 reports as may be necessary to enable the State to  
14 prepare and submit timely reports under section  
15 1902(a)(43)(D) and section 506(a)(2).”.

16 (2) APPLICATION OF INTERMEDIATE SANC-  
17 TIONS FOR FAILURE TO PROVIDE IMMUNIZATIONS  
18 AND OTHER EPSDT SERVICES.—Section  
19 1903(m)(5)(A) (42 U.S.C. 1396b(m)(5)(A)) is  
20 amended—

21 (A) by striking “, or” at the end of clause  
22 (iv) and inserting a semicolon,

23 (B) by striking the comma at the end of  
24 clause (v) and inserting “; or”, and

1 (C) by inserting after clause (v) the follow-  
2 ing new clause:

3 “(vi) fails substantially to provide early and  
4 periodic screening, diagnostic, and treatment serv-  
5 ices to the extent specified in the contract under  
6 paragraph (7)(A);”.

7 (3) EFFECTIVE DATE.—The amendments made  
8 by this subsection shall apply to contract years be-  
9 ginning on or after October 1, 1993, without regard  
10 to whether or not final regulations to carry out such  
11 amendments have been promulgated by such date.

12 (f) TRANSITION RULE.—

13 (1) MEDICAID USE OF CDC CONTRACT PRICE.—  
14 The Secretary of Health and Human Services shall  
15 not, on or after the date of the enactment of this  
16 Act, enter into a contract for the purchase by the  
17 Centers for Disease Control and Prevention of pedi-  
18 atric vaccines for distribution (as provided for in  
19 section 317 or section 2181 of the Public Health  
20 Service Act) unless such contract provides that the  
21 charge for such vaccines, for which medical assist-  
22 ance is provided under a State plan under title XIX  
23 of the Social Security Act, will not exceed the price  
24 negotiated under the contract. The previous sentence  
25 shall not apply, with respect to a vaccine for which

1 medical assistance is provided by a State, on and  
2 after such date as the State becomes entitled to have  
3 the Secretary provide for the purchase and delivery  
4 on behalf of the State of that vaccine under section  
5 2151 of the Public Health Service Act.

6 (2) OPTIONAL USE BY STATES OF CDC CON-  
7 TRACT PRICE.—Nothing in paragraph (1) shall be  
8 construed as limiting the Federal financial participa-  
9 tion available to States, under title XIX of the So-  
10 cial Security Act, for the cost of a pediatric vaccine  
11 to the contract price described in such paragraph for  
12 the vaccine.

13 **SEC. 5184. AVAILABILITY OF MEDICAID PAYMENTS FOR**  
14 **CHILDHOOD VACCINE REPLACEMENT PRO-**  
15 **GRAMS.**

16 (a) IN GENERAL.—Section 1902(a)(32) (42 U.S.C.  
17 1396a(a)(32)) is amended—

18 (1) by striking “and” at the end of subpara-  
19 graph (B),

20 (2) by striking the period at the end of sub-  
21 paragraph (C) and inserting “; and”, and

22 (3) by adding at the end the following new sub-  
23 paragraph:

24 “(D) in the case of payment for a child-  
25 hood vaccine administered to individuals enti-

1           tled to medical assistance under the State plan,  
2           the State plan may make payment directly to  
3           the manufacturer of the vaccine under a vol-  
4           untary replacement program agreed to by the  
5           State pursuant to which the manufacturer (i)  
6           supplies doses of the vaccine to providers ad-  
7           ministering the vaccine, (ii) periodically replaces  
8           the supply of the vaccine, and (iii) charges the  
9           State the manufacturer’s bid price to the Cen-  
10          ters for Disease Control and Prevention for the  
11          vaccine so administered plus a reasonable pre-  
12          mium to cover shipping and the handling of re-  
13          turns;”.

14          (b) EFFECTIVE DATE.—The amendments made by  
15          subsection (a) shall take effect on the date of the enact-  
16          ment of this Act.

17          **SEC. 5185. HEALTHY START FOR INFANTS.**

18          (a) IN GENERAL.—Part D of title III of the Public  
19          Health Service Act (42 U.S.C. 254b et seq.) is amended  
20          by inserting after section 330 the following section:

21                         “HEALTHY START FOR INFANTS

22                         “SEC. 330A. (a) GRANTS FOR COMPREHENSIVE  
23          SERVICES.—

24                         “(1) IN GENERAL.—The Secretary may make  
25                         grants for the operation of not more than 21 dem-  
26                         onstration projects to provide the services described

1 in subsection (b) for the purpose of reducing, in the  
2 geographic areas in which the projects are carried  
3 out—

4 “(A) the incidence of infant mortality and  
5 morbidity;

6 “(B) the incidence of fetal deaths;

7 “(C) the incidence of maternal mortality;

8 “(D) the incidence of fetal alcohol syn-  
9 drome; and

10 “(E) the incidence of low-birthweight  
11 births.

12 “(2) ACHIEVEMENT OF YEAR 2000 HEALTH STA-  
13 TUS OBJECTIVES.—With respect to the objectives es-  
14 tablished by the Secretary for the health status of  
15 the population of the United States for the year  
16 2000, the Secretary shall, in providing for a dem-  
17 onstration project under paragraph (1) in a geo-  
18 graphic area, seek to meet the objectives that are  
19 applicable to the purpose described in such para-  
20 graph and the populations served by the project.

21 “(b) AUTHORIZED SERVICES.—

22 “(1) IN GENERAL.—Subject to subsection (h),  
23 the services referred to in this subsection are com-  
24 prehensive services (including preventive and pri-  
25 mary health services for pregnant women and in-

1       fants and childhood immunizations in accordance  
2       with the schedule recommended by the Secretary  
3       under section 2160) for carrying out the purpose de-  
4       scribed in subsection (a), including services other  
5       than health services.

6               “(2) CERTAIN PROVIDERS.—The Secretary may  
7       make a grant under subsection (a) only if the appli-  
8       cant involved agrees that, in making any arrange-  
9       ments under which other entities provide authorized  
10       services in the demonstration project involved, the  
11       applicant will include among the entities with which  
12       the arrangements are made grantees under any of  
13       sections 329, 330, 340, and 340A, if such grantees  
14       are providing services in the service area of such  
15       project and the grantees are willing to make such  
16       arrangements with the applicant.

17               “(c) ELIGIBLE GEOGRAPHIC AREAS.—The Secretary  
18       may make a grant under subsection (a) only if—

19               “(1) the applicant for the grant specifies the  
20       geographic area in which the demonstration project  
21       under such subsection is to be carried out and  
22       agrees that the project will not be carried out in  
23       other areas; and

1           “(2) the rate of infant mortality in the geo-  
2           graphic area equals or exceeds 150 percent of the  
3           national average in the United States of such rates.

4           “(d) MINIMUM QUALIFICATIONS OF GRANTEEES.—

5           “(1) PUBLIC OR NONPROFIT PRIVATE ENTI-  
6           TIES.—The Secretary may make a grant under sub-  
7           section (a) only if the applicant for the grant is a  
8           State or local department of health, or other public  
9           or nonprofit private entity, or a consortium of public  
10          or nonprofit private entities.

11          “(2) APPROVAL OF POLITICAL SUBDIVISIONS.—

12          With respect to a proposed demonstration project  
13          under subsection (a), the Secretary may make a  
14          grant under such subsection only if—

15                 “(A) the chief executive officer of each po-  
16                 litical subdivision in the service area of such  
17                 project approves the applicant for the grant as  
18                 being qualified to carry out the project; and

19                 “(B) the leadership of any Indian tribe or  
20                 tribal organization with jurisdiction over any  
21                 portion of such area so approves the applicant.

22          “(3) STATUS AS MEDICAID PROVIDER.—

23                 “(A) In the case of any service described  
24                 in subsection (b) that is available pursuant to  
25                 the State plan approved under title XIX of the

1 Social Security Act for a State in which a dem-  
2 onstration project under subsection (a) is car-  
3 ried out, the Secretary may make a grant under  
4 such subsection for the project only if, subject  
5 to subparagraph (B)—

6 “(i) the applicant for the grant will  
7 provide the service directly, and the appli-  
8 cant has entered into a participation agree-  
9 ment under the State plan and is qualified  
10 to receive payments under such plan; or

11 “(ii) the applicant will enter into an  
12 agreement with a public or private entity  
13 under which the entity will provide the  
14 service, and the entity has entered into  
15 such a participation agreement under the  
16 State plan and is qualified to receive such  
17 payments.

18 “(B)(i) In the case of an entity making an  
19 agreement pursuant to subparagraph (A)(ii) re-  
20 garding the provision of services, the require-  
21 ment established in such subparagraph regard-  
22 ing a participation agreement shall be waived  
23 by the Secretary if the entity does not, in pro-  
24 viding health care services, impose a charge or  
25 accept reimbursement available from any third-

1 party payor, including reimbursement under  
2 any insurance policy or under any Federal or  
3 State health benefits plan.

4 “(ii) A determination by the Secretary of  
5 whether an entity referred to in clause (i) meets  
6 the criteria for a waiver under such clause shall  
7 be made without regard to whether the entity  
8 accepts voluntary donations regarding the pro-  
9 vision of services to the public.

10 “(e) STATE APPROVAL OF PROJECT.—With respect  
11 to a proposed demonstration project under subsection (a),  
12 the Secretary may make a grant under such subsection  
13 to the applicant involved only if—

14 “(1) the chief executive officer of the State in  
15 which the project is to be carried out approves the  
16 proposal of the applicant for carrying out the  
17 project; and

18 “(2) the leadership of any Indian tribe or tribal  
19 organization with jurisdiction over any portion of the  
20 service area of the project so approves the proposal.

21 “(f) ELIGIBILITY FOR SERVICES PROVIDED WITH  
22 GRANT FUNDS.—

23 “(1) IN GENERAL.—With respect to any au-  
24 thorized service under subsection (b), if the service  
25 is a service that States are required or authorized to

1 provide under title XIX of the Social Security Act,  
2 the Secretary may make a grant under subsection  
3 (a) only if the applicant involved agrees that the  
4 grant will not be expended to provide the service to  
5 any individual to whom States are required or au-  
6 thorized under such title to provide the service. The  
7 Secretary may not make a grant under subsection  
8 (a) unless the State involved agrees that the grant  
9 will not be expended to make payment for any item  
10 or service to the extent that payment has been  
11 made, or can reasonably be expected to be made,  
12 with respect to such item or service—

13 “(A) under a health insurance policy or  
14 plan (including a group health plan or a pre-  
15 paid health plan),

16 “(B) under any Federal or State health  
17 benefits program, including any program under  
18 title V, XVIII, or XIX of the Social Security  
19 Act, or

20 “(C) under subpart 2 of part B of title  
21 XIX of this Act.

22 “(2) RULES OF CONSTRUCTION.—For purposes  
23 of paragraph (1):

24 “(A) Individuals to whom States are au-  
25 thorized to provide services under title XIX of

1 the Social Security Act include, pursuant to  
2 section 1902(l) of such title, pregnant women,  
3 infants, and children with an income level not  
4 less than 133 percent, and not more than 185  
5 percent, of the official poverty line.

6 “(B) Authorized services under subsection  
7 (b) that are authorized to be provided under  
8 title XIX of such Act include, pursuant to sec-  
9 tion 1920 of such title, ambulatory prenatal  
10 services during a period of presumptive eligi-  
11 bility.

12 “(C) Authorized services under subsection  
13 (b) that are required to be provided under title  
14 XIX of such Act include, pursuant to section  
15 1905(a)(4)(B) of such title, early and periodic  
16 screening, diagnostic, and treatment services for  
17 children under the age of 21.

18 “(D) Authorized services under subsection  
19 (b) that are authorized to be provided under  
20 title XIX of such Act include, pursuant to sec-  
21 tion 1905(a)(19) of such title, case-manage-  
22 ment services.

23 “(g) MAINTENANCE OF EFFORT.—

24 “(1) GRANTEE.—With respect to authorized  
25 services under subsection (b), the Secretary may

1 make a grant under subsection (a) only if the appli-  
2 cant involved agrees to maintain expenditures of  
3 non-Federal amounts for such services at a level  
4 that is not less than the level of such expenditures  
5 maintained by the applicant for fiscal year 1991.

6 “(2) RELEVANT POLITICAL SUBDIVISIONS.—  
7 With respect to authorized services under subsection  
8 (b), the Secretary may make a grant under sub-  
9 section (a) only if each political subdivision in the  
10 service area of the demonstration project involved  
11 agrees to maintain expenditures of non-Federal  
12 amounts for such services at a level that is not less  
13 than the level of such expenditures maintained by  
14 the political subdivision for fiscal year 1991.

15 “(h) RESTRICTIONS ON EXPENDITURE OF GRANT.—

16 “(1) IN GENERAL.—Except as provided in para-  
17 graph (3), the Secretary may make a grant under  
18 subsection (a) only if the applicant involved agrees  
19 that the grant will not be expended—

20 “(A) to provide inpatient services, except  
21 with respect to residential treatment for sub-  
22 stance abuse provided in settings other than  
23 hospitals;

1           “(B) to make cash payments to intended  
2 recipients of health services or mental health  
3 services; or

4           “(C) to purchase or improve real property  
5 (other than minor remodeling of existing im-  
6 provements to real property) or to purchase  
7 major medical equipment (other than mobile  
8 medical units for providing ambulatory prenatal  
9 services).

10           “(2) ADMINISTRATIVE EXPENSES; DATA COL-  
11 LECTION.—The Secretary may make a grant under  
12 subsection (a) only if the applicant involved agrees  
13 that not more than an aggregate 10 percent of the  
14 grant will be expended for administering the grant  
15 and the collection and analysis of data.

16           “(3) WAIVER.—If the Secretary finds that the  
17 purpose described in subsection (a) cannot otherwise  
18 be carried out, the Secretary may, with respect to an  
19 otherwise qualified applicant, waive the restriction  
20 established in paragraph (1)(C).

21           “(i) DETERMINATION OF CAUSE OF INFANT  
22 DEATHS.—The Secretary may make a grant under sub-  
23 section (a) only if the applicant involved—

1           “(1) agrees to provide for a determination of  
2           the cause of each infant death in the service area of  
3           the demonstration project involved; and

4           “(2) the applicant has made such arrangements  
5           with public entities as may be necessary to carry out  
6           paragraph (1).

7           “(j) ANNUAL REPORTS TO SECRETARY.—The Sec-  
8           retary may make a grant under subsection (a) only if the  
9           applicant involved agrees that, for each fiscal year for  
10          which the applicant operates a demonstration project  
11          under such subsection the applicant will, not later than  
12          April 1 of the subsequent fiscal year, submit to the Sec-  
13          retary a report providing the following information with  
14          respect to the project:

15               “(1) The number of individuals that received  
16               authorized services, and the demographic character-  
17               istics of the population of such individuals.

18               “(2) The types of authorized services provided,  
19               including the types of ambulatory prenatal services  
20               provided and the trimester of the pregnancy in  
21               which the services were provided.

22               “(3) The sources of payment for the authorized  
23               services provided.

24               “(4) The extent to which children under age 2  
25               receiving authorized services have received the ap-

1       appropriate number and variety of immunizations  
2       against vaccine-preventable diseases.

3               “(5) An analysis of the causes of death deter-  
4       mined under subsection (i).

5               “(6) The extent of progress being made toward  
6       meeting the health status objectives specified in sub-  
7       section (a)(2).

8               “(7) The extent to which, in the service area in-  
9       volved, progress is being made toward meeting the  
10       participation goals established for the State by the  
11       Secretary under section 1905(r) of the Social Secu-  
12       rity Act (relating to early periodic screening, diag-  
13       nostic, and treatment services for children under the  
14       age of 21).

15              “(k) COMMUNITY PARTICIPATION.—The Secretary  
16       may make a grant under subsection (a) only if the appli-  
17       cant involved agrees that, in preparing the proposal of the  
18       applicant for the demonstration project involved, and in  
19       the operation of the project, the applicant will consult with  
20       the residents of the service area for the project and with  
21       public and nonprofit private entities that provide author-  
22       ized services to such residents.

23              “(l) APPLICATION FOR GRANT.—The Secretary may  
24       make a grant under subsection (a) only if an application  
25       for the grant is submitted to the Secretary and the appli-

1 cation is in such form, is made in such manner, and con-  
2 tains such agreements, assurances, and information as the  
3 Secretary determines to be necessary to carry out this sub-  
4 section.

5 “(m) REPORT TO CONGRESS.—Not later than Feb-  
6 ruary 1, 1998, the Secretary shall submit to the Commit-  
7 tee on Energy and Commerce of the House of Representa-  
8 tives, and the Committee on Labor and Human Resources  
9 of the Senate, a report—

10 “(1) summarizing the reports received by the  
11 Secretary under subsection (j);

12 “(2) describing the extent to which demonstra-  
13 tion projects under subsection (a) have been cost ef-  
14 fective; and

15 “(3) describing the extent to which the Sec-  
16 retary has, in the service areas of such projects,  
17 been successful in meeting the health status objec-  
18 tives specified in subsection (a)(2).

19 “(n) LIMITATION ON CERTAIN EXPENSES OF SEC-  
20 RETARY.—Of the amounts appropriated under subsection  
21 (o) for a fiscal year, the Secretary may not obligate more  
22 than an aggregate 5 percent for the administrative costs  
23 of the Secretary in carrying out this section, for the provi-  
24 sion of technical assistance regarding demonstration

1 projects under subsection (a), and for evaluations of such  
2 projects.

3 “(o) DEFINITIONS.—For purposes of this section:

4 “(1) The term ‘authorized services’ means the  
5 services specified in subsection (b).

6 “(2) The terms ‘Indian tribe’ and ‘tribal organi-  
7 zation’ have the meaning given such terms in section  
8 4(b) and section 4(c) of the Indian Self-Determina-  
9 tion and Education Assistance Act.

10 “(3) The term ‘service area’, with respect to a  
11 demonstration project under subsection (a), means  
12 the geographic area specified in subsection (c).

13 “(p) AUTHORIZATION OF APPROPRIATIONS.—For the  
14 purpose of carrying out this section, there are authorized  
15 to be appropriated for each of the fiscal years 1994  
16 through 1997 such sums as may be necessary.

17 “(q) SUNSET.—Effective October 1, 1997, this sec-  
18 tion is repealed.”.

19 (b) REPORT FOR FISCAL YEAR 1993.—With respect  
20 to grants under section 330A of the Public Health Service  
21 Act, as added by subsection (a) of this section, the Sec-  
22 retary of Health and Human Services may make a grant  
23 under such section for fiscal year 1994 only if the appli-  
24 cant for the grant agrees to submit to the Secretary, not  
25 later than April 1 of such year, a report on any federally-

1 supported project of the applicant that is substantially  
2 similar to the demonstration projects authorized in such  
3 section 330A, which report provides, to the extent prac-  
4 ticable, the information described in subsection (j) of such  
5 section.

6 (c) SAVINGS PROVISION.—With respect to grants  
7 under section 330A of the Public Health Service Act, as  
8 added by subsection (a) of this section and in effect for  
9 the fiscal years 1994 through 1997, such grants remain  
10 available for obligation and expenditure in accordance with  
11 the terms upon which the grants were made, notwith-  
12 standing the repeal of such section 330A pursuant to sub-  
13 section (q) of such section.

14 (d) USE OF GENERAL AUTHORITY UNDER PUBLIC  
15 HEALTH SERVICE ACT.—With respect to the program es-  
16 tablished in section 330A of the Public Health Service Act,  
17 as added by subsection (a) of this section, section 301 of  
18 the Public Health Service Act may not be construed as  
19 providing to the Secretary of Health and Human Services  
20 any authority to carry out, during any fiscal year in which  
21 such program is in operation, any demonstration project  
22 to provide any of the services specified in subsection (b)  
23 of such section 330A.

1 **SEC. 5186. INCREASE IN AUTHORIZATION OF APPROPRIA-**  
2 **TIONS FOR THE MATERNAL AND CHILD**  
3 **HEALTH SERVICES BLOCK GRANT PROGRAM.**

4 Section 501(a) (42 U.S.C. 701(a)) is amended by  
5 striking “\$686,000,000 for fiscal year 1990” and insert-  
6 ing “\$705,000,000 for fiscal year 1994”.

7 **SEC. 5187. MISCELLANEOUS TECHNICAL CORRECTIONS TO**  
8 **PUBLIC HEALTH SERVICE ACT PROVISIONS.**

9 (a) COMPENSATION FOR MEMBERS OF NATIONAL  
10 ADVISORY COUNCIL ON NATIONAL HEALTH SERVICE  
11 CORPS.—

12 (1) IN GENERAL.—Section 337(b)(2) of the  
13 Public Health Service Act (42 U.S.C. 254j(b)(2)) is  
14 amended—

15 (A) by inserting after “so serving” the fol-  
16 lowing: “compensation at a rate fixed by the  
17 Secretary (but not to exceed”, and

18 (B) by striking “Schedule;” and inserting  
19 “Schedule);”.

20 (2) EFFECTIVE DATE.—The amendments made  
21 by paragraph (1) shall take effect on the date of the  
22 enactment of this Act.

23 (b) LIABILITY PROTECTIONS FOR INDIVIDUALS PRO-  
24 VIDING SERVICES AT CERTAIN CLINICS.—

25 (1) CLARIFICATION OF VOLUNTARY PARTICIPA-  
26 TION BY CERTAIN ENTITIES.—(A) Section 224(g) of

1 the Public Health Service Act (42 U.S.C.  
2 133(g)(1)), as added by section 2(a) of the Federally  
3 Supported Health Centers Assistance Act of 1992, is  
4 amended—

5 (i) in paragraph (4), by striking “An en-  
6 tity” and inserting “Except as provided in  
7 paragraph (6), an entity”, and

8 (ii) by adding at the end the following new  
9 paragraph:

10 “(6) An entity may elect not to be treated as being  
11 described in paragraph (4) if the entity establishes that  
12 on a continuous basis since October 24, 1992, the entity  
13 has been a participant in, and partial owner of, a nonprofit  
14 risk retention group which offers malpractice and other  
15 liability coverage to the entity.”.

16 (B) Section 224(k)(2) of such Act (42 U.S.C.  
17 233(k)(2)), as added by section 4 of the Federally  
18 Supported Health Centers Assistance Act of 1992, is  
19 amended by striking “entities receiving funds” and  
20 all that follows through “subsection (g)” and insert-  
21 ing the following: “entities described in subsection  
22 (g)(4) and receiving funds under each of the grant  
23 programs described in such subsection”.

24 (2) CLARIFICATION OF COVERAGE OF OFFICERS  
25 AND EMPLOYEES OF CLINICS.—The first sentence of

1 section 224(g)(1) of the Public Health Service Act  
2 (42 U.S.C. 233(g)(1)) is amended by striking “offi-  
3 cer, employee, or contractor” and inserting the fol-  
4 lowing: “officer or employee of such an entity, and  
5 any contractor”.

6 (3) COVERAGE FOR SERVICES FURNISHED TO  
7 INDIVIDUALS OTHER THAN PATIENTS OF CLINIC.—  
8 Section 224(g) of such Act (42 U.S.C. 233(g)(1)),  
9 as amended by paragraph (1), is amended—

10 (A) in the first sentence of paragraph (1),  
11 by inserting after “Service” the following: “with  
12 respect to services provided to patients of the  
13 entity and (subject to paragraph (7)) to certain  
14 other individuals”; and

15 (B) by adding at the end the following new  
16 paragraph:

17 “(7) For purposes of paragraph (1), an officer, em-  
18 ployee, or contractor described in such paragraph may be  
19 deemed to be an employee of the Public Health Service  
20 with respect to services provided to individuals who are  
21 not patients of an entity described in paragraph (4) only  
22 if the Secretary determines—

23 “(A) that the provision of the services to such  
24 individuals is necessary to assure the treatment of  
25 patients of such an entity; or

1           “(B) that such services are otherwise required  
2           to be provided to such individuals under an employ-  
3           ment contract (or other similar arrangement) be-  
4           tween the individual and the entity.”.

5           (4) DETERMINING COMPLIANCE OF ENTITY  
6           WITH REQUIREMENTS FOR COVERAGE.—Section  
7           224(h) of such Act (42 U.S.C. 233(h)), as added by  
8           section 2(b) of the Federally Supported Health Cen-  
9           ters Assistance Act of 1992, is amended by striking  
10          “the entity—” and inserting the following: “the Sec-  
11          retary, after receiving such assurances and conduct-  
12          ing such investigation as the Secretary considers  
13          necessary, finds that the entity—”.

14          (5) EFFECTIVE DATE.—The amendments made  
15          by this subsection shall take effect as if included in  
16          the enactment of the Federally Supported Health  
17          Centers Assistance Act of 1992.

18          (c) ELIMINATION OF DUPLICATE WAIVER AUTHOR-  
19          ITY FOR PARTICIPANTS IN NATIONAL HEALTH SERVICE  
20          CORPS.—Section 338E(c) of the Public Health Service  
21          Act (42 U.S.C. 254o(c)) is amended by striking paragraph  
22          (3) and redesignating paragraph (4) as paragraph (3).

23          (d) CLARIFICATION OF PROHIBITION AGAINST RE-  
24          SALE OF DRUGS UNDER DRUG REBATE AGREEMENTS.—  
25          Section 340B(a)(5)(B) of the Public Health Service Act

1 (42 U.S.C. 256b(a)(5)(B)), as added by section 602(a) of  
2 the Veterans Health Care of 1992, is amended by striking  
3 “entity.” and inserting “covered entity.”.

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