

108TH CONGRESS
1ST SESSION

H. R. 18

To amend title XVIII of the Social Security Act to establish additional provisions to combat waste, fraud, and abuse within the Medicare Program, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 7, 2003

Mrs. BIGGERT introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committees on Energy and Commerce, and the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend title XVIII of the Social Security Act to establish additional provisions to combat waste, fraud, and abuse within the Medicare Program, and for other purposes.

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

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Medicare Fraud Prevention and Enforcement Act of
6 2003”.

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

- Sec. 1. Short title; table of contents.
 Sec. 2. Site inspections and background checks.
 Sec. 3. Registration of billing agencies.
 Sec. 4. Expanded access to the health integrity protection database (HIPDB).
 Sec. 5. Liability of medicare carriers and fiscal intermediaries for claims submitted by excluded providers.
 Sec. 6. Community mental health centers.
 Sec. 7. Limiting the use of discharge in bankruptcy proceedings for provider liability for health care fraud.
 Sec. 8. Illegal distribution of a medicare or medicaid beneficiary identification or provider number.
 Sec. 9. Treatment of certain Social Security Act crimes as Federal health care offenses.
 Sec. 10. Authority of Office of Inspector General of the Department of Health and Human Services.
 Sec. 11. Universal product numbers on claims forms for reimbursement under the medicare program.

1 SEC. 2. SITE INSPECTIONS AND BACKGROUND CHECKS.

2 (a) SITE INSPECTIONS FOR DME SUPPLIERS, COM-
 3 MUNITY MENTAL HEALTH CENTERS, AND OTHER PRO-
 4 VIDER GROUPS.—Title XVIII of the Social Security Act
 5 (42 U.S.C. 1395 et seq.) is amended by adding at the end
 6 the following:

7 “SITE INSPECTIONS FOR DME SUPPLIERS, COMMUNITY
 8 MENTAL HEALTH CENTERS, AND OTHER PROVIDER
 9 GROUPS

10 “SEC. 1897. (a) SITE INSPECTIONS.—

11 “(1) IN GENERAL.—The Secretary shall con-
 12 duct a site inspection for each applicable provider
 13 (as defined in paragraph (2)) that applies for a pro-
 14 vider number in order to provide items or services
 15 under this title. Such site inspection shall be in addi-
 16 tion to any other site inspection that the Secretary

1 would otherwise conduct with regard to an applica-
2 ble provider.

3 “(2) APPLICABLE PROVIDER DEFINED.—

4 “(A) IN GENERAL.—Except as provided in
5 subparagraph (B), in this section the term ‘ap-
6 plicable provider’ means—

7 “(i) a supplier of durable medical
8 equipment (including items described in
9 section 1834(a)(13));

10 “(ii) a supplier of prosthetics,
11 orthotics, or supplies (including items de-
12 scribed in paragraphs (8) and (9) of sec-
13 tion 1861(s));

14 “(iii) a community mental health cen-
15 ter; or

16 “(iv) any other provider group, as de-
17 termined by the Secretary.

18 “(B) EXCEPTION.—In this section, the
19 term ‘applicable provider’ does not include—

20 “(i) a physician that provides durable
21 medical equipment (as described in sub-
22 paragraph (A)(i)) or prosthetics, orthotics,
23 or supplies (as described in subparagraph
24 (A)(ii)) to an individual as incident to an
25 office visit by such individual; or

1 “(ii) a hospital that provides durable
2 medical equipment (as described in sub-
3 paragraph (A)(i)) or prosthetics, orthotics,
4 or supplies (as described in subparagraph
5 (A)(ii)) to an individual as incident to an
6 emergency room visit by such individual.

7 “(b) STANDARDS AND REQUIREMENTS.—In con-
8 ducting the site inspection pursuant to subsection (a), the
9 Secretary shall ensure that the site being inspected is in
10 full compliance with all the conditions and standards of
11 participation and requirements for obtaining medicare bill-
12 ing privileges under this title.

13 “(c) TIME.—The Secretary shall conduct the site in-
14 spection for an applicable provider prior to the issuance
15 of a provider number to such provider.

16 “(d) TIMELY REVIEW.—The Secretary shall provide
17 for procedures to ensure that the site inspection required
18 under this section does not unreasonably delay the
19 issuance of a provider number to an applicable provider.”.

20 (b) BACKGROUND CHECKS.—Title XVIII of the So-
21 cial Security Act (42 U.S.C. 1395 et seq.) (as amended
22 by subsection (a)) is amended by adding at the end the
23 following:

24 “BACKGROUND CHECKS

25 “SEC. 1898. (a) BACKGROUND CHECK REQUIRED.—
26 Except as provided in subsection (b), the Secretary shall

1 conduct a background check on any individual or entity
2 that applies to the Secretary for a provider number for
3 the purpose of furnishing any item or service under this
4 title. In performing the background check, the Secretary
5 shall—

6 “(1) conduct the background check before
7 issuing a provider number to an individual or entity;

8 “(2) include a search of criminal records in the
9 background check; and

10 “(3) provide for procedures that ensure the
11 background check does not unreasonably delay the
12 issuance of a provider number to an eligible indi-
13 vidual or entity.

14 “(b) USE OF STATE LICENSING PROCEDURE.—The
15 Secretary may use the results of a State licensing proce-
16 dure as a background check under subsection (a) if the
17 State licensing procedure meets the requirements of sub-
18 section (a).

19 “(c) ATTORNEY GENERAL REQUIRED TO PROVIDE
20 INFORMATION.—

21 “(1) IN GENERAL.—Upon request of the Sec-
22 retary, the Attorney General shall provide the crimi-
23 nal background check information referred to in sub-
24 section (a)(2) to the Secretary.

1 “(2) RESTRICTION ON USE OF DISCLOSED IN-
2 FORMATION.—The Secretary may only use the infor-
3 mation disclosed under subsection (a) for the pur-
4 pose of carrying out the Secretary’s responsibilities
5 under this title.

6 “(d) REFUSAL TO ISSUE PROVIDER NUMBER.—

7 “(1) AUTHORITY.—In addition to any other
8 remedy available to the Secretary, the Secretary may
9 refuse to issue a provider number to an individual
10 or entity if the Secretary determines, after a back-
11 ground check conducted under this section, that
12 such individual or entity has a history of acts that
13 indicate issuance of a provider number to such indi-
14 vidual or entity would be detrimental to the best in-
15 terests of the program or program beneficiaries.
16 Such acts may include, but are not limited to—

17 “(A) any bankruptcy;

18 “(B) any act resulting in a civil judgment
19 against such individual or entity; or

20 “(C) any felony conviction under Federal
21 or State law.

22 “(2) REPORTING OF REFUSAL TO ISSUE PRO-
23 VIDER NUMBER TO THE HEALTH INTEGRITY PRO-
24 TECTION DATABASE (HIPDB).—A determination to
25 refuse to issue a provider number to an individual

1 or entity as a result of a background check con-
2 ducted under this section shall be reported to the
3 health integrity protection database established
4 under section 1128E in accordance with the proce-
5 dures for reporting final adverse actions taken
6 against a health care provider, supplier, or practi-
7 tioner under that section.”.

8 (c) REGULATIONS; EFFECTIVE DATE.—

9 (1) REGULATIONS.—Not later than 1 year after
10 the date of enactment of this Act, the Secretary of
11 Health and Human Services shall promulgate such
12 regulations as are necessary to implement the
13 amendments made by subsections (a) and (b).

14 (2) EFFECTIVE DATE.—The amendments made
15 by subsections (a) and (b) shall apply to applications
16 received by the Secretary of Health and Human
17 Services on or after January 1, 2004.

18 (d) USE OF MEDICARE INTEGRITY PROGRAM
19 FUNDS.—The Secretary of Health and Human Services
20 may use funds appropriated or transferred for purposes
21 of carrying out the medicare integrity program established
22 under section 1893 of the Social Security Act (42 U.S.C.
23 1395ddd) to carry out the provisions of sections 1897 and
24 1898 of that Act (as added by subsections (a) and (b)).

1 **SEC. 3. REGISTRATION OF BILLING AGENCIES.**

2 (a) REGISTRATION OF BILLING AGENCIES AND INDI-
3 VIDUALS.—Title XVIII of the Social Security Act (42
4 U.S.C. 1395 et seq.) (as amended by section 2(b)) is
5 amended by adding at the end the following:

6 “REGISTRATION OF BILLING AGENCIES AND INDIVIDUALS
7 “SEC. 1899. (a) REGISTRATION.—The Secretary
8 shall establish procedures for the registration of all appli-
9 cable persons.

10 “(b) REQUIRED APPLICATION.—Each applicable per-
11 son shall submit a registration application to the Secretary
12 at such time, in such manner, and accompanied by such
13 information as the Secretary may require.

14 “(c) IDENTIFICATION NUMBER.—If the Secretary ap-
15 proves an application submitted under subsection (b), the
16 Secretary shall assign a unique identification number to
17 the applicable person.

18 “(d) REQUIREMENT.—Every claim for reimburse-
19 ment under this title that is compiled and submitted by
20 an applicable person shall contain the identification num-
21 ber that is assigned to the applicable person pursuant to
22 subsection (c).

23 “(e) TIMELY REVIEW.—The Secretary shall provide
24 for procedures that ensure the timely consideration and
25 determination regarding approval of applications under
26 this section.

1 “(f) DEFINITION OF APPLICABLE PERSON.—In this
2 section, the term ‘applicable person’ means an individual
3 or an entity that compiles and submits claims for reim-
4 bursement under this title to the Secretary on behalf of
5 any individual or entity.”.

6 (b) PERMISSIVE EXCLUSION.—Section 1128(b) of
7 the Social Security Act (42 U.S.C. 1320a–7(b)) is amend-
8 ed by adding at the end the following:

9 “(16) FRAUD BY APPLICABLE PERSON.—An ap-
10 plicable person (as defined in section 1899(f)) that
11 the Secretary determines knowingly submitted or
12 caused to be submitted a claim for reimbursement
13 under title XVIII that the applicable person knows
14 or should know is false or fraudulent.”.

15 (c) REGULATIONS; EFFECTIVE DATE.—

16 (1) REGULATIONS.—Not later than 1 year after
17 the date of enactment of this Act, the Secretary of
18 Health and Human Services shall promulgate such
19 regulations as are necessary to implement the
20 amendment made by subsections (a) and (b).

21 (2) EFFECTIVE DATE.—The amendment made
22 by subsections (a) and (b) shall take effect on Janu-
23 ary 1, 2004.

1 **SEC. 4. EXPANDED ACCESS TO THE HEALTH INTEGRITY**
2 **PROTECTION DATABASE (HIPDB).**

3 (a) IN GENERAL.—Section 1128E(d)(1) of the Social
4 Security Act (42 U.S.C. 1320a–7e(d)(1)) is amended to
5 read as follows:

6 “(1) AVAILABILITY.—The information in the
7 database maintained under this section shall be
8 available to—

9 “(A) Federal and State government agen-
10 cies and health plans, and any health care pro-
11 vider, supplier, or practitioner entering an em-
12 ployment or contractual relationship with an in-
13 dividual or entity who could potentially be the
14 subject of a final adverse action, where the con-
15 tract involves the furnishing of items or services
16 reimbursed by 1 or more Federal health care
17 programs (regardless of whether the individual
18 or entity is paid by the programs directly, or
19 whether the items or services are reimbursed di-
20 rectly or indirectly through the claims of a di-
21 rect provider); and

22 “(B) utilization and quality control peer
23 review organizations and accreditation entities
24 as defined by the Secretary, including but not
25 limited to organizations described in part B of
26 this title and in section 1154(a)(4)(C).”.

1 (b) CRIMINAL PENALTY FOR MISUSE OF INFORMA-
2 TION.—Section 1128B(b) of the Social Security Act (42
3 U.S.C. 1320a–7b(b)) is amended by adding at the end the
4 following:

5 “(4) Whoever knowingly uses information maintained
6 in the health integrity protection database maintained in
7 accordance with section 1128E for a purpose other than
8 a purpose authorized under that section shall be impris-
9 oned for not more than 3 years or fined under title 18,
10 United States Code, or both.”.

11 (c) EFFECTIVE DATE.—The amendments made by
12 this section shall take effect on the date of enactment of
13 this Act.

14 **SEC. 5. LIABILITY OF MEDICARE CARRIERS AND FISCAL**
15 **INTERMEDIARIES FOR CLAIMS SUBMITTED**
16 **BY EXCLUDED PROVIDERS.**

17 (a) REIMBURSEMENT TO THE SECRETARY FOR
18 AMOUNTS PAID TO EXCLUDED PROVIDERS.—

19 (1) REQUIREMENTS FOR FISCAL INTER-
20 MEDIARIES.—

21 (A) IN GENERAL.—Section 1816 of the So-
22 cial Security Act (42 U.S.C. 1395h) is amended
23 by adding at the end the following:

24 “(m) An agreement with an agency or organization
25 under this section shall require that such agency or orga-

1 nization reimburse the Secretary for any amounts paid by
2 the agency or organization for a service under this title
3 which is furnished by an individual or entity during any
4 period for which the individual or entity is excluded, pur-
5 suant to section 1128, 1128A, or 1156, from participation
6 in the health care program under this title if the amounts
7 are paid after the 60-day period beginning on the date
8 the Secretary provides notice of the exclusion to the agen-
9 cy or organization, unless the payment was made as a re-
10 sult of incorrect information provided by the Secretary or
11 the individual or entity excluded from participation has
12 concealed or altered their identity.”.

13 (B) CONFORMING AMENDMENT.—Section
14 1816(i) of the Social Security Act (42 U.S.C.
15 1395h(i)) is amended by adding at the end the
16 following:

17 “(4) Nothing in this subsection shall be construed to
18 prohibit reimbursement by an agency or organization pur-
19 suant to subsection (m).”.

20 (2) REQUIREMENTS FOR CARRIERS.—Section
21 1842(b)(3) of the Social Security Act (42 U.S.C.
22 1395u(b)(3)) is amended—

23 (A) by striking “and” at the end of sub-
24 paragraph (I); and

1 (B) by inserting after subparagraph (I) the
2 following:

3 “(J) will reimburse the Secretary for any
4 amounts paid by the carrier for an item or service
5 under this part which is furnished by an individual
6 or entity during any period for which the individual
7 or entity is excluded, pursuant to section 1128,
8 1128A, or 1156, from participation in the health
9 care program under this title if the amounts are
10 paid after the 60-day period beginning on the date
11 the Secretary provides notice of the exclusion to the
12 carrier, unless the payment was made as a result of
13 incorrect information provided by the Secretary or
14 the individual or entity excluded from participation
15 has concealed or altered their identity; and”.

16 (b) CONFORMING REPEAL OF MANDATORY PAYMENT
17 RULE.—Section 1862(e) of the Social Security Act (42
18 U.S.C. 1395y(e)) is amended—

19 (1) in paragraph (1)(B), by striking “and when
20 the person” and all that follows through “person”;
21 and

22 (2) by amending paragraph (2) to read as fol-
23 lows:

24 “(2) No individual or entity may bill (or collect any
25 amount from) any individual for any item or service for

1 which payment is denied under paragraph (1). No indi-
2 vidual is liable for payment of any amounts billed for such
3 an item or service in violation of the preceding sentence.”.

4 (c) EFFECTIVE DATE.—

5 (1) IN GENERAL.—The amendments made by
6 this section shall apply to claims for payment sub-
7 mitted on or after the date of enactment of this Act.

8 (2) CONTRACT MODIFICATION.—The Secretary
9 of Health and Human Services shall take such steps
10 as may be necessary to modify contracts and agree-
11 ments entered into, renewed, or extended prior to
12 the date of enactment of this Act to conform such
13 contracts or agreements to the provisions of this sec-
14 tion.

15 **SEC. 6. COMMUNITY MENTAL HEALTH CENTERS.**

16 (a) IN GENERAL.—Section 1861(ff)(3)(B) of the So-
17 cial Security Act (42 U.S.C. 1395x(ff)(3)(B)) is amended
18 by striking “entity that—” and all that follows and insert-
19 ing the following: “entity that—

20 “(i) provides the community mental health serv-
21 ices specified in paragraph (1) of section 1913(c) of
22 the Public Health Service Act;

23 “(ii) meets applicable certification or licensing
24 requirements for community mental health centers
25 in the State in which it is located;

1 “(iii) provides a significant share of its services
2 to individuals who are not eligible for benefits under
3 this title; and

4 “(iv) meets such additional standards or re-
5 quirements for obtaining medicare billing privileges
6 as the Secretary may specify to ensure—

7 “(I) the health and safety of beneficiaries
8 receiving such services; or

9 “(II) the furnishing of such services in an
10 effective and efficient manner.”.

11 (b) RESTRICTION.—Section 1861(ff)(3)(A) of such
12 Act (42 U.S.C. 1395x(ff)(3)(A)) is amended by inserting
13 “other than in an individual’s home or in an inpatient or
14 residential setting” before the period.

15 (c) EFFECTIVE DATE.—The amendments made by
16 this section shall apply to items and services furnished
17 after the sixth month that begins after the date of enact-
18 ment of this Act.

19 **SEC. 7. LIMITING THE DISCHARGE OF DEBTS IN BANK-**
20 **RUPTCY PROCEEDINGS IN CASES WHERE A**
21 **HEALTH CARE PROVIDER OR A SUPPLIER EN-**
22 **GAGES IN FRAUDULENT ACTIVITY.**

23 (a) IN GENERAL.—

24 (1) CIVIL MONETARY PENALTIES.—Section
25 1128A(a) of the Social Security Act (42 U.S.C.

1 1320a–7a(a)) is amended by adding at the end the
2 following: “Notwithstanding any other provision of
3 law, amounts made payable under this section are
4 not dischargeable under section 727, 944, 1141,
5 1228, or 1328 of title 11, United States Code, or
6 any other provision of such title.”.

7 (2) RECOVERY OF OVERPAYMENT TO PRO-
8 VIDERS OF SERVICES UNDER PART A OF MEDI-
9 CARE.—Section 1815(d) of the Social Security Act
10 (42 U.S.C. 1395g(d)) is amended—

11 (A) by inserting “(1)” after “(d)”; and

12 (B) by adding at the end the following:

13 “(2) Notwithstanding any other provision of law,
14 amounts due to the Secretary under this section are not
15 dischargeable under section 727, 944, 1141, 1228, or
16 1328 of title 11, United States Code, or any other provi-
17 sion of such title if the overpayment was the result of
18 fraudulent activity, as may be defined by the Secretary.”.

19 (3) RECOVERY OF OVERPAYMENT OF BENEFITS
20 UNDER PART B OF MEDICARE.—Section 1833(j) of
21 the Social Security Act (42 U.S.C. 1395l(j)) is
22 amended—

23 (A) by inserting “(1)” after “(j)”; and

24 (B) by adding at the end the following:

1 “(2) Notwithstanding any other provision of law,
 2 amounts due to the Secretary under this section are not
 3 dischargeable under section 727, 944, 1141, 1228, or
 4 1328 of title 11, United States Code, or any other provi-
 5 sion of such title if the overpayment was the result of
 6 fraudulent activity, as may be defined by the Secretary.”.

7 (4) COLLECTION OF PAST-DUE OBLIGATIONS
 8 ARISING FROM BREACH OF SCHOLARSHIP AND LOAN
 9 CONTRACT.—Section 1892(a) of the Social Security
 10 Act (42 U.S.C. 1395ccc(a)) is amended by adding at
 11 the end the following:

12 “(5) Notwithstanding any other provision of
 13 law, amounts due to the Secretary under this section
 14 are not dischargeable under section 727, 944, 1141,
 15 1228, or 1328 of title 11, United States Code, or
 16 any other provision of such title.”.

17 (b) EFFECTIVE DATE.—The amendments made by
 18 subsection (a) shall apply to bankruptcy petitions filed
 19 after the date of enactment of this Act.

20 **SEC. 8. ILLEGAL DISTRIBUTION OF A MEDICARE OR MED-**
 21 **ICAID BENEFICIARY IDENTIFICATION OR**
 22 **PROVIDER NUMBER.**

23 Section 1128B(b) of the Social Security Act (42
 24 U.S.C. 1320a–7b(b)), as amended by section 4(b), is
 25 amended by adding at the end the following:

1 “(5) Whoever knowingly, intentionally, and with the
2 intent to defraud purchases, sells or distributes, or ar-
3 ranges for the purchase, sale, or distribution of 2 or more
4 medicare or medicaid beneficiary identification numbers or
5 provider numbers shall be imprisoned for not more than
6 3 years or fined under title 18, United States Code (or,
7 if greater, an amount equal to the monetary loss to the
8 Federal and any State government as a result of such
9 acts), or both.”.

10 **SEC. 9. TREATMENT OF CERTAIN SOCIAL SECURITY ACT**

11 **CRIMES AS FEDERAL HEALTH CARE OF-**
12 **FENSES.**

13 (a) IN GENERAL.—Section 24(a) of title 18, United
14 States Code, is amended—

15 (1) by striking the period at the end of para-
16 graph (2) and inserting “; or”; and

17 (2) by adding at the end the following:

18 “(3) section 1128B of the Social Security Act
19 (42 U.S.C. 1320a–7b).”.

20 (b) EFFECTIVE DATE.—The amendment made by
21 subsection (a) shall take effect on the date of enactment
22 of this Act and apply to acts committed on or after the
23 date of enactment of this Act.

1 **SEC. 10. AUTHORITY OF OFFICE OF INSPECTOR GENERAL**
2 **OF THE DEPARTMENT OF HEALTH AND**
3 **HUMAN SERVICES.**

4 (a) **AUTHORITY.**—Notwithstanding any other provi-
5 sion of law, upon designation by the Inspector General of
6 the Department of Health and Human Services, any
7 criminal investigator of the Office of Inspector General of
8 such department may, in accordance with guidelines
9 issued by the Secretary of Health and Human Services
10 and approved by the Attorney General, while engaged in
11 activities within the lawful jurisdiction of such Inspector
12 General—

13 (1) obtain and execute any warrant or other
14 process issued under the authority of the United
15 States;

16 (2) make an arrest without a warrant for—

17 (A) any offense against the United States
18 committed in the presence of such investigator;

19 or

20 (B) any felony offense against the United
21 States, if such investigator has reasonable cause
22 to believe that the person to be arrested has
23 committed or is committing that felony offense;
24 and

1 (3) exercise any other authority necessary to
2 carry out the authority described in paragraphs (1)
3 and (2).

4 (b) FUNDS.—The Office of Inspector General of the
5 Department of Health and Human Services may receive
6 and expend funds that represent the equitable share from
7 the forfeiture of property in investigations in which the
8 Office of Inspector General participated, and that are
9 transferred to the Office of Inspector General by the De-
10 partment of Justice, the Department of the Treasury, or
11 the United States Postal Service. Such equitable sharing
12 funds shall be deposited in a separate account and shall
13 remain available until expended.

14 **SEC. 11. UNIVERSAL PRODUCT NUMBERS ON CLAIMS**
15 **FORMS FOR REIMBURSEMENT UNDER THE**
16 **MEDICARE PROGRAM.**

17 (a) UPNS ON CLAIMS FORMS FOR REIMBURSEMENT
18 UNDER THE MEDICARE PROGRAM.—

19 (1) ACCOMMODATION OF UPNS ON MEDICARE
20 CLAIMS FORMS.—Not later than February 1, 2005,
21 all claims forms developed or used by the Secretary
22 of Health and Human Services for reimbursement
23 under the medicare program under title XVIII of the
24 Social Security Act (42 U.S.C. 1395 et seq.) shall

1 accommodate the use of universal product numbers
2 for a UPN covered item.

3 (2) REQUIREMENT FOR PAYMENT OF CLAIMS.—
4 Title XVIII of the Social Security Act (42 U.S.C.
5 1395 et seq.) is amended by adding at the end the
6 following:

7 “USE OF UNIVERSAL PRODUCT NUMBERS

8 “SEC. 1899A. (a) IN GENERAL.—No payment shall
9 be made under this title for any claim for reimbursement
10 for any UPN covered item unless the claim contains the
11 universal product number of the UPN covered item.

12 “(b) DEFINITIONS.—In this section:

13 “(1) UPN COVERED ITEM.—

14 “(A) IN GENERAL.—Except as provided in
15 subparagraph (B), the term ‘UPN covered
16 item’ means—

17 “(i) a covered item as that term is de-
18 fined in section 1834(a)(13);

19 “(ii) an item described in paragraph
20 (8) or (9) of section 1861(s);

21 “(iii) an item described in paragraph
22 (5) of section 1861(s); and

23 “(iv) any other item for which pay-
24 ment is made under this title that the Sec-
25 retary determines to be appropriate.

1 “(B) EXCLUSION.—The term ‘UPN cov-
2 ered item’ does not include a customized item
3 for which payment is made under this title.

4 “(2) UNIVERSAL PRODUCT NUMBER.—The
5 term ‘universal product number’ means a number
6 that is—

7 “(A) affixed by the manufacturer to each
8 individual UPN covered item that uniquely
9 identifies the item at each packaging level; and

10 “(B) based on commercially acceptable
11 identification standards such as, but not limited
12 to, standards established by the Uniform Code
13 Council-International Article Numbering Sys-
14 tem or the Health Industry Business Commu-
15 nication Council.”.

16 (3) DEVELOPMENT AND IMPLEMENTATION OF
17 PROCEDURES.—

18 (A) INFORMATION INCLUDED IN UPN.—
19 The Secretary of Health and Human Services,
20 in consultation with manufacturers and entities
21 with appropriate expertise, shall determine the
22 relevant descriptive information appropriate for
23 inclusion in a universal product number for a
24 UPN covered item.

1 (B) REVIEW OF PROCEDURE.—From the
2 information obtained by the use of universal
3 product numbers on claims for reimbursement
4 under the medicare program, the Secretary of
5 Health and Human Services, in consultation
6 with interested parties, shall periodically review
7 the UPN covered items billed under the Health
8 Care Financing Administration Common Proce-
9 dure Coding System and adjust such coding
10 system to ensure that functionally equivalent
11 UPN covered items are billed and reimbursed
12 under the same codes.

13 (4) EFFECTIVE DATE.—The amendment made
14 by paragraph (2) shall apply to claims for reim-
15 bursement submitted on and after February 1,
16 2005.

17 (b) STUDY AND REPORTS TO CONGRESS.—

18 (1) STUDY.—The Secretary of Health and
19 Human Services shall conduct a study on the results
20 of the implementation of the provisions in paragraph
21 (1) and (3) of subsection (a) and the amendment to
22 the Social Security Act in paragraph (2) of that sub-
23 section.

24 (2) REPORTS.—

1 (A) PROGRESS REPORT.—Not later than 6
2 months after the date of enactment of this Act,
3 the Secretary of Health and Human Services
4 shall submit a report to Congress that contains
5 a detailed description of the progress of the
6 matters studied pursuant to paragraph (1).

7 (B) IMPLEMENTATION.—Not later than 18
8 months after the date of enactment of this Act,
9 and annually thereafter for 3 years, the Sec-
10 retary of Health and Human Services shall sub-
11 mit a report to Congress that contains a de-
12 tailed description of the results of the study
13 conducted pursuant to paragraph (1), together
14 with the Secretary’s recommendations regard-
15 ing the use of universal product numbers and
16 the use of data obtained from the use of such
17 numbers.

18 (c) DEFINITIONS.—In this section:

19 (1) UPN COVERED ITEM.—The term “UPN
20 covered item” has the meaning given such term in
21 section 1899A(b)(1) of the Social Security Act (as
22 added by subsection (a)(2)).

23 (2) UNIVERSAL PRODUCT NUMBER.—The term
24 “universal product number” has the meaning given

1 such term in section 1899A(b)(2) of the Social Secu-
2 rity Act (as added by subsection (a)(2)).

3 (d) AUTHORIZATION OF APPROPRIATIONS.—There
4 are authorized to be appropriated such sums as may be
5 necessary for the purpose of carrying out the provisions
6 in paragraphs (1) and (3) of subsection (a), subsection
7 (b), and section 1899A of the Social Security Act (as
8 added by subsection (a)(2)).

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